

State of
New Hampshire
HOUSE RECORD

First Year of the 155th Session of the General Court
Calendar and Journal of the 1997 Session

Vol. 19 Concord N.H. Friday, March 7, 1997 No. 31

Contains: Hearings, Notices, Work Sessions and Reports for March 12

HOUSE CALENDAR NOTICE

Members of the House:

We are now officially in "the crunch" part of the 1997 House session. Deadlines are fast approaching for committee and floor action. Members have been hard at work considering the merits of each proposal and making certain that the amendments which come out of committee are thoughtful and accurate.

I commend and thank all House members for their willingness to put in the time and effort to assure that we have the finest work product we can produce as lawmakers, and to the staff which supports our efforts. I want to convey special thanks to the House Clerk and her staff at a time when the demands on them are great and they are working so hard to get the job done.

Take one moment to reflect on the load of bills coming through your committee right now and the length of the calendar for floor action. The number of bills we file leads directly to the work load we face during the crunch. If we can remember this feeling when it is time to file bills next fall it may help us to keep down the amount of legislation which gets filed for the second year of the biennium.

I want to commend Representative Neal Kurk for his work in producing the second edition of the very informative *House Budget Bulletin*. Representative Kurk graciously acknowledges the entire House Finance Committee in the bulletin but stresses that the text and the opinions are his individually. Well done, Neal.

Because of traditional town meetings there will be no House business conducted on March 11. The House will be in session at 10:00 a.m. on March 12. Future sessions are tentatively scheduled for March 18 and 19, beginning at 10:00 a.m.

Notice is hereby given that every Session Day shall be a Consent Calendar Day as set out in House Rule 51.

Donna Sytek, Speaker

NOTICE

LEGISLATIVE FORUM

HOUSE CONTINUING EDUCATION

TOPIC: Parliamentary Procedure II

PRESENTER: Hon. Karen O. Wadsworth, Clerk of the House

DATE: Thursday, March 13

TIME: Noon to 1:00 p.m. or during the lunch break (if a session day)

PLACE: Room 100, State House

All members are encouraged to attend. For the members' convenience the cafeteria will sell sandwiches, snacks and sodas outside the room. Please mark your calendars for the next forum to be held on March 27th. Leon S. Kenison, Commissioner of the Department of Transportation will speak on the Department's Ten Year Highway Plan.

*Please note this session will NOT be a repeat of the Parliamentary Procedure Forum held on January 23rd,

Rep. Carol H. Holden

Legislative Continuing Education Coordinator

NOTICE

There will be a Republican Caucus on Wednesday, March 12 at 9:00 a.m. in Representatives Hall.

Rep. Robert L. Wheeler, Majority Leader

NOTICE

There will be a Democratic Caucus on Wednesday, March 12 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter Hoe Burling, Democratic Leader

WEDNESDAY, MARCH 12

CONSENT CALENDAR

COMMERCE

HB 190, relative to interstate banking and branching. OUGHT TO PASS WITH AMENDMENT

Rep. David T. Mittelman for Commerce This bill is the result of a study committee on interstate banking and branching as established by 1996 Chapter Law 104. It simply grants the Banking Department additional provisions relative to the examination of out-of-state banks and bank holding companies. Vote 15-0.

HB 268-FN, relative to the powers of the Pease development authority. OUGHT TO PASS

Rep. Gregory G. Carson for Commerce: This bill establishes an oversight committee made up of House and Senate members and a designee of the state treasurer. In addition, it addresses the sharing of business inquiries with Department of Resources and Economic Development and land transfers. Vote 13-0.

HB 301, relative to real estate broker's and agent's representation of buyers. INEXPEDIENT TO LEGISLATE

Rep. Martha Fuller Clark for Commerce: SB 611, Chapter 196 became effective in August 1996. It was the first revision to the Real Estate Practice Act in 25 years. It defines the relationship between real estate agents and the client. SB 611 gives consumers a choice in structuring their real estate agreements and should be allowed to work without change at this time. Additionally, administrative rules is developing rules on implementing Chapter 196 which should take care of the concerns raised in this bill. Vote 14-0.

HB 435-FN-LOCAL, relative to liens placed on property by towns and cities for money spent on assisted persons. INEXPEDIENT TO LEGISLATE

Rep. William Tsiros for Commerce: Existing laws are adequate and provide the power to towns to place liens. Any change on priority of liens will upset the mortgage industry. Also, it will make it more attractive to ask for local welfare, rather than go for a second mortgage. Vote 14-0.

HB 442, requiring insurers to cover certain costs associated with reconstructive surgery after a mastectomy. OUGHT TO PASS WITH AMENDMENT

Rep. Toni M. Crosby for Commerce: The amended version of this bill reported out of committee with a unanimous vote deals with the issue of reconstructive surgery after a mastectomy to establish symmetry between the breasts. The committee is proud to join 13 other states in recognizing the importance of the option of reconstructive breast surgery to women's health. Vote 15-0.

HB 526, clarifying that no other business entity may assume a name which is the same as or deceptively similar to the registered name of a New Hampshire real estate trust. INEXPEDIENT TO LEGISLATE

Rep. Dennis P. Vachon for Commerce: This bill would require the registration of all trade names used by real estate trusts. New Hampshire law disfavors real estate trusts, as evidenced by recent law changes requiring title to real estate owned by such trusts to be held in the name of a person or entity as trustee of the trust. The committee found no large scale problem justifying a further change in the law. Real estate trusts are free under current law to register their trade name if concerned that others will use it. Vote 15-0.

HB 541, relative to long term care insurance RE-REFER TO COMMITTEE

Rep. George Hurt for Commerce: Long term care insurance is a unique form of insurance coverage and not everyone is able to afford this type of insurance protection. Testimony indicated that long term care was not available until age 40, where most premiums were affordable. However, further evidence was given to support the majority of purchases is usually between ages 60-70, but with substantial premium increase, more restrictive coverage's and fewer options. Due to the vicissitudes and the complexity of this type of insurance coverage, the committee felt this legislation deserved to be studied in depth. Vote 14-0.

HB 655-FN, requiring the department of agriculture, markets, and food to maintain records concerning commercial transactions of the bovine somatotropin growth hormone. INEXPEDIENT TO LEGISLATE

Rep. Tim S. McGough for Commerce: This bill would have required the Department of Agriculture, Markets and Food to maintain records concerning commercial transactions of the bovine somatotropin growth hormone. The sponsors requested that this bill be found inexpedient, so the committee concurred. Vote 13-3.

HB 806-FN-LOCAL, relative to the business finance authority OUGHT TO PASS

Rep. Gregory G. Carson for Commerce: This legislation makes the Business Finance Authority an independent entity instead of an agency of the state like the NH Housing Finance Authority, the Community Development Finance Authority, the Municipal Bond Bank and the Higher Education and Health Facilities Authority. In addition, RSA 162-A:4 is amended to make the state treasurer a voting ex officio member of the board. Vote 16-0.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 136, establishing a committee to study the authority, functions, duties and responsibilities of the fire standards and training commission. OUGHT TO PASS WITH AMENDMENT

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: This bill amends RSA 21-P:12-a which establishes the Division of Fire Standards and Training, the duties of the director of the fire academy and defines the role of the Fire Standards and Training Commission. During 1996, the curriculum for the fire academy was presented to the firefighting community and a controversy between the career firefighters and volunteer firefighters called attention to the need for a system of hearings to allow volunteers to become informed and to have input into matters of concern to them. All parties, the Department of Safety, the Fire Standards and Training Commission, the career and volunteer firefighters have agreed to a

rewriting of the statutes to guarantee an open process for establishing curriculum and training guidelines for certification of New Hampshire firefighters. The original bill called for a study committee. On March 4, 1997, a second public hearing on the amendment was held and attended by representatives from the commission, Department of Safety and firefighting community. All parties agreed to this amendment. Vote 18-0.

HB 151-FN-Local, establishing comprehensive medical, physical and psychological standards for law enforcement officers. OUGHT TO PASS WITH AMENDMENT

Rep. Herbert R. Hanson for Criminal Justice and Public Safety: This bill recommends psychological screening of final applicants for police positions beginning in 1999. It also recommends the same medical examination and physical fitness requirements for hiring part-time police officers as currently exist for full-time officers beginning next year, and recommends that all police officers hired after January 1, 2001, have medical examination and physical fitness tests at three year intervals during their careers. The bill grandfathers existing officers and will not result in any present officer losing his/her job because of this new requirement. The amendment prevents any unfunded mandate on units of government by making requirements that would affect them subject to vote of the local governing body. It also prevents the Police Standards and Training Council from requesting communities to reconsider their vote more frequently than at 5-year intervals. Vote 17-0.

HB 209, relative to information required when applying for a New Hampshire driver's license. INEXPEDIENT TO LEGISLATE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The bill, as introduced, required all new residents applying for a driver's license to reply to questions relative to an applicants possible criminal background in sex related crimes. The committee was concerned with the appearance of these questions on the driver's license application form and the fact that they maybe offensive to many people new to New Hampshire. The Department of Safety has agreed to supply posters of our sexual offender registration laws to the town and city clerks and the motor vehicle office in Concord and its substations. Vote 13-0.

HB 271, establishing a committee to examine the effectiveness and efficiency of the multiple DWI offender intervention detention center program. RE-REFER TO COMMITTEE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This program was audited by the Legislative Budget Assistant and found to be over two million dollars in the red. We felt it would be better to re-refer this and study it ourselves along with at least one other bill that has similar content to decide whether we need to make a policy change or change the program funding or both. Vote 13-0.

HB 367-FN-L, requiring notification to parents when a minor violates the tobacco laws. OUGHT TO PASS WITH AMENDMENT

Rep. L. Randy Lyman for Criminal Justice and Public Safety: The original bill required law enforcement officers to notify parents or guardians in writing when their child or children under 18 years of age violate RSA 78:12-c,V. The existing RSA 78:12-c makes it a violation for such minor children to possess and/or misrepresent their age to purchase or possess tobacco products. The amendment requires parents to be notified, but not in writing. Vote 13-0.

HB 386, removing personal liability of employees of licensing entities for failure to comply with state laws regarding licenses to carry pistols and revolvers. OUGHT TO PASS WITH AMENDMENT

Rep. Bruce F. Hunter for Criminal Justice and Public Safety: This bill removed a provision of law enacted just last year and which became effective on January 1, 1997. That provision made employees of licensing entities personally liable for the failure to comply with laws regarding the issuance of licenses to carry pistols and revolvers. The committee feels that we should allow this to work for awhile to see if it actually does need to be changed. The committee amendment eliminated the original bill and defines what a "suitable" person should be. The applicant should be a person who is not prohibited by law from possession of a handgun. Currently in New Hampshire law, there is no requirement for a criminal record check before a concealed weapons permit is issued. The amendment makes that record check a requirement and the licensing authority, the chief of police in most towns, will now be enabled to define whether or not an applicant for a concealed weapon permit is a law-abiding citizen, and therefore, suitable for issuance of the license. A second public hearing on HB 386 was held on February 25, 1997, by the committee. All testimony was in favor of the amendment Vote 16-0.

HB 414, authorizing the commissioner of the department of safety to adopt rules imposing late fees for the impaired driver intervention programs. RE-REFER TO COMMITTEE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The committee felt that this bill should be re-referred as the issue of late fees needs to be addressed. However, the efficiency and effectiveness of these programs are going to be looked at in HB 271 (re-referred) and we felt that they should be joined for study. Vote 13-0

HB 416, relative to sentencing for juvenile delinquents. OUGHT TO PASS WITH AMENDMENT

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: This bill authorizes the court to commit a delinquent minor to the custody of the

department of youth development services for the remainder of minority. The bill also expands such commitment , without limiting it, to placement in a facility certified for the commitment of minors, administrative release to parole, or administrative release consistent with the cap on youth development center population. This bill also requires that the commissioner of the department of youth development services notify the court, within 5 business days, of any commitment and of any subsequent changes in placement made within 60 days of the original placement which will help provide positive information as to the immediate location of the youth. Vote 12-0..

HB 420, relative to administrative review of suspended or revoked motor vehicle licenses. RE-REFER TO COMMITTEE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill attempts to amend the administrative license suspension (ALS) process by making 3 changes which were approved two years ago by this house. These three changes are designed to make the review hearing a more reasonable and responsive process. However, we felt we should re-refer this bill because a superior court recently ruled that the ALS hearing process is flawed. We believe this decision will be appealed to the supreme court and therefore we should wait for an answer before we further amend his statute. Vote 17-0.

HB 462-FN, relative to acknowledgment of DWI laws by persons under 21 years of age. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The committee amended the bill to inform all motor vehicle license applicants under 21 years of age of certain alcohol related laws and their penalties. We also added notification of illegal transportation and illegal possession laws. We also removed the signed acknowledgment portion of the bill as this is where the fiscal impact was. The Department of Safety said it could accomplish the notification within its budget. Vote 13-0.

HB 514-FN, relative to penalties for driving while intoxicated or under the influence of drugs for persons under 21 years of age. INEXPEDIENT TO LEGISLATE

Rep. L. Randy Lyman for Criminal Justice and Public Safety: This bill has the effect of weakening the DWI laws for offenders under 21, the legal drinking age. At the discretion of the court, a judge could suspend a portion of the minimum mandatory fine if the blood alcohol count was more than 0.02 , but less than 0.08. There was testimony on both sides of this issue but in the end, the committee recommended inexpedient to legislate as we felt we should not weaken any of the D.W.I. laws. Vote 13-0.

HB 604-FN-L, relative to accessing information in delinquency cases. RE-REFER TO COMMITTEE

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: The committee voted unanimously to re-refer this bill in order to combine it with other bills covering juveniles and juvenile delinquency Vote 12-0.

HB 605-FN-L, relative to procedures regarding delinquent children under RSA 169-B. RE-REFER TO COMMITTEE

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: The committee voted unanimously to re-refer this bill in order to combine it with other bills covering juveniles and juvenile delinquency Vote 12-0.

HB 724-FN, allowing the office of reimbursements in the department of health and human services to set rates for the multiple DWI offender intervention detention center program. OUGHT TO PASS

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: This bill is the result of audit recommendations that programs for increasing the effectiveness of collection programs be implemented as well as increase the changes for the multiple DWI offender intervention detention center program in order to cover the actual costs. Vote 17-0.

HB 767-FN, relative to violation of court orders regarding child custody. RE-REFER TO COMMITTEE

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: The testimony that the committee heard indicated that the intent of the bill was sound, but that it needed additional work to be satisfactory. Consequently, the committee voted unanimously to re-refer the bill. Vote 17-0.

EDUCATION

HB 436-FN-LOCAL, establishing restrictions in building aid for conversions of area schools to cooperative school districts, and relative to increasing or decreasing grades in cooperative school districts. OUGHT TO PASS WITH AMENDMENT

Rep. Richard L. Champagne for Education: This bill is a housekeeping matter requested by the State Dept. of Education. It clarifies certain aspects of current law and prevents possible double-dipping in school district building aid. Vote 15-0.

HB 703-FN-LOCAL, relative to criminal history checks for school personnel. INEXPEDIENT TO LEGISLATE

Rep. Arthur Pelletier for Education: The sponsor recommended that the committee find the bill inexpedient as the subject matter was adequately addressed in HB 102. Vote 19-0.

HB 808, changing the optional term of the school district clerk, moderator and treasurer. OUGHT TO PASS

Rep. Richard L. Hill for Education: This bill allows all school districts to vote for either a one year, two year or a three year term for school district clerk, moderator and treasurer. This is a change from present RSA 671:6-a III from either one year term or a three year term. Vote 13-0.

ELECTION LAW

HB 372, relative to age and domicile requirements for candidacy for public office. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph A. Foster for Election Law: This bill will assist certain cities and towns which have found it difficult to staff the polls on election day by permitting anyone 17 years of age or older who is otherwise qualified to work at the polls. Current law requires individuals to be at least 18 years old. This bill also repeals a law that relates to obsolete voting machines. Vote 14-0.

HB 430, relative to registration of political committees. OUGHT TO PASS WITH AMENDMENT

Rep. Thomas I. Arnold, Jr. for Election Law: This bill requires political committees to have either a treasurer or agent who is a citizen of New Hampshire upon whom service may be made. It also eliminates certain laws related to advertising which are unenforceable due to recent supreme court decisions. It further modifies registration and reporting requirements for political committees. The committee determined that each of these changes is beneficial. Vote 17-0.

HB 441, relative to the ballot law commission. INEXPEDIENT TO LEGISLATE

Rep. Susan W. Almy for Election Law: This bill has two parts, to set term limits for the Ballot Law Commission and to require Commission meetings to be held in person rather than by telecommunication. The first part was considered inadvisable and the second is an issue that should be considered by the Executive Departments and Administration Committee rather than Election Law. Vote 14-0.

HB 443, relative to push-polling. RE-REFER TO COMMITTEE

Rep. Joseph A. Foster for Election Law: The bill would place several restrictions on the practice of "push-polling." Though the committee agrees that the practice of push-polling raises serious concerns, it was unsure of the bill's constitutionality in light of the United States Supreme Court's decision in *McIntyre v. Ohio Elections Commission*. In addition, the term "push-polling" as defined in the bill may encompass legitimate practices traditionally used by campaigns. For this reason, the Committee recommends that the bill be re-referred so that it can be studied further with other bills previously re-referred to the Committee which raised similar constitutional questions. Vote 16-0.

HB 481, relative to financial reporting requirements for political candidates. OUGHT TO PASS WITH AMENDMENT

Rep. C. Donald Stritch for Election Law: The committee felt that this bill closed important loopholes in the election fund raising/expenditure process and also enhances public confidence in our reporting procedures. Vote 16-1.

HB 484, relative to registration of certain voters who vote by absentee ballot. RE-REFER TO COMMITTEE

Rep. David R. Boutin for Election Law: The committee heard testimony supporting the intent of the bill. However, there are some outstanding issues that need further consideration so as not to minimize the intent of other state statutes regarding handicapped access to polling areas. The sponsor of the bill requested that the bill be re-referred, and the committee concurred unanimously. Vote 17-0.

HB 596-FN, repealing the law prohibiting the bribing or intimidating of voters. OUGHT TO PASS WITH AMENDMENT

Rep. Nick Hart for Election Law: This bill repeals some obsolete provisions and eliminates duplicate jurisdictions between the county attorneys and the Attorney General. Vote 13-0.

HB 634-Local, relative to removal from office of certain municipal officials by voters. INEXPEDIENT TO LEGISLATE

Rep. Jackie K. Weatherspoon for Election Law: The committee believes this bill is flawed in a number of areas. For example, the committee did not feel they could make judgments on a person's physical appearance as grounds for removal from office. The committee also believes there is legislation in place that could address removal from office. Therefore, the committee voted Inexpedient to Legislate. Vote 16-0.

HB 659, modifying restrictions on televised political advertising. RE-REFER TO COMMITTEE

Rep. Nick Hart for Election Law: The committee felt this bill was in a new area of campaigning. Exploring all aspects of this bill and its constitutionality will be possible in a study committee. Vote 15-1.

HB 782, exempting the lists of recipients of official absentee ballots from certain public inspection access requirements. INEXPEDIENT TO LEGISLATE

Rep. Raymond C. Buckley for Election Law: This bill does not solve the problem as intended by the sponsor. After weighing an individual's right to privacy in regards to absentee voting versus the public's right to know, the committee chose to continue the current practice of disclosing the list of absentee voters. Vote 18-0.

HB 786-FN, relative to election filing fees and primary petitions. INEXPEDIENT TO LEGISLATE

Rep. David R. Boutin for Election Law: The committee studied this bill and came to the conclusion that as drafted it made gaining access to the ballot more difficult as well as making it more costly to run a political campaign. The committee voted unanimously to recommend "inexpedient to legislate." Vote 15-0.

ENVIRONMENT AND AGRICULTURE

HB 196-FN, providing for the regulation of horticultural growing media. OUGHT TO PASS WITH AMENDMENT

Rep. Harold P. Melcher for Environment and Agriculture: The committee supported this Department of Agriculture bill to regulate the labeling and sale of potting soil, and to collect fees to cover the cost. Vote 17-0.

HB 396-LOCAL, prohibiting current use tax designation for property granted a change in zoning classification for 5 years after the reclassification. RE-REFER TO COMMITTEE

Rep. Richard T. Trelfa for Environment and Agriculture: The committee strongly recommends that because of the numerous issues that should be studied further concerning current use taxation, this bill should be re-referred, allowing time to adequately address these concerns. Vote 14-0.

HB 498-FN-A, establishing a New Hampshire farm museum and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. William R. Phinney for Environment and Agriculture: This bill recognizes the New Hampshire Farm Museum in Milton, New Hampshire as the first official State of New Hampshire Farm Museum. The amendment has removed the need for fiscal review. Vote 19-0.

HB 593-FN-LOCAL, extending the grant program for closure of landfills to municipalities and adding the closure of the refuse-to-energy facility at Pease to the state water pollution control revolving fund priority projects. RE-REFER TO COMMITTEE

Rep. Richard T. Trelfa for Environment and Agriculture: The committee felt time did not permit analysis of financial impact source and availability of funds and impact on closure of existing unlined landfills. Re-referral will permit the time for necessary studies. Vote 14-0.

HB 803-FN-LOCAL, relative to property valuation for purposes of payment of tax on a change of use under the current use laws. INEXPEDIENT TO LEGISLATE

Rep. William R. Phinney for Environment and Agriculture: HB 396 has been re-referred back to committee. The issues included in HB 803-FN-LOCAL will be considered in the study resulting from HB 396. Vote 18-0.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

CACR 14, relating to pensions for the governor, commissioners of state departments, and judges. Providing that no governor, commissioner of a state department, or judge shall receive a pension from public funds. INEXPEDIENT TO LEGISLATE

Rep. Myron S. Steere, III for Executive Departments and Administration: The prime sponsor testified in opposition to this CACR. He said this was a sledge hammer approach and he will consider another approach in future legislation. There was some support for the CACR, but this will not answer their concerns. Vote 18-0.

HB 124-FN, relative to dental care insurance for state employees and retired state employees. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Executive Departments and Administration: The request of this bill was to provide dental benefits, similar to state employee dental benefits, to retirees with the cost to come from the general fund. The committee worked with the providers of dental coverage and received written assurance that as of July 1, 1997, dental coverage would be offered to retired state employees, to be paid by the retired employee

requesting such coverage. Delta Dental will provide the coverage and will handle individual billings to those selecting coverage. Therefore, no legislation is required Vote 20-0.

HB 447, eliminating the grandfather clause for licensure of professional engineers. OUGHT TO PASS WITH AMENDMENT

Rep. Kipp A. Cooper for Executive Departments and Administration: It was the committee's belief that the elimination of the grandfather clause would exclude certain individuals with partial education and experience from sitting for the professional engineer's examination. The amendment keeps the grandfathering clause intact and adds the requirement that anyone applying for licensure under this section must also pass the professional engineer's examination.. Vote 13-0.

HB 457-FN, requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on "WEBSTER" by January 1, 1998, and designating the state library as the official repository of public information. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew R. Peterson for Executive Departments and Administration: The bill, requiring that all agencies, departments, and commissions have a presence on the state information system (commonly known as "The Webster"), was viewed as an important first step in bringing the state into the electronic age and enhancing access to information by its citizens. The amendment was technical, designating the state library as the official repository of "state government" rather than "public" information and removed references to the Webster by name, as it is only a part of the New Hampshire automated information system Vote 13-0.

HB 465-FN, requiring the legislature to consider a list of factors in determining whether to regulate a previously unregulated profession. RE-REFER TO COMMITTEE

Rep. Merton S. Dyer for Executive Departments and Administration: This bill would establish a committee to study what information the legislature should require when considering licensure of new entities. The committee asks that this bill be re-referred to the committee as the ED&A is presently using a lengthy questionnaire to develop this same information and we wish to see the effect of the voluntary action on the part of the their asking for licensure. Vote 17-0.

HB 500, relative to membership on the retirement system board of trustees. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Executive Departments and Administration: This bill as amended by the sponsor would have changed the method of selecting firefighter members for the Board of Trustees of the New Hampshire Retirement System by allowing the Professional Firefighters of New Hampshire and the New Hampshire Permanent Firemen's Association to submit a list of names to the governor of appointment. The committee heard from members of both organizations on this bill. Inasmuch as there is a great deal of dual membership in these organizations, the committee felt that this was a situation that they should resolve among themselves and the legislature should not be involved. Vote 14-0.

HB 519-FN, relative to regulating heating installers. INEXPEDIENT TO LEGISLATE

Rep. Kipp A. Cooper for Executive Departments and Administration: This bill would place the regulation of heating installers under the Plumbers Board. Testimony from the sponsor and a constituent related problems with the design and installation of a heating and cooling system. Many were opposed to the bill as the regulation of heating installers would conflict with current law, more uniform application of the "BOCA" code and training of inspectors would be a better approach. Licensure alone will not guarantee quality performance. The committee felt that this bill would not address the problems outlined by the sponsor and that other means of quality assurance should be sought. Vote 17-0.

HB 520, establishing the bureau of gaming enforcement within the division of state police. INEXPEDIENT TO LEGISLATE

Rep. Ray F. Langer for Executive Departments and Administration: The sponsor, when presenting the bill, indicated it was not drafted exactly the way he intended. Currently, game statutes on the books are enforced by the Bingo and Lucky 7 inspectors. The state police have authority to investigate both legal and illegal gambling at the present time. The commissioner of safety could assign state police to do additional investigation if it is warranted. The committee vote indicated that it did not feel the bureau was needed at this time Vote 18-0.

HB 535, relative to the regulation of architects. RE-REFER TO COMMITTEE

Rep. Kipp A. Cooper for Executive Departments and Administration: The committee is asking for re-referral on this bill because of some of the complex problems that arose when we discussed the amendment that was proposed. The bill should have clarified the rule-making, granted board authority to assess fines and conduct investigations, adjust fees to meet the required 125% rule for boards and allowed the board to adjust the way the examination is conducted to meet current methods of offering the exam. The bill had some opposition from licensed professional engineers as they were concerned they would not be able to continue to do design work. This concern was addressed in the amendment to the satisfaction of all parties. What concerned the committee was the apparent conflict between this bill dealing with the architects and the rules of conduct of the joint board of which the architects are a members. Most of the problems arose from a difference of opinion between the committee, the attorneys in the attorney general's office and the attorneys at legislative rules over the content of rules and statutes. This inconsistency must be addressed and can

best be done by re-referral. There is one portion of the bill dealing with administration of the examination for licensure that may cause the board a problem but the committee hopes to find an interim remedy. Vote 14-0.

HB 572-FN, relative to town, city, and county treasurers and to the state treasurer. OUGHT TO PASS WITH AMENDMENT

Rep. Sylvia A. Holley for Executive Departments and Administration: This bill is a request from the department of the treasury to reflect changes that will improve the operation of the department and transfer certain activities to the agency that can better handle the details. The amendment, a request of the department of revenue administration, makes minor changes in the bill that more accurately reflect how they will carry out the functions related to distribution of railroad tax to the communities. The amendment was used because the bill had been completed before the department of revenue administration had a chance to give their input. Vote 15-0.

HB 619-FN-A, establishing a sunset review process for state agencies and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. Howard C. Dickinson, Jr. for Executive Departments and Administration: The "sunset" process was used for several sessions during the 1980's with little effect and at great expense in both time and money. Furthermore, any member or committee can write "sunset" legislation for a specific state agency today without involving the whole of state government. Vote 16-0.

HB 630-FN-L, providing an additional service retirement option for group I teacher members of the retirement system. RE-REFER TO COMMITTEE

Rep. Myron S. Steere, III for Executive Departments and Administration: The committee and sponsor agree the bill will require further actuarial and committee study to ensure the proposed early retirement option is revenue neutral to the state retirement system. Vote 18-0.

HB 699-FN, relative to holiday pay for part-time state employees. INEXPEDIENT TO LEGISLATE

Rep. Myron S. Steere, III for Executive Departments and Administration: This bill would authorize holiday pay for part time personnel. In 1986-87, holiday pay was authorized by the legislature for direct care nurses but was not authorized for any other part time employee of the state. The Department of Transportation has paid holiday pay to toll takers in the past but this ended in 1996 as there was no authorization for back payment. The cost of paying holiday pay for nearly 4,000 part time employees that might work the holiday could be very high and could add an estimated \$1.4 million to the wage accounts of the state. The department, that presented testimony to the committee, indicated that there is no shortage of applicants for part time positions at this time. Given the availability of employees and the cost to the state, the committee voted this bill inexpedient to legislate. Vote 18-0.

HB 733-FN, relative to the state government information dissemination and access act. INEXPEDIENT TO LEGISLATE

Rep. Sylvia A. Holley for Executive Departments and Administration: This bill already defines the goal of the state library and it's program of disseminating information electronically to the public. Unfortunately, the committee felt the mandates the bill creates were too many, too costly, and inappropriate at this time. With the passage of HB 457, the Webster bill, the State of New Hampshire departments, agencies and commissions are on their way toward information sharing to move too quickly would be unwise. Vote 15-0.

HB 737-FN-L, relative to redefining earnable compensation for the purpose of determining retirement system benefits. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: The original bill would have capped earnable compensation with no transition period. The amendment supported by the committee will establish a chapter study committee to make a comprehensive study of earnable compensation and the effects upon the funding percentages of the New Hampshire Retirement System. Vote 18-0.

HB 741-FN-A, relative to access to state telephone numbers. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Executive Departments and Administration: This bill would make all in-state telephone calls to state offices, agencies, boards and commissions toll-free. The cost of such toll calls would be appropriated from the existing funds of the department of administrative services. Many departments and agencies now have 800 numbers which are readily available. To implement this bill as written would be very expensive. The cost, along with the availability of 800 numbers, caused the committee to vote this bill inexpedient to legislate. Vote 16-0.

HB 751, relative to spousal benefits for certain retired group II members of the New Hampshire retirement system. RE-REFER TO COMMITTEE

Rep. Merton S. Dyer for Executive Departments and Administration: SB 78 of 1987 (Chapter 216 of the Laws of 1987) established a 50% spousal benefit for widows of retired members of group II of the retirement system. This bill was effective on April 1, 1987 and did not include those retired prior to that date. The bill under consideration would provide the same benefits to those retired prior to April 1, 1997. The way the bill is structured, it would double or triple the spousal benefits of those that had elected reduced benefits to provide a spousal benefit. This was not exactly what was

intended and might be in violation of federal retirement rules and regulations. To answer these questions and draft an equitable bill, actuary information will be required and will require considerable study. For these reasons the committee is asking for re-referral. Vote 18-0.

HB 753-FN, relative to the board of auctioneers and the conduct of auctions. RE-REFER TO COMMITTEE

Rep. Myron S. Steere, III for Executive Departments and Administration: The committee asks that this bill be re-referred to the committee to observe the actions of the Auctioneers Board and the new rules. There are some problems in the field but elimination of licensure and transfer from the Auctioneers Board to the supervision of the Secretary of State will not correct the major complaints. Their new rules and possible assistance from the Secretary of State's office in handling hearings along with the new rules may correct the problems without legislation. Vote 18-0.

HB 762-FN, relative to the regulation of naturopathic medicine. RE-REFER TO COMMITTEE

Rep. Gerald O. Gosselin for Executive Departments and Administration: The purpose of this bill was to define and delineate the use of the term naturopathy and naturopathic doctor. The hearing produced a great deal of testimony on both sides. The bill also has corrections of dates in the original statute chapter. With re-referral, the committee will be able to deal with the dates and have sufficient time to thoroughly act on the testimony presented to the committee. Vote 18-0.

HB 790-FN, relative to the board of medicine. INEXPEDIENT TO LEGISLATE

Rep. Rep. Maurice E. Goulet for Executive Departments and Administration: This bill establishes the Board of Medicine as an independent stand alone board. The committee believes that this board and all other health boards should continue to be administratively attached to the Department of Health and Human Services. This is an appropriate linkage and no testimony was presented to refute that position. The bill also provides for the hiring of an executive director and two investigators for the board. Currently, the board has a very capable administrator and the board's investigations are being done by the attorney general's office. Continuing this policy means that investigation of complaints to the board will be done in a non-prejudicial manner. Finally, the committee on Health, Human Services & Elderly Affairs has just passed HB 537 which, if it becomes law, will remove a number of health professionals from the Board of Medicine. This should result in providing the Board of Medicine more opportunity to clearly focus on the core issues that they face in the regulation of physicians, podiatrists and physicians assistants. Vote 17-1.

FINANCE

HB 113-FN-A, reducing the rate of the communications services tax. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: The committee was not provided evidence that the increase in economic growth in communication services would offset the loss of \$6.5 million of state revenues over the biennium. Vote 19-2.

HB 516-FN, increasing the fuel oil discharge cleanup fund fee. OUGHT TO PASS WITH AMENDMENT

Rep. Robert G. Holbrook for Finance: This bill, as amended, increases the import fee to \$.005 per gallon of fuel oil to provide more adequate funds to pay incoming applications of fuel oil contamination as a backlog now exists. Also, it provides for transfer of \$1,000,000 from the Oil Pollution Control Fund to the Fuel Oil Disbursement Fund to provide funds to eliminate the backlog, and 50% of fees collected shall be returned to the Oil Pollution Control Fund until the Oil Pollution Control Fund reaches \$2,000,000. Further, this amended bill provides that each facility making claim from the Fuel Oil Disbursement Fund shall pay the first \$500 as is similar to policies in all disbursement funds. Vote 19-0.

HB 563-FN-A, relative to a tax on telecommunications easements. RE-REFER TO COMMITTEE

Rep. Rep. Kenneth L. Weyler for Finance: A complication developed in review of this bill. The easements are mostly on state-owned land that are abandoned railroad rights-of-way. The commissioner of transportation is gathering information on this property and has asked for more time. Vote 21-0.

HB 569-FN-A-L, creating a New Hampshire securities transfer excise tax and a continually appropriated fund. INEXPEDIENT TO LEGISLATE

Rep. David J. Alukonis for Finance: The proposal would impose a tax on the sale of stocks, bonds, futures, and other financial securities and return the proceeds to property tax payers on the basis of household income. The committee believes that the imposition of this tax and the distribution of its proceeds could likely be considered unconstitutional due to the requirement that revenues be distributed according to certain "brackets" of household income. Additionally, it was also feared that the proposal could have a significantly negative impact on the decision by various mutual fund companies which have decided to, or are in the process of, relocating their operations to New Hampshire. Vote 21-0.

HB 645-FN, requiring the commissioner of health and human services to produce certain quarterly reports. RE-REFER TO COMMITTEE

Rep. W. Gordon Allen for Finance: The Committee agreed with the intent of the bill to get the legislature information on what the Department of

Health and Human Services owes its vendors, so budgets can be more realistic and accurate. However, because of reassurances from the Department that they will provide the payables at year end, the Committee decided on re-referral pending the receipt of the numbers. Vote 20-0.

HB 689-FN, relative to a certain portion of registration fees of a nonprofit corporation. RE-REFER TO COMMITTEE

Rep. Earle W. Chandler for Finance: The bill proposes a funding mechanism for a private non-profit education foundation. There has been no review by the education committee or the education department. For those reasons, and the unique method of funding, the committee would like further study. Vote 20-1.

HB 705, relative to the confidentiality of the records of the department of revenue administration. INEXPEDIENT TO LEGISLATE

Rep. Avis B. Nichols for Finance: The Department of Revenue Administration needs to work with other states when auditing companies for BPT if they do business in those states as well as in New Hampshire. The Department also needs to work with other states when auditing for interest and dividends tax which could not be done if states did not share information with each other. Vote 20-0.

HB 714, repealing certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer. OUGHT TO PASS WITH AMENDMENT

Rep. Margaret A. Lynch for Finance: This bill was requested by the Secretary of State as a "housekeeping measure." It repeals provisions requiring the State Treasurer's insurance bond to be kept by the Secretary of State and requiring the Secretary of State to keep accounts of state bonds. The amendment reinstates the requirement that the State Treasurer provide a \$200,000 bond before entering into the duties of the office, which was inadvertently repealed in the original bill. Vote 20-0.

HB 732-FN, making revisions relative to parental reimbursement for children's services to the department of health and human services. INEXPEDIENT TO LEGISLATE

Rep. Frances L. Riley for Finance: Testimony indicated that the system of parental reimbursement to the department for services rendered to their children is working efficiently. Passage of this bill would have proved discriminating and confusing, and would result in additional staff and equipment costs. With the approval of the sponsor, the committee voted the bill Inexpedient to Legislate. Vote 19-0.

HB 746-FN, relative to fees collected by the insurance department. OUGHT TO PASS WITH AMENDMENT

Rep. Arthur P. Klemm, Jr. for Finance: This bill eliminates the dedicated funds provision in RSA 402 for the Insurance Department's company and producer licensing fees. The bill ensures that all Insurance Department revenues become unrestricted general funds, which is the department's current practice. The amendment provides that certain expenses associated with insurance company liquidation expenses will be paid out of the assets of the liquidated company as administrative expense. Vote 20-0.

HB 804, relative to the definition of "communication services" for purposes of the communications services tax. RE-REFER TO COMMITTEE

Rep. David J. Alukonis for Finance: The committee concurred with the sponsor who suggested that the bill be re-referred in order to await and evaluate changes in federal statutes and the federal tax code regarding certain communication services. Vote 20-0.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 426, establishing a committee to study the rules and regulations regarding the administration of medications in long-term care facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph Manning for Health, Human Services and Elderly Affairs: This bill establishes two committees to investigate and recommend the most effective and least restrictive methods for the administration of medication and the licensing of assistant personnel in long-term care facilities. Vote 16-0.

HB 472, establishing the council for children with chronic health conditions. OUGHT TO PASS WITH AMENDMENT

Rep. Marion L. Copenhaver for Health, Human Services and Elderly Affairs: The committee unanimously supports the establishment of this council by statute. There are 17,000 chronically ill children in New Hampshire whose special needs will be represented by this council. Both the Department of Health and Human Services and the Department of Education will develop policies affecting this population. The council is needed to assist schools, Department of Health and Human Services and the Departments of Education and Insurance by researching and securing grants outside the state and federal venue. Vote 15-0.

HB 476, establishing the New Hampshire council on drug abuse prevention. INEXPEDIENT TO LEGISLATE

Rep. Robert Chabot for Health, Human Services and Elderly Affairs: The committee felt that there is no need to mandate cooperation when different agencies can and should do the same thing voluntarily. Vote 14-3.

HB 490, relative to the confidentiality of medical records. RE-REFER TO COMMITTEE

Rep. Carol Moore for Health, Human Services and Elderly Affairs: The committee felt that confidentiality of medical records in this age of computers is a very important concern, but requires more study. The many concerns brought up in the hearing can then be addressed. Vote 16-0.

HB 621, exempting wilderness/back country rescuers from RSA 151-B. RE-REFER TO COMMITTEE

Rep. Robert Foster for Health, Human Services and Elderly Affairs: This is a well intended bill that would exempt wilderness/backcountry rescuers from the provisions of RSA 151-B relative to emergency medical service. However, after much testimony and meeting with interested parties, it was voted that more work was needed to make this bill more comprehensive. Vote 15-0.

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages. OUGHT TO PASS WITH AMENDMENT

Rep. Alphonse Haettenschwiller for Health, Human Services and Elderly Affairs: This bill insures that manufacturers will only use water in their products that comes from a source which has been approved by the department of environmental services. It also permits the department of health and human services to issue a temporary license to a new beverage manufacturer. Vote 16-0.

JUDICIARY AND FAMILY LAW

HB 234-FN-L, relative to disposition by counties of funds of deceased patients of county nursing homes. RE-REFER TO COMMITTEE

Rep. Janet G. Wall for Judiciary and Family Law: The bill would raise the limit a patient may have in a personal account in a nursing home from \$2,000 to \$2,500 to comply with federal regulations. The process of reporting the death of a patient and probating those funds needs further review. To make certain what changes, if any, need to be made in current procedures, the committee voted unanimously to re-refer this bill. Vote 15-0.

HB 250-FN-L, establishing a formal hearing process for board of tax and land appeals or court appeals limited to a review of the record for certain property tax abatement applications. INEXPEDIENT TO LEGISLATE

Rep. Janet G. Wall for Judiciary and Family Law: The committee found that the bill did not make it clear how the new process would be applied in New Hampshire's cities and failed to address the issue of uniform requirements throughout the state for those applying for abatements. The full burden of responsibility for providing complete and final information and for meeting deadlines would fall onto the taxpayers without municipal officials having equal obligations. The committee believes a better process can be worked out at local levels with taxpayers and officials sharing information and meeting deadlines. Vote 12-0.

HB 570-FN, establishing a procedure for appointment of independent counsel in New Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Alf E. Jacobson for Judiciary and Family Law: There was no evidence presented at the hearing that would require such an enlargement of the investigative capacity which cannot be accomplished by present legislative or executive functions. Vote 12-0.

HB 616-FN, relative to jury selection reforms. OUGHT TO PASS WITH AMENDMENT

Rep. Alf E. Jacobson for Judiciary and Family Law: The principal purpose of this bill is to blend the voters' lists and driver's license list into a master jury list. Amendment strikes Section V from eligibility list. Vote 18-0.

HB 688-FN-A, establishing a committee to study all investigations of the late John C. Fairbanks, authorizing staff for the committee, and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Alf E. Jacobson for Judiciary and Family Law: This bill extends the work of the original Fairbanks Committee to include the judicial conduct of Fairbanks as well as some remaining questions. In addition, the role of the committee is extended to include more recent cases that are similar to that of Fairbanks. Vote 16-1.

HB 727-FN, relative to rate-setting for certain services, placements, and programs for children by the department of health and human services. INEXPEDIENT TO LEGISLATE

Rep. Carol H. Holden for Judiciary and Family Law: The bill was withdrawn at the request of the sponsor. The committee felt that the bill had merit, but passage was not recommended as the fiscal impact could not be determined. Vote 13-0.

HB 734-FN, requiring district courts to hold evening sessions. OUGHT TO PASS

Rep. Janet G. Wall for Judiciary and Family Law: This bill requires district courts to hold 2 evening sessions a month which may be in lieu of comparable daytime hours. With changes that have occurred in our economy, seeing many individuals being paid with hourly wages; and since many citizens along New Hampshire's borders work out of state, this bill will allow those workers to fulfill their obligations to the court without losing wages. Furthermore, police officers, who generally prosecute these cases, will be able to fulfill their professional duties, without interruption, which will benefit the areas they serve. In small towns this will also benefit many part-time police officers who, in order to appear in court, must take time off from their full-time day jobs. Vote 12-0.

HB 736-FN, increasing jurors' fees. RE-REFER TO COMMITTEE

Rep. Evelyn S. Letendre for Judiciary and Family Law: The committee felt some time was needed to study this bill along with other new issues addressed by the Judicial Council's report of 12/15/96 concerning jury reformation. Vote 12-0.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 298, permitting legislators to take time off from their regular employment to fulfill public responsibilities. INEXPEDIENT TO LEGISLATE

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: The ability to come to an agreement with an employer already exists. Those who run for legislative office know the time requirements and, therefore, should make an agreement with the employer for time off. Vote 14-1.

HB 667, relative to confidentiality issues concerning the exchange of information between the departments of revenue administration and employment security and relative to payment of employer contributions. OUGHT TO PASS WITH AMENDMENT

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: This bill allows the sharing of information between the Department of Revenue Administration and the Department of Employment Security (DES). The bill further clarifies when delinquent DES contributions are to be credited and further increases penalties from Misdemeanor to Class B or Class A Felony for failure to pay tax under RSA 282. Vote 15-0.

HB 769-FN, relative to unemployment compensation. OUGHT TO PASS

Rep. George D. Murch III for Labor, Industrial and Rehabilitative Services: This bill requires the Department of Employment Security to withhold and deduct unemployment compensation consistent with an individual's receipt of overissuance of food stamp coupons. It also recalculates the manner in which an employer's account is credited with timely administrative contributions. This legislation is needed to satisfy newly enacted federal welfare reform. Failure to pass could jeopardize \$160 million in federal welfare funds. Vote 15-0.

HB 794-FN-LOCAL, requiring employers who require certain employees to be armed to provide body armor to the employees. INEXPEDIENT TO LEGISLATE

Rep. Franklin C. Bishop for Labor, Industrial and Rehabilitative Services: This bill requires that employers who require employees to carry firearms as a condition of employment provide body armor to the employee at no cost to the employee. The committee felt the cost incurred by this bill to all employers, including the state and its political subdivisions, would be excessive, considering that it would be a mandate imposed under the NH Constitution Part First, art. 28-a. Many of the employers are currently doing this. In all reality this should be a local management decision. Vote 15-0.

HB 807-FN, relative to the Littleton employment security district office. INEXPEDIENT TO LEGISLATE

Rep. Richard E. Dolan for Labor, Industrial and Rehabilitative Services: This bill would cause serious hardship on the citizens this office services. There would be no appreciable savings realized by the closure of the Littleton office. Vote 15-0.

LEGISLATIVE ADMINISTRATION

CACR 2, relating to reimbursement for travel expenses for members of the general court. Providing that members of the general court shall be reimbursed for actual and reasonable travel expenses incurred for legislative business with certain limitations. INEXPEDIENT TO LEGISLATE

Rep. Gregory G. Carson for Legislative Administration: The issues in this CACR were resolved by HB 440-FN. The committee felt this issue is better addressed by statute and not constitutional amendment. Vote 13-0.

HB 629-FN, establishing a pilot program for the recording of committee proceedings of the general court INEXPEDIENT TO LEGISLATE

Rep. Donnalee Lozeau for Legislative Administration: The committee felt that there was a more efficient way to experiment with the recording of legislative proceedings than that envisioned by this bill. The Speaker has agreed to implement the experimental use of recording equipment to record the proceedings of the committee on Science, Technology and Energy during this biennium. This experiment should help iron out any "bugs" which may exist in the recording procedures. In the end, this will help determine the true costs and feasibility of recording House committee proceedings. Vote 12-0.

HB 720-FN, relative to evening hours for sessions and hearings of the New Hampshire house of representatives **INEXPEDIENT TO LEGISLATE**

Rep. Robert L. Wheeler for Legislative Administration: The committee felt that the cost of this bill does not have a commensurate benefit. Vote 13-0.

HB 796-FN, relative to lobbyist registration **INEXPEDIENT TO LEGISLATE**

Rep. Gregory G. Carson for Legislative Administration: This bill is very similar to legislation filed last session which was referred to interim study by this committee - HB 385 is the result of that study. The committee chose HB 385 as the mechanism to address lobby reform this session.. Vote 12-0.

LOCAL AND REGULATED REVENUES

HB 351-L, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value. **OUGHT TO PASS WITH AMENDMENT**

Rep. Linda T. Foster for Local and Regulated Revenues: This bill clarifies how municipalities calculate the amount of taxes which can be deferred under RSA 72:38-a. It also affirms that the deferral process shall not prohibit any abatement pursuant to RSA 72:16. Vote 18-0.

HB 399-L, changing the name and qualifications for the optional property tax exemption for the totally and permanently disabled. **OUGHT TO PASS WITH AMENDMENT**

Rep. Linda T. Foster for Local and Regulated Revenues: This bill, as amended, refers to the language contained in Sections II and XVI of the federal Social Security Act to designate eligibility relative to a disability related property tax exemption. The exemption itself and the amount of the exemption remains a local option. Vote 18-0.

HB 620, allowing a municipality to adopt plans to delay reassessments on businesses which expand in central business districts and on historic buildings listed with the National Register of Historic Places. **INEXPEDIENT TO LEGISLATE**

Rep. Jean R. Wallin for Local and Regulated Revenues: This bill is a laudable attempt to halt the erosion of downtown areas. However, the committee feels that many safeguards are missing in the bill, such as limits on the length of time the deferral may remain in place and a recapture provision for taxes deferred. Without recapture, it is possible that the bill is unconstitutional. Vote 16-2.

HB 636-L, relative to municipal authority to grant tax abatements for the purpose of facilitating the transfer of contaminated property acquired by a municipality through tax deed to a buyer participating in the brownfields program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Lauren Carney for Local and Regulated Revenues: This bill clarifies a municipality's ability to acquire environmentally contaminated property, without liability for the contamination, in order to convey the property to an eligible person in the brownfields program. It also allows municipalities to grant tax abatements under more relaxed rules to facilitate the transfer of the property. Vote 12-1.

HB 648-L, relative to a local option fee for local or regional transportation infrastructure improvements. **OUGHT TO PASS WITH AMENDMENT**

Rep. Carol T. Burney for Local and Regulated Revenues: This bill allows municipalities to implement a local option fee to fund a capital reserve fund to be used only for transportation improvements at the local or regional level. This is enabling legislation only and provides a very useful tool to towns and municipalities who choose to adopt it. Vote 17-1.

HB 707-L, relative to municipal taxation of utility property. **RE-REFER TO COMMITTEE**

Rep. Stephen G. Avery for Local and Regulated Revenues: The committee had two bills dealing with the deregulation issues of electrical power rates, HB 707-L and HB 566-FN-A-L. HB 566 was amended and voted OTP/A by the committee to take care of the most pressing issues. There are far more questions to be asked on this complicated issue and the committee wants the time to look at all aspects of deregulation. Therefore, we would ask your support on re-referral. Vote 14-0.

HB 801-FN-L, changing the interest rate on delinquent property taxes and subsequent taxes. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen G. Avery for Local and Regulated Revenues: While the committee understands why the sponsor wanted to reduce the rates on delinquent property taxes, it was pointed out that it is the rest of the taxpayers in the municipality that end up footing the bill. The cost of collection of past due taxes is 60% of the total cost of collecting all taxes. The committee overwhelmingly supports leaving the rates as they are, hence the ITL vote. Vote 16-1.

MUNICIPAL AND COUNTY GOVERNMENT

HB 244, allowing a municipality to prohibit sexually oriented businesses. INEXPEDIENT TO LEGISLATE

Rep. Robert W. Brundige for Municipal and County Government: The committee abides by the previous Supreme Court rulings that laws of this type are unconstitutional. The committee also feels that municipalities can control activities of this sort through their zoning ordinances. Vote 13-1.

HB 380-LOCAL, relative to the sale of town-owned property. OUGHT TO PASS WITH AMENDMENT

Rep. Norma A. Sabella for Municipal and County Government: The bill will allow towns with 10,000 or more inhabitants to have the authority not only to sell land, but land and building or both, as long as such authority has been given to the governing body by the legislative body. Provisions are made for public hearings as well as a petitioned request of 50 registered voters prior to the governing body's vote. Furthermore the proposed sale shall be inserted in the warrant for the town meeting. Vote 16-0.

HB 468-LOCAL, eliminating a requirement that registers of deeds keep original copies of officers' returns of attachments and writs of execution on file permanently. OUGHT TO PASS WITH AMENDMENT

Rep. Robert W. Brundige for Municipal and County Government: This bill allows registers of deeds to utilize modern technology in the in the maintenance of their records. It also eliminates the necessity for them to maintain unwieldy and unnecessary files and file cabinets. Vote 18-0.

HB 543-LOCAL, relative to valuation of aeronautical facilities for purposes of payments in lieu of property taxes. RE-REFER TO COMMITTEE

Rep. Thomas E P Rice Jr. for Municipal and County Government: We wish this bill re-referred so that we may get input from the legislative Aviation group which has shown willingness to study this matter with us. Vote 18-0.

HB 641, relative to property tax bills for land parcels having multiple owners. RE-REFER TO COMMITTEE

Rep. Marilyn A. Fraser for Municipal and County Government: This bill as stated would establish property tax billing procedures for land parcels which have multiple owners. All members felt that the implications and ramifications of this bill needs further analysis. Vote 14-0.

HB 642, requiring that all property taxes be paid prior to approval of a subdivision plat. RE-REFER TO COMMITTEE

Rep. Paul A. McGuirk for Municipal and County Government: This bill is a property tax issue that the committee wishes to study in conjunction with three or four other tax issues that have come before our committee this session. One sub-committee will study all tax issues to develop good policy. Vote 13-3.

HB 676-FN-LOCAL, establishing procedures for the distribution of proceeds from the sale of tax-deeded property by a municipality. RE-REFER TO COMMITTEE

Rep. Kathleen N. Taylor for Municipal and County Government: This bill establishes procedures for the distribution of proceeds from the sale of tax-deeded property by a municipality. The committee wishes to study this bill further to develop fair and equitable policies. Vote 14-0.

HB 708, extending the reporting date for the committee studying the issues surrounding the definition of "facility" for the purposes of eligibility for certain property tax exemptions. OUGHT TO PASS

Rep. Paul A. McGuirk for Municipal and County Government: The study committee formed during the previous session needs more time to consider the complex issues involving "facility" definition for taxation purposes of certain pollution devices and/or equipment. The committee is agreeable to this request to extend the report date to November 1, 1997. Vote 18-0.

HB 715-LOCAL, placing time limits on covenants that have been placed on deeds by developers. INEXPEDIENT TO LEGISLATE

Rep. Thomas E P Rice Jr. for Municipal and County Government: Time limits would raise havoc with things like maintaining open space, density, and preservation of desirable futures. Also it would frustrate the best intentions of the grantor and those who bought property because of the existing covenants. Vote 18-0.

PUBLIC WORKS AND HIGHWAYS

HB 507-A, relative to the expansion of veterans' home facilities and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. Lou D'Allesandro for Public Works and Highways: There is in the Capital Budget an item for the Home. The committee believes that other alternatives should be explored in order to address this problem. These alternatives may include but not be limited to actions taken by the federal government in Manchester, New Hampshire, and White River Junction, Vermont. Further discussion of this bill will take place in the context of the Capital Budget. Vote 18-1.

HB 534, establishing a committee to study the New Hampshire highway and bridge infrastructure. OUGHT TO PASS WITH AMENDMENT

Rep. Gerald P. Merrill for Public Works and Highways: This bill establishes a committee to study the New Hampshire highway and bridge infrastructure. The amendment sets up the membership as six senators and six representatives, four of whom shall be members of the Public Works & Highways Committee. Vote 16-0.

HB 778-A, relative to erosion prevention on a certain portion of the Connecticut River and making an appropriation therefor. RE-REFER TO COMMITTEE

Rep. Merle W. Schotanus for Public Works and Highways: This bill was introduced to seek funding help to control a seriously eroded area of the Connecticut River bank near New Hampshire Rt. 12 in North Walpole, New Hampshire. The committee concluded it is prudent to re-refer the bill to allow the governor's office, U.S. Army Corps of Engineers, our congressional delegation, and the New England Power Company to work out a solution to the problem before it becomes necessary to take legislative action. Vote 21-0.

RESOURCES, RECREATION AND DEVELOPMENT

HB 181, prohibiting the sale or distribution of exotic aquatic weeds. OUGHT TO PASS WITH AMENDMENT

Rep. Peter O. Crowell for Resources, Recreation and Development: The state lakes and ponds are under attack by many exotic plants. This legislation enables the Department of Environmental Services to continue their eradication program at a faster rate. The program will be funded with an increase of \$1.50 in the boat registration fee. Exotic aquatic plants are banned from purchase, sale, or transportation within the State of New Hampshire. Vote 17-0.

HB 350, exempting permits by rule and permits by notification from certain excavating and dredging permit requirements. RE-REFER TO COMMITTEE

Rep. William E. Williams, Jr. for Resources, Recreation and Development: This bill was requested by the Department of Environmental Services and refers to permits by rule and permits by notification. Since DES is undergoing a major change in their rules, it seemed proper to re-refer this bill until the rules are in place. Vote 16-0.

HB 560-FN, relative to penalties for introduction of boats and seaplanes from waters infested with milfoil or zebra mussels into clean lakes or ponds. RE-REFER TO COMMITTEE

Rep. Peter O. Crowell for Resources, Recreation and Development: New Hampshire public inland waters are under attack from numerous foreign growths and organisms, i.e. milfoil and zebra mussels, that are infecting the quality of our beautiful lakes, ponds, and rivers. The committee feels that it needs more time to craft meaningful legislation dealing with the migration of these organisms into the state. Vote 15-0.

HB 561-FN, relative to certain marine patrol personnel. RE-REFER TO COMMITTEE

Rep. Rudolf A. Adler for Resources, Recreation and Development: This bill originally sought to make the auxiliary marine patrol a required part of the Division of Safety Services and further to set the number of auxiliaries in statute. Public, subcommittee, and committee discussions made it clear that the present organization of this department within the Department of Safety required an in depth review with future corrective legislation. Vote 17-0.

HB 581-FN, authorizing the department of environmental services to issue permits in emergency situations, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures. RE-REFER TO COMMITTEE

Rep. Michael W. Downing for Resources, Recreation and Development: The Department of Environmental Services is currently in the process of developing a set of rules that addresses these issues. The committee wishes to re-refer this bill in order to review the rules, and if necessary, develop legislation to clarify and define the emergency permitting process. Vote 16-0.

HB 677-FN, increasing the wetlands excavating and dredging permit fee for major and minor projects. OUGHT TO PASS WITH AMENDMENT

Rep. William E. Williams, Jr. for Resources, Recreation and Development: This bill was originally requested by the Department of Environmental Services to allow increased personnel to more adequately process excavating and dredging permits. While there may be rules changes in the future, this bill adequately funds the necessary personnel. Vote 16-0.

HB 687, establishing an Alan B. Shepard park commission. OUGHT TO PASS WITH AMENDMENT

Rep. Mary Ann N. Blanchard for Resources, Recreation and Development: This bill establishes a commission to develop plans and make recommendations for a state or private park recognizing astronaut Alan B. Sheperd at the site of the Sheperd homestead in the town of Derry. Any future funding for implementation of this project which might involve state funds will be submitted to a future session of this legislature. Vote 17-0.

HB 698, relative to the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund. OUGHT TO PASS WITH AMENDMENT

Rep. Deborah F. Merritt for Resources, Recreation and Development: This bill will allow the oil fund disbursement board to request the Attorney General to issue subpoenas and request information. It will provide for eligibility for reimbursement from the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund and the motor oil discharge cleanup fund in a transfer of ownership. These changes were a request of the Attorney General's Office. Vote 12-0.

HB 710-FN, requiring boating safety education. RE-REFER TO COMMITTEE

Rep. Rudolf A. Adler for Resources, Recreation and Development: This bill once again visits the pressing need for increased awareness of boating safety issues. The testimony received was unanimous in support of the concepts, however, the committee opinion was to re-refer the bill in order to present the house with a more comprehensive plan to improve boater safety through a workable and cooperative public/private education program. Vote 17-0.

HB 744-FN, relative to administrative fines for violations of safety regulations regarding water pollution and waste disposal, authorizing the attorney general to enjoin any youth camp, public swimming pool, or spa operating without approval, and relative to the legal status of local river management advisory committees. OUGHT TO PASS WITH AMENDMENT

Rep. Paul E. St. Hilaire for Resources, Recreation and Development: This bill better defines the legal status of local river management advisory committees. The bill also authorizes the attorney general to enjoin any youth camp, public swimming pool or spa, that operates without the approval of the Department of Environmental Services. This bill also sets the fee structure for water sampling. Vote 17-0.

SCIENCE , TECHNOLOGY AND ENERGY

HB 587-FN, relative to the system benefits charge and interim stranded costs recovery charges in electric utility restructuring. RE-REFER TO COMMITTEE

Rep. Jeffrey C. MacGillivray for Science, Technology and Energy: The bill discusses the system benefit charge which will be added to restructured electric bills to fund programs such as low-income assistance and energy efficiency. The committee believes that it may be appropriate in the future to give additional legislative direction to the Public Utilities Commission regarding the amount and distribution of this charge, but much more study is needed. The committee will continue to work on this bill. Vote 14-0.

HB 610-FN, relative to the regulation of small telephone companies by the public utilities commission. RE-REFER TO COMMITTEE

Reps. Jeb E. Bradley and Jeffrey MacGillivray for Science, Technology and Energy: Two issues were raised by this bill: the amount of time needed to get new telephone tariffs approved and the amount of time needed for rate case hearings for the small telephone companies. The committee is dealing with the tariff approval in HB 452. There was no consensus on the rate case issue. An amendment was proposed that would have eliminated rate regulation if the small telephone companies do not raise rates more than 5 percent in any calendar year. While the committee was sympathetic to the plight of the small telephone companies, this amendment was not perceived as the solution. With re-referral the committee will continue to look at this situation. Vote 13-1.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HB 257, offering priority to qualified veterans for participation in training programs funded by the state or federal government. OUGHT TO PASS WITH AMENDMENT

Rep. Peter F. Bergin for State-Federal Relations and Veterans Affairs: This bill offers priority to qualified veterans for participation in training

programs funded by the state or federal government. The committee felt that it was important to give veterans a priority in state and federal training programs. Vote 16-0.

TRANSPORTATION

HB 212, removing the provision allowing a motor vehicle operator to produce a license within 48 hours of demand by a police officer. INEXPEDIENT TO LEGISLATE

Rep. John S. Langone for Transportation: The committee feels this bill is unnecessary. With regard to the paragraph giving police officers the authority to take drivers into custody who cannot display photographic identification, existing law already grants such authority. Pursuant to RSA 594:10 a police officer has the authority to arrest a driver charged with a motor vehicle violation, provided the violation is committed in his or her presence. If the driver cannot produce a driver's license upon a valid request, and the police officer observed the driver driving the motor vehicle, all the elements of an offense under RSA 263:2 have been committed in his or her presence. Additionally, the removal of the 48 hour exception to the law does not interfere with the police officer's discretion in administering motor vehicle laws. Thus, a police officer maintains the discretion to take no action until the driver can produce a valid driver's license. Vote 18-0.

HB 335-FN-LOCAL, relative to motor vehicle license and registration suspensions. INEXPEDIENT TO LEGISLATE

Rep. John S. Langone for Transportation: Knowing how important it is to keep people from driving after their licenses have been suspended, the committee realized that this bill just did not do what the sponsor want it to do. Vote 16-0.

HB 412, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles. OUGHT TO PASS

Rep. Brenda L. Ferland for Transportation: When this bill first appeared before the committee, it was worded as to seem to be giving the commissioner too much authority to amend rules as he/she wanted to. Upon further study it was determined that the commissioner wants to amend rules as they come down from the federal government. In the New Hampshire statutes he/she has the right to adopt federal amendments. This bill has three amendments that were determined to be statutes no longer needed. In short, this bill is a continued action bill for the commissioner. Vote 16-0.

HB 415, establishing speed limits for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg. OUGHT TO PASS WITH AMENDMENT

Rep. John S. Langone for Transportation: The committee feels this bill will help solve the problem of excessive night speeds of OHRVs on Back Lake. The sponsor and supervisor of the New Hampshire Department of Transportation are all in favor of the bill as amended. Vote 17-0.

HB 586, changing the expiration date of OHRV registrations. OUGHT TO PASS WITH AMENDMENT

Rep. Robert J. Letourneau for Transportation: Testimony for this bill showed that there is no negative impact to the users of OHRV's in this legislation. It does, however, provide a tool by which the Department of Resources and Economic Development can get hard numbers rather than estimates to calculate the grant-in-aid funds for the next season. Vote 16-0.

HB 589-FN , establishing livery plates and associated fees. OUGHT TO PASS WITH AMENDMENT

Rep. John W. Flanders, Sr. for Transportation: After testimony was given, it was clear that creating a special plate was not necessary to correct the problem, which is that certain vehicles for hire were exempt from regulations. By removing that exemption in RSA 376:3 it will correct the problem the sponsors were concerned about. By doing this it changed the title but did not change the intent of the bill. Vote 17-0.

HB 598-FN, relative to liens on aircraft for nonpayment of aircraft registration fees. OUGHT TO PASS

Rep. Robert H. Milligan for Transportation: After notification is made to an aircraft owner of non-registration and no compliance is acted upon by the owner, then a lien may be imposed on such aircraft. When payment is received such lien shall be released. Vote 16-0.

HB 626, requiring an inexperienced driver and a person 16-17 years of age to obtain a special learner's permit and examination permit prior to obtaining a driver's license. INEXPEDIENT TO LEGISLATE

Rep. Ralph L. Akins for Transportation: The committee decided to combine the subject matter in this bill with HB 459, which the committee voted to pass with amendment, and which addresses the same issues as this bill. Vote 11-0.

HB 637-FN, relative to license suspension and revocation. INEXPEDIENT TO LEGISLATE

Rep. John S. Langone for Transportation: The sponsor stated that this bill as drafted is not as he envisioned, and suggests that the bill be found inexpedient as it will be incorporated into HB 459, which the committee voted to pass with amendment and also addresses the same issues which are in this bill. Vote 11-0.

HB 695, establishing a committee to study the educational requirements of student drivers. OUGHT TO PASS

Rep. Peter R. Cote for Transportation: This bill sets up a study committee for the purposes of reviewing the driver training program with an eye toward avoiding the continued tragedies and injury to teenage and new drivers on the highways due to automobile accidents involving such new drivers. Vote 15-1.

HB 740-FN-LOCAL, requiring the state to pay a witness fee and mileage payment for a local law enforcement officer called as a witness for a division of motor vehicles administrative hearing, to be funded by an increase in the motor vehicle uniform fine schedule. INEXPEDIENT TO LEGISLATE

Rep. Roland M. Turgeon for Transportation: The committee feels that there would be a costly fiscal impact especially on small towns which are operating with a small complement of officers, and also another fee on court costs. Vote 17-0.

HB 758-FN, raising the speed limit on all New Hampshire interstate highways from 65 to 75 miles per hour and from 55 to 65 in other locations. INEXPEDIENT TO LEGISLATE

Rep. Robert J. Letourneau for Transportation: After receiving overwhelming testimony from both the private sector and various state agencies it was very obvious to this committee that this was a very serious safety concern for the motoring public in our state. The major issue facing our committee this year is the rise in teenage driving fatalities, and how to cope with it within the legislative process. We felt strongly that if this bill were to pass it would send the wrong message to our young drivers while putting our older citizens at risk. The committee vote of Inexpedient to Legislate, will send the correct message. Vote 16-0.

HB 760-FN, relative to OHRVs and OHRV registration fees. OUGHT TO PASS WITH AMENDMENT

Rep. Robert J. Letourneau for Transportation: This committee has heard four bills this year concerning the use of OHRVs Of those, two dealt directly with problems surrounding the use of these machines. It is clear to this committee that the Fish and Game department is being asked to do more to ensure our citizens and tourists with safe recreational opportunities 365 days a year, covering over 5,000 miles of trails, 970 lakes and 8,000 miles of highway, and these non-trail responsibilities have been the scene of many fatalities. This small increase, supported by its users, will help the state balance its books in providing that service. Vote 17-0.

HB 780-FN, establishing a cattle trailer license plate for agricultural use. INEXPEDIENT TO LEGISLATE

Rep. John S. Langone for Transportation: The committee felt that it was not necessary to create a separate plate for trailers hauling cattle. The sponsor stated that this would affect less than 200 trailers, and through testimony it seems that town clerks are not unified in their assessment of the fees charged for trailers. This bill will not correct this problem. The committee felt that there was existing RSA to handle this problem. Vote 16-0.

HB 797, requiring emergency vehicles to stop for school buses, and requiring the use of both audible and visual emergency signals, in certain circumstances. OUGHT TO PASS

Rep. Ralph L. Akins for Transportation: A representative from the New Hampshire Professional Fire Fighters Association along with a New Hampshire police chief testified in favor of this bill. Their testimony indicated that this procedure was currently an accepted common practice and common sense. This bill would formally make this procedure a standard safety policy. Vote 14-0.

WILDLIFE AND MARINE RESOURCES

HB 747-FN-A, establishing a fund for the acquisition or care of land or easements for wildlife habitats, continually appropriating the fund, and requiring an additional fee for each hunting or fishing license to be credited to the fund. RE-REFER TO COMMITTEE

Rep. Ronald J. Nowe for Health, Human Services and Elderly Affairs: The intent of this bill was to assess a \$3 additional fee to each hunting and fishing license sold. The moneys raised were intended to be placed in a special "Wildlife Habitat Fund" to be used by the department of fish and game for "the acquisition or care of lands or easements as wildlife habitats". However, the bill was only one page in length, and therefore, left a multitude of unanswered questions and technicalities which must be addressed. Vote 12-0.

WEDNESDAY, MARCH 12

REGULAR CALENDAR

COMMERCE

HB 241, relative to genetic testing. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: Genetic testing is a subject of great concern and caution for the committee. Access to affordable long-term care insurance is essential to the economic well being of New Hampshire families and the state as a whole. We should encourage, whenever possible, the purchase of insurance. A genetic mutation does not guarantee a medical problem. The use of genetic testing for long-term care insurance will only limit access to those who may need insurance. The amendment to this bill prohibits the use of genetic testing for long term care. Vote 12-2.

HB 340, relative to the real estate commission and its licensing and bonding requirements. OUGHT TO PASS WITH AMENDMENT

Rep. Martha Fuller Clark for Commerce: This bill, as amended, establishes reciprocity for licensure for persons with certain credentials from other jurisdictions and requires that such persons sit only for the New Hampshire portion in the licensure examination. It also establishes requirements for licensees seeking inactive status and revises the bonding requirements with regard to active licensed real estate brokers. Language in the original bill requiring that the New Hampshire real estate commission provide an annual newsletter to all its licensees and that the commission be given the power to appoint the executive director as prosecutor for certain district court cases involving violation of the Real Estate Practice Act was found inappropriate to legislate. Newsletters are not the business of the legislature. If there are difficulties with prosecutions of violations to the Real Estate Practice Act, the commission should work with the Attorney General's office. Vote 15-0.

HB 548-FN, limiting access to certain business records RE-REFER TO COMMITTEE

Rep. Gregory G. Carson for Commerce: The committee is very concerned as to possible abuse of current interstate agreements. This issue is highly sensitive and should be considered carefully. The committee desires additional time to address this legislation. Vote 16-0.

HB 599-FN, relative to youth access to tobacco products MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Gregory G Carson for the Majority of Commerce: The committee unanimously supports the limiting of youth access to tobacco products-without exception. The vote by the committee hinged on a single issue, the use of vending machines to sell tobacco products. The vote was not a partisan issue. The majority of the committee felt the strict limitations posed by this legislation eliminates vending machines as a source of tobacco products to New Hampshire youth. On passage of this legislation into law, all vending machines used to sell tobacco products will be required to have lock out devices, which, by design, cannot be left in an unlocked position and dispenses a single pack per activator. Further, the machines must be in full view of the person activating the machine and violations of this section carry the same penalties for violating any other section of this law. Lastly, this bill allows those vendors, who have already taken the proactive step and purchased the lockout equipped machines, to continue their use in accordance with New Hampshire law. Vote 8-7.

Rep. Martha Fuller Clark for the Minority of Commerce: The entire committee supports in a non-partisan manner the overall intent of this legislation which is to deny youth access to all tobacco products because of the risk of addiction, disability and death from the use of such products. However, the minority felt that a vital piece of this legislation was to ban all cigarette vending machines, a position supported by the Department of Health and Human Services.

HB 742-FN, establishing half-price greens fees for active military and retired military personnel at the golf course at the former Pease Air Force Base INEXPEDIENT TO LEGISLATE

Rep. Elsa M. Luker for Commerce: The issue is who owns the course and who sets fees. The Pease Development Authority leases the property and pays upkeep; this decision is one that the P.D.A. should make and currently does. Vote 12-1.

EDUCATION

HB 102, relative to criminal history checks for all school employees and applicants. OUGHT TO PASS WITH AMENDMENT

Rep. Michael Marcinkowski for Education: The committee spent considerable time discussing the implications of this bill and the majority concluded that pupil safety was paramount. In addition it identifies the responsibility for a criminal history check to be best handled at the point of employment. The amendment included charter schools, and a provision to allow the current yearly criminal history check for contracted school bus drivers. Vote 17-2.

HB 275-A, establishing the equipment grant program, and making an appropriation therefor. OUGHT TO PASS

Rep. Susan B. Durham for Education: The interim study committee that met over the summer found that schools are in dire need of up to date

equipment for science and vocational programs. State bonding for such equipment is a legitimate way for the state and local schools to work together in 50-50 matches to relieve this circumstance. This bill appropriates \$16,000,000 over four years using state bonding authority. Vote 11-9.

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution. OUGHT TO PASS

Rep. Susan B. Durham for Education: There are two components to the bill. The first concerns the Alternative Dispute Resolution Process, instead of the expense of a formal hearing to adjudicate the appropriateness of an I.E.P. (Individualized Education Plan). A study has shown that special education disputes are more likely to be settled without a formal hearing when the administrative officer assigned to the case is a lawyer. The second component, including blindness in the definition for special education, is for clarity in the visually impaired definition. Vote 14-6.

HB 525, relative to Braille instruction for functionally blind pupils. OUGHT TO PASS WITH AMENDMENT

Rep. Clair A. Snyder for Education: This bill provides for Braille instruction for the functionally blind student under special education I.E.P.'s for whom other methods are insufficient for them to become literate and to therefore become gainfully employed. Vote 14-2.

HB 538, requiring every pupil receiving state-funded scholarships or grants for postsecondary education to pass a drug test as a condition for receiving such funds, and requiring repayment of such moneys upon conviction of a drug-related offense. RE-REFER TO COMMITTEE

Rep. Bernard J. Luebker for Education: The majority of the committee strongly support the intent of this bill, but saw several defects which would need to be fixed in order for it to be effective. The intent is to send an unambiguous message of disapproval to New Hampshire Scholarship funded students concerning violations of the state's drug and alcohol laws. Vote 13-4.

HB 577-FN-A-LOCAL, relative to funding statewide kindergarten and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. Susan B. Durham for Education: The committee vote is not against kindergarten, rather turning down this bill is a way to bring order to debate. The Governor's kindergarten bill HB 50-FN-A-LOCAL should have the debate. A subcommittee has been appointed which will consider all ideas about achieving kindergarten for all 5 year olds in New Hampshire, incorporating useful ideas from HB 577-FN-A-LOCAL into HB 50-FN-A-LOCAL. Vote 16-1.

HB 601-FN-A, to develop a statewide technology program for educational institutions and establishing a 5 percent tax on video rentals to fund the program. INEXPEDIENT TO LEGISLATE

Rep. Michael Marcinkowski for Education: Although the intent is laudable, the bill introduces a new and discriminatory tax against one segment of the entertainment industry, video rentals, and not the entertainment industry in general. It also taxes the segments of the population least able to bear additional surcharges, the low and middle income families who look to video rentals as a means of entertaining their families. Additionally it would in fact not raise sufficient funds for its stated purpose. Vote 14-5.

HB 612-FN, requiring the state board of education and the department of education to establish a suitable test of academic knowledge to be administered as a prerequisite for certification of new teachers in New Hampshire. RE-REFER TO COMMITTEE

Rep. Jane O'Hearn for Education: The committee's vote to re-refer recognized that it is the responsibility of the State Board of Education to adopt rules pursuant to the certification of teachers. Therefore, the committee can request, by a majority vote, to be put on the agenda for a meeting with the State Board of Education asking that this issue of testing for certification be addressed by the state board. A motion was introduced and passed by the committee for the purpose of addressing the State Board of Education, to achieve a suitable test of academic knowledge for New Hampshire's public school teachers. Vote 13-7.

HB 613-FN-A, establishing a flat county property tax to fund basic education. INEXPEDIENT TO LEGISLATE

Rep. Phil A. Weber for Education: The House Finance Committee will be studying alternative forms of funding public education. Bills establishing new taxes in any form are issues best left to the Finance Committee. Vote 17-3.

HB 656, repealing the provision which requires the state board to approve schools before a district is qualified to receive state aid to education. INEXPEDIENT TO LEGISLATE

Rep. Stanley N. Searles, Sr. for Education: It is believed that the state approval of schools is a very necessary step in maintaining the state's minimum education standards. Despite school district financial hardship, removing minimum standards moves New Hampshire in the wrong direction in achieving an adequate education for all New Hampshire pupils. Vote 17-3.

HB 661-FN-LOCAL, allowing high school pupils to attend the public secondary school of their choice. INEXPEDIENT TO LEGISLATE

Rep. Jane O'Hearn for Education: This bill deals with open enrollment which is presently addressed in RSA 194-B:2. This bill would make open enrollment mandatory and causes concerns with funding from sending districts to receiving districts, violation of AREA agreements, and raises questions of continuous enrollment in a receiving school. Vote 14-3.

HB 700-FN, relative to the renovation of regional vocational education centers. OUGHT TO PASS WITH AMENDMENT

Rep. Stanley Searles for Education: A number of New Hampshire's twenty Vocational High Schools are in need of renovation and/or construction. The cost in today's technical society is more than the local communities can bear. This bill offers the opportunity to keep the States original investment in a proper state. This bill increases an existing non-lapsing appropriation by \$24,000,000. Vote 15-6.

HB 779-FN, proclaiming 1999 as the "year of public education" in New Hampshire and establishing the 350th anniversary of public education celebration commission. INEXPEDIENT TO LEGISLATE

Rep. Bernard J. Luebker for Education: The majority of the committee, while recognizing the prominent role of public education to societal advancements in the United States, were concerned with several aspects of this bill such as: New Hampshire was part of Massachusetts at the time of the formation of the Hampton Public School in 1649; historical start of "Public Schools" may have been during the 1800's; and that such celebration would be another distraction from the pursuit of contemporary education. Vote 13-5.

HB 784-FN-LOCAL, changing the age requirements for providing public education, including special education. RE-REFER TO COMMITTEE

Rep. Phil A. Weber for Education: Special Education has become the paramount issue in public education. The committee wants to earnestly and comprehensively study all aspects of Special Education and this bill affords us such an opportunity. Vote 14-1.

ELECTION LAW

HB 314, relative to spending caps for state political candidates. INEXPEDIENT TO LEGISLATE

Rep. C. Donald Stritch for Election Law: The committee felt that the present penalties were sufficient at this time and do not need adjustment. Vote 13-2.

HB 354, repealing the exemption for social activities from political expenditure and contribution reporting requirements. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. C. Donald Stritch for the Majority of Election Law: The committee felt that the present exemptions for certain political activities could better be addressed under a subcommittee study included in HB 356. Vote 8-7.

Rep. Raymond C. Buckley for the Minority of Election Law: The Minority believes no credible argument can be made for this blatant election law loophole. This bill repeals the loophole allowing candidates to hide the names of contributors by claiming the cost of the event was equal to the ticket price. This loophole needs to be closed. The public deserves full disclosure.

HB 355, relative to prohibited political contributions. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. C. Donald Stritch for the Majority of Election Law: This bill reduces that amount of contribution that may be made in behalf of a person's own candidacy. This is another bill the committee feels should be fully examined via the re-referral under HB 356. Vote 8-7.

Rep. Jane A. Clemons for the Minority of Election Law: The Minority feels this bill brings us in compliance with the U.S. congressional allowance for political contributions to a candidate by decreasing the \$5,000 amount to \$1,000. The Minority also feels this bill is a step toward credibility with the New Hampshire citizens, as we continue to promise political campaign reforms and have so far accomplished nothing.

HB 356, relative to reporting requirements for political candidates and political committees. MAJORITY: RE-REFER TO COMMITTEE. MINORITY: OUGHT TO PASS.

Rep. C. Donald Stritch for Election Law: The committee felt that the \$500 level for political reporting was sufficient but felt that the subject should be further studied by the committee. There are some issues regarding financing, fund raising, and expenditures that need further thought. The committee would like to peruse the contents of HB 355 and HB 356. Vote 8-7.

Rep. Raymond C. Buckley for the Minority of Election Law: The Minority supports passage of HB 356 which increases disclosure of campaign contributions. It lowers the initial reporting requirement from \$500 to \$250. It also requires disclosure of all contributions of \$10 or more, down from the current \$25. HB 356 would increase disclosure and should be passed now.

HB 374-FN-LOCAL, establishing 400 separate districts for the election of state representatives and renumbering state representative districts. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Thomas I. Arnold, Jr. for the Majority of Election Law: The majority of the committee found that although individual districts are a desirable goal, this particular bill encouraged collusion between/among entrenched incumbents which would result in a) incumbents "never" opposing one another, and b) newcomer aspirants would "always" face an incumbent. Vote 10-5.

Rep. Raymond C. Buckley for the Minority of Election Law: This bill would establish 400 one-on-one house races without changing the actual borders of any legislative district. Simply, HB 374 would require each house candidate to choose which singular race they wish to run in--same voters, same physical district--the only difference would be ballot placement creating one on one races. The minority believes that this bill would make each house candidate and legislator more accountable to the public.

HB 379-FN, relative to reporting of contributions to candidates for speaker of the house and senate president. OUGHT TO PASS WITH AMENDMENT

Rep. Lynn C. Horton for Election Law: The committee believes that the time has come for the contributions for Speaker of the House and President of the Senate to be reported and to become public record. Vote 15-0.

HB 417, relative to ballot certification for political parties. OUGHT TO PASS WITH AMENDMENT

Rep. Raymond C. Buckley for Election Law: This bill expands the definition of the term "party" for purposes of elections, including what is required for ballot certification. This bill also provides for choosing party candidates for election by caucus or convention rather than state primary election for parties with membership of less than 3 percent of the total voter registration. Vote 12-2.

HB 503-FN-Local, relative to direct recall elections. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Lynn C. Horton for the Majority of Election Law: Direct recall elections have some merit. However, this bill includes members of congress which we have no authority to do. Most towns have their own recall procedures which takes care of local officials. The committee felt that this complicated bill is not needed at this time. Vote 13-2.

Rep. Raymond C. Buckley for the Minority of Election Law: This bill is an important tool for citizens to utilize to ensure public accountability by their elected officials. This reform bill has been crafted to allow voters to recall local, county, state, and congressional elected officials in a reasonable and responsible manner. No one appeared in opposition to this, and the minority believes the public deserves to have the right to recall.

HB 546, relative to the form of the presidential primary election ballots. OUGHT TO PASS

Rep. Nick Hart for Election Law: The secretary of state indicated that this bill will save the state approximately \$30,000 for each presidential primary. It also will be much easier for the voters to find their choice of candidate on a list of 50 or 60 candidates. Vote 10-5.

HB 576, relative to anonymous political campaign literature or communications. INEXPEDIENT TO LEGISLATE

Rep. Dana S. Hilliard for Election Law: This bill would rescind the requirement that the author (individual, candidate, PAC, etc.) of political flyers and advertisements be disclosed on the literature. The committee concurs that the Supreme Court's decision in McIntyre v. Ohio Elections Commission requires a critical review of certain laws relative to campaign literature. However, the scope of the bill may go beyond constitutional requirements. The bill as drafted would not only apply to citizens desiring to distribute anonymous political handbills but would also apply to political candidates who publish ads attacking their opponents. Further, the bill purports to grant immunity from prosecution of libel claims if they arise from anonymous political literature. Based on these and other concerns the committee voted unanimously that the bill is inexpedient to legislate. However, the committee notes that the issues raised by McIntyre will be studied in connection with HB 333 which was referred. Vote 13-0.

HB 766-FN, forbidding the acceptance of anything of value by state officials, appointed officials, and legislative employees. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: RE-REFER TO COMMITTEE.

Rep. Thomas I. Arnold, Jr. for the Majority of Election Law: The committee agreed that the goals expressed by the sponsor are beneficial but found that the legislation, as proposed, would not achieve those goals. The legislation would have the potential for making individuals subject to a jail term for accepting "anything of value." The committee feels this opportunity for mischief cannot be risked. Vote 9-5.

Rep. Raymond C. Buckley for the Minority of Election Law: The minority believes this bill deserves further study. The issue of public officials receiving gifts and holding testimonials without reporting the expenditures of such proceeds is deeply troubling. The minority believes that while the committee studies the larger issues of campaign finance reform we should also study this important issue.

ENVIRONMENT AND AGRICULTURE

HB 187-FN-A, relative to groundwater monitoring for pesticides and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Harold P. Melcher for Environment and Agriculture: This bill makes provision to prevent groundwater pollution before it becomes significant. Vote 18-0.

HB 191, reducing the number of categories of pesticides from 3 to one. OUGHT TO PASS

Rep. David J Babson Jr. for Environment and Agriculture: The committee felt that a return to a single category of pesticide registration was the simplest and least expensive program to operate for the state. Further, the committee felt there was no need to separate "commercial" and "general use" pesticides for the purpose of registration. Vote 13-5.

HB 207-FN-A, relative to pesticide registration fees and making an appropriation therefor. RE-REFER TO COMMITTEE

Rep. Betty B. Hall for Environment and Agriculture: The subject matter of this bill is dealt with in HB 191. The committee wishes to retain this bill for future consideration. Vote 13-6.

HB 428-FN-LOCAL, known as the Maggie Boyle Terninko Act, repealing RSA 430:49, the law preempting local regulation of pesticides. INEXPEDIENT TO LEGISLATE

Rep. Karen K. McRae for Environment and Agriculture: The Committee voted inexpedient to legislate because the current programs, already in place, working and a comprehensive, cohesive statewide policy affords owners, applicators and citizens a reasonable solution to their problems. Vote 17-2.

HB 463-FN, relative to aerial spraying of herbicides. INEXPEDIENT TO LEGISLATE

Rep. David J. Babson Jr. for Environment and Agriculture: The committee felt this bill was too restrictive, requiring those who wish to aerial spray to hold a public hearing on projects which may not go forward. It also required notification of projects 180 days in advance to allow time for public hearings. The committee felt the current 60 day requirement was adequate. Vote 16-2.

HB 575, authorizing the commissioner of the department of environmental services to accept environmental standards developed by the International Standards Organization (ISO) in place of certain permits and certification requirements. OUGHT TO PASS WITH AMENDMENT

Rep. Peter R. Leishman for Environment and Agriculture: This bill, as amended, allows the commissioner of Department of Environmental Services to accept ISO 14000 certification if and when it is judged to ensure compliance with existing state standards. It also allows the department to research becoming an ISO registrar. Vote 18-0.

HB 638-FN, requiring random on-site inspection and testing of certain sludge and biosolid samples. OUGHT TO PASS WITH AMENDMENT

Rep. Peter R. Leishman for Environment and Agriculture: The committee received much testimony regarding random on-site inspection of sludge or biosolids, and agree with the thrust of the bill that the department of environmental services is the appropriate state agency to oversee and to conduct random test before land application of sludge or biosolids. Vote 18-0.

HB 731-FN-A-LOCAL, relative to the taxation of sand, gravel, loam, and other similar substances. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: RE-REFER TO COMMITTEE.

Rep. Donald R. Philbrick for the Majority of Environment and Agriculture: The committee felt that although there was a shortness of time to deal with this bill, it was important to keep this bill going forward. This bill has been studied for two summers, a law was suspended to accommodate this process, and there is a great need to resolve the issues contained in this bill. This committee dealt with the policy issues and now the bill needs to go to the appropriate committee to deal with the fiscal issues. Vote 14-5.

Rep. Betty B. Hall for the Minority of Environment and Agriculture: This bill replaces local tax assessing with regard to sand and gravel well excavation and an activity tax. The committee did not have time to study the environmental impact. The taxes will change incentives and disincentives to remove sand and gravel from our towns. The bill should also be reviewed by the Local and Regulated Revenue Committee. Only after both committees have had adequate time to recommend policy and the house concurs should the bill go to the Finance Committee.

HB 771-FN-LOCAL, exempting remediation waste from the hazardous waste generator fee, increasing grant awards made pursuant to the used oil collection center program and relative to the hazardous waste disposal facility siting board. OUGHT TO PASS WITH AMENDMENT

Rep. M Kathryn Aranda for Environment and Agriculture: This bill, as amended, recognizes the need for both retrospective and future increases in funding for used oil collection centers and lowers the automotive oil fee to \$.02 per/gallon. This lower fee level will not deter the department's operations in this area. Vote 19-0.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

CACR 18, relating to references to the governor in the constitution. Providing that all references to the governor in the constitution shall be gender neutral. OUGHT TO PASS

Rep. Merton S. Dyer for Executive Departments and Administration: This concurrent constitutional amendment, if approved by the legislature and 2/3 of those voting on the amendment, will make references to the governor gender neutral in the constitution. The committee heard from those who would make all references in the constitution gender neutral. That would be a major undertaking while this change applies only to the governor and it is appropriate to make this change at this time. Vote 17-0.

HB 588-FN, relative to certification of operators of solid waste plants, water treatment plants and wastewater treatment plants, and adding late renewal fees. OUGHT TO PASS WITH AMENDMENT

Rep. James P. Pilliod for Executive Departments and Administration: This bill amends RSA 149.M:6 XIII to make certification of solid waste operators to be renewed annually and would require a late fee if not renewed in a timely fashion. RSA 332.E:4,II-V would be amended to increase certification fees for water treatment operators and provide for a late renewal penalty. Wastewater treatment operators would also have a late renewal fee imposed Vote 18-0.

HB 725-FN, relative to the certification of dietitians. INEXPEDIENT TO LEGISLATE

Rep. Andrew R. Peterson for Executive Departments and Administration: The committee heard from 23 witnesses over a morning long hearing on this bill, which has been considered in various forms and rejected by the legislature thrice since 1987 (most recently in the form of a licensure bill in 1995). This bill required certification (as opposed to licensure) and yet contains many of the exclusionary (monopoly) aspects which were previously found problematic. The dietitians could not show any documented evidence of harm to public health and safety. The present system allow for voluntary certification by the American Dietetic Association. The ADA grants the title, RD, (Registered Dietitian) upon fulfilling certain education and clinical requirements. The title, which can be withdrawn by the ADA for cause, represents a level of professional standing analogous to the status of a CPA vis-à-vis a public accountant. The committee felt that nutritionists, who are also certified by a national organization, were due greater consideration in any measure upgrading the status of food health professionals, if, in fact, one is necessary at all. The bill affords dietitians the exclusive right to use the term "N.H. Certified Nutritionist". This would create a potentially confusing situation with regard to the certified nutritionists that are currently in practice. It would legislate, in the opinion of the committee, undue official recognition towards one group of professionals over another operating in the same field.. Vote 11-2.

HB 756-FN, relative to the registration of alternative providers of mental health services. OUGHT TO PASS WITH AMENDMENT

Rep. Miriam D. Dunn for Executive Departments and Administration: This bill is one result of the committee's study of HB 357 from the prior session. "Alternative provider" is broadly defined under RSA 330-A, the Mental Health Practice Act. Such providers who are non-licensed and non-certified are to register with the Department of Health and Human Services, Office of Program Support, Licensing & Regulations which will oversee rulemaking and disciplinary action. The amendment deletes a requirement for "disclosure of information", an issue currently under consideration in other mental health provider bills. Vote 11-3.

HB 775-FN-A, relative to the regulation of ophthalmic dispensing and making an appropriation therefor. WITHOUT RECOMMENDATION

Reps. Merton S Dyer, Nancy C. Stickney, Andrew R. Peterson, Myron S. Steere, III, Kipp A. Cooper, Ray F. Langer, John P. Beaulieu, Howard C. Dickinson, Jr., Maurice E. Goulet and Robert S. Mercer for Executive Departments and Administration: This bill is being reported out without a recommendation as the committee had 2 tie votes, re-refer and ought to pass, with very little indication that further votes would resolve the issue for a positive report. This bill has been before the committee in the past and an attempt was made to work out a viable compromise between the various parties. The present bill is not in proper form to pass, but with the time remaining, it was impossible to go back to the drawing board. Among the problems that some members of the committee see in the bill are that one member of the board of ophthalmic dispensing will come from the New Hampshire Society of Opticians. This organization is not registered with the secretary of state and little is known about it. The bill grandfathered those who have practiced for at least two years prior to January 1, 1998, but what happens to those that made a large financial investment after January 1, 1996 but will not be able to practice their chosen trade? A larger issue: will certification with continuing education produce better quality control and will there be an increased cost to the consumer or a restriction of services because of these changes Vote 10-10.

Reps. Miriam D. Dunn, Sylvia A. Holley, Robert K. Dodge, James P. Pilliod, Robert P. Asselin, Timothy N. Robertson, Robert E. Murphy, Gerald O. Gosselin, Theresa A. Drabinowicz and Mary Stuart Gile for Executive Departments and Administration: Ophthalmic dispensers (opticians) are now registered by the department of health and human services with an advisory council to the commissioner. There are no requirements for

education or training for the filling of eye glass prescriptions issued by ophthalmologists and optometrists. This bill requires certification with, for the first time, education, job-training and an examination. Certification is supported by New Hampshire independent opticians, by the New Hampshire Medical Society, by the Opticians Association of America, by over 100 consumer signed petitions - as well as by 8 sponsors, bi-partisan, from the house and senate. It is opposed once again by the large chains. The public deserves qualified opticians.

HB 785-FN, relative to alcohol and drug abuse professionals. OUGHT TO PASS WITH AMENDMENT

Rep. Nancy C. Stickney for Executive Departments and Administration: This bill upgrades the certified alcohol and other drug abuse professionals and establishes a board of licensure. The amendment administratively attaches the board to the office of the commissioner of the department of health and human services. It also addresses other areas of a technical nature: 1) the confidentiality issues by inserting "unless otherwise required by law", 2) provides in statute protection that applies to child abuse laws, and 3) clarifies the counselor/client sexual relations issue to agree with other statutes in the mental health services. Vote 11-7.

FINANCE

HB 562-FN-A, imposing a tax on gambling winnings over \$5 to fund kindergarten and continually appropriating a special fund. INEXPEDIENT TO LEGISLATE

Rep. Kenneth L. Weyler for Finance: The sweepstakes commission already contributes more than \$53 million to education. The commission did not support further taxes as it would alter the odds in payouts. Much of the gambling revenues are from people who gamble regularly. This group is very sensitive to the odds, and reductions in payouts could lead to a decline in their participation and in revenue. The 12-9 vote reflects the desire of some members of the committee to re-refer this bill as a vehicle for some other revenue enhancements. The committee felt that, if necessary, other means were available. Vote 12-9.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 470, implementing recommendations of the Centers for Disease Control and Prevention relative to the laws requiring a prescription to possess hypodermic needles and modifying the drug paraphernalia laws applying to syringes. OUGHT TO PASS

Rep. Patricia O'Keefe for Health, Human Services and Elderly Affairs: This bill would remove the prescription requirement to purchase syringes and it decriminalizes the possession of syringes. The Center for Disease Control (CDC) considers access to sterile syringes critical in the slowing of the spread of the HIV virus. New Hampshire is one of only 9 states that require such a prescription. This bill is supported by the Dept. of Health and Human Services, the New Hampshire Medical society, and former U.S. Surgeon General C. Everette Koop. Vote 12-5.

HB 488-FN, relative to involuntary admission to the state hospital on an emergency basis. OUGHT TO PASS WITH AMENDMENT

Rep. Margaret Case for Health, Human Services and Elderly Affairs: The bill includes very specific criteria in the definition of involuntary admission into the mental health service system. This would add one additional category. The intention of the bill is to alleviate the danger to the patient and to the community at large. Safeguards against potential abuse are already present in current statute. Vote 16-3.

HB 537-FN, relative to the practice of allied health professionals. OUGHT TO PASS WITH AMENDMENT

Rep. Alphonse Haettenschwiler for Health, Human Services and Elderly Affairs: This bill finally brings five health groups under one executive directive for administrative activities. Consolidation of board and commission has been an on-going process since 1979 and hopefully will reach fruition this year. It also replaces and modifies certain laws governing the practice of athletic training, occupational therapy, respiratory care, physical therapy, and speech-language pathology. The bill establishes governing boards for each of these areas of practice and a board of directors consisting of the chairpersons of each of the governing boards. It imposes certain duties and gives certain authority to the governing boards and the board of directors, respectively, for the purposes of regulating these professions.

The bill also gives the board of directors the authority to hire an unclassified executive director. Vote 16-0.

HB 557-FN-L, establishing a welfare reserve fund and relative to a city or town's liability for general assistance. INEXPEDIENT TO LEGISLATE

Rep. Carol Moore for Health, Human Services and Elderly Affairs: The committee overwhelmingly voted this bill Inexpedient to Legislate. We are aware that welfare reform is only four weeks old, that any so called "surplus" money may need to be accessed now in order to be used for childcare and transportation costs in order to support getting people off welfare, and that this bill is simply too restrictive at this time. Vote 16-2.

HB 567-FN-LOCAL, relative to administration of vital records. OUGHT TO PASS

Rep. Marion Copenhaver for Health, Human Services and Elderly Affairs: The committee heard very compelling testimony that the Bureau of Vital

Statistics join in the electronic age in the administration of their vital records. All the testimony was favorable and had the support of town clerks. Vote 17-2.

HB 584-LOCAL, relative to the duties of school nurses. OUGHT TO PASS WITH AMENDMENT

Rep. Alphonse Haettenschwiler for Health, Human Services and Elderly Affairs: This bill provides school districts with the ability to hire licensed practical nurses and certified nursing assistants to work under the direct supervision of a registered nurse. It requires the Board of Nursing in consultation with the Department of Education to establish standards for currently licensed registered and practical nurses and certified nursing assistants' education and scope of practice in primary and secondary school settings. It also allows, with parental authorization, the possession and administration of epinephrine for the emergency treatment of anaphylaxis by licensed practical nurses employed or contracted by public school systems. Vote 17-0.

HB 592-FN-A, establishing a brain and spinal cord injury trust fund and an advisory council on brain and spinal cord injuries and continually appropriating a special fund. OUGHT TO PASS WITH AMENDMENT

Rep. Eleanor H. Amidon for Health, Human Services and Elderly Affairs: This bill was amended to remove the establishment of a trust fund which would jeopardize the creation of an advisory council on brain and spinal cord injuries, thus enabling them to apply for and receive any grants available. Vote 16-0.

HB 646-FN-A, relative to eligibility for child day care services for persons receiving public assistance and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Carol Moore for Health, Human Services and Elderly Affairs: The committee felt strongly that the appropriation in this bill will greatly aid poor families to afford quality day care. Since we are attempting to get and keep people off welfare, (stipulating that this happens within two years), families who now spend up to 25% of their incomes for day care would be helped to a certain extent enabling them to keep their jobs. This bill appropriates \$500,000 in FY 1998 and \$500,000 in FY 1999. Vote 14-1.

HB 686-FN-A, relative to financing of child day care facilities and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph Manning for Health, Human Services and Elderly Affairs: This bill encourages the expansion of child care facilities. In order to assure the successful transition from welfare to workfare and thus eventually reducing state and local expenditure, it is fiscally sound to encourage the growth of child care facilities necessary to make workfare work. This bill makes a bonded appropriation of \$1,200,000 for fiscal year 1998. Vote 19-0.

HB 690, establishing a long-term care institute. OUGHT TO PASS WITH AMENDMENT

Rep. Peter Batula for Health, Human Services and Elderly Affairs: This bill establishes a long term care institute whose purpose is to educate and encourage the public to address the need for long term care at an earlier age. The effects of this bill may also have a tendency to lower insurance coverage rates simply by the increased number of participants who prepare for this need. This bill requires no state funds, relying on grants. Vote 12-6.

HB 697-FN-A-L, establishing a homeless prevention fund, to be funded by a temporary homeless prevention state property tax, and making an appropriation to the fund for fiscal year 1998-1999. RE-REFER TO COMMITTEE

Rep. Marion L. Copenhaver for Health, Human Services and Elderly Affairs: The majority felt that the bill as presented had serious fiscal problems and should be studied to address these. The committee does not have this fiscal expertise, but is supportive of the basic policy addressing the homeless. Vote 18-0.

HB 718, changing that which constitutes the practice of medicine. OUGHT TO PASS WITH AMENDMENT

Rep. Carol Moore for Health, Human Services and Elderly Affairs: The majority of the committee felt that this bill, which limits the use of laser surgery to those doctors who are trained to provide this type of treatment, is very important. At present, anyone can gain access to lasers which are very dangerous if misused. Vote 17-2.

HB 723-FN-A, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the healthy kids corporation to cover adults. OUGHT TO PASS

Rep. Robert Foster for Health, Human Services and Elderly Affairs: This bill establishes a health care access corporation modeled after the successful Healthy Kids Corporation and allows Healthy Kids Corporation to cover adults. This bill creates a non-profit entity which offers subsidized health insurance coverage on a buy-in basis under Medicaid waiver to allow coverage to low and moderate income adults which are

previously without health insurance. If medical waiver is approved, the Health Care Finance Administration will match individual premium payments for eligible persons. The bill will also allow for expanded coverage for children. Vote 16-0.

HB 765-FN, establishing an osteoporosis prevention, education, and treatment program. OUGHT TO PASS WITH AMENDMENT

Rep. Barbara C. French for Health, Human Services and Elderly Affairs: This bill would address the 1.5 million fractures that occur annually at an estimated cost of \$10 billion or \$27 million each day in the United States. With this legislation the first step towards this goal is realized. Vote 13-6.

HB 792-FN-LOCAL, prohibiting trusts, annuities, and other legal devices from being used to shelter wealth for the purposes of medicaid eligibility. OUGHT TO PASS WITH AMENDMENT

Rep. Charles Ferguson for Health, Human Services and Elderly Affairs: The amendment removes the term "annuities" that had been added to the trust provision passed in 1995 in HB 32 (Chapter 310, Laws of 1995). It removes the sunset provision and corrects some of the previous language and makes the trust provision permanent law. Vote 16-0.

JUDICIARY AND FAMILY LAW

HB 515-FN, establishing the New Hampshire commission on the status of fatherhood. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Marjorie K. Smith for the Majority of Judiciary and Family Law: The committee shares the sponsor's concern about issues relating to responsible fatherhood. However, the committee concluded that the Commission on the Status of the Family is the appropriate place where these issues could be addressed. Two members of the Judiciary and Family Law Committee serve on the Commission and have committed to bring these concerns about fathers to the Commission. Vote 11-7.

Rep. David A. Bickford for the Minority of Judiciary and Family Law: The absence of fathers in our children's lives is at a chronic and inexcusable low. The average child can expect to live a significant portion of his or her life in a home without a father. A recent study indicates 52% of divorced families had not seen their fathers in the past year. This bill establishes a Commission to: secure appropriate recognition for fathers' contribution toward parenting and its value to children; support efforts to encourage responsible and effective fatherhood; increase public awareness about the importance of fatherhood through public education campaigns and effective use of the "bully pulpit"; and help turn the hearts of fathers back to their children. This bill was encouraged by the Council of Governor's Policy Advisors, and recommended by the New Hampshire Dept. of Health & Human Services and the UNH Family Research Lab.

HB 530-FN-A, establishing civil action filing fee surcharges to fund civil legal assistance to low-income persons and continually appropriating a special fund. OUGHT TO PASS

Rep. Marjorie K. Smith for Judiciary and Family Law: This bill creates a non-lapsing and continually appropriated fund to be used by New Hampshire Legal Assistance to provide civil legal representation to New Hampshire's poor. The funds will come from surcharges, ranging from \$2 to \$10, which will be collected by the clerk of court in civil actions filed in district, superior and probate courts. New Hampshire Legal Assistance (NHLA) has been providing free legal assistance in civil actions to low income New Hampshire residents since 1971. Because of unprecedented Congressional budget cuts, NHLA was forced to close two of its five offices and eliminate many positions. There is now no legal assistance office in the north of the state. The majority, committed to the principle that the poor should not be denied access to the legal system, concluded that this funding mechanism provides an opportunity to generate about \$185,000 next year to meet these urgent legal needs of New Hampshire's poor. Vote 11-7.

HB 606-FN-L, relative to procedures regarding children in need of services under RSA 169-D. OUGHT TO PASS WITH AMENDMENT

Rep. David C. Allison for Judiciary and Family Law: A key purpose of this bill revises certain procedures relative to cases involving children in need of services which will require parents and children to become more accountable, more responsible. The committee worked collaboratively with the state's juvenile justice system and the Division of Children, Youth and Families in crafting this legislation. The bill will facilitate preventive and early intervention in court diversion programs. Vote 10-3.

HB 609-FN-L, enacting the Uniform Interstate Family Support Act (UIFSA), and relative to child support. MAJORITY: RE-REFER TO COMMITTEE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Sandra B. Keans for the Majority of Judiciary and Family Law: The committee understands the importance of getting this legislation on the books in order to be in compliance with the new Uniform Interstate Family Support Act which deals with the establishment of paternity and the establishment and enforcement of child support obligations. If New Hampshire does not comply many millions of dollars can potentially be lost. However, the original 34-page bill was heard Thursday, Feb. 27, 1997. Since then the committee has been presented with three re-writes. The last arrived Thursday, March 6, 1997 at the executive session. The majority believes we must study this further to make sure that all confidential

information handled by the department will remain secure. Further, some committee members believe that the federal deadline for New Hampshire to pass this legislation (the first day of the next quarter after the end of the legislative session) is at least not until January 1998 - maybe January 1999 - because New Hampshire is on a two-year budget. The committee believes this bill deserves fair, thorough consideration and is fully committed to do just that. Vote 11-3.

Rep. Carol H. Holden for the Minority of Judiciary and Family Law: The purpose of this bill is to enact the Uniform Interstate Family Support Act (UIFSA) and to improve procedures and processes related to the establishment of paternity and the establishment and enforcement of child support obligations. It will increase the income available to households with children and enable families to become self-sufficient and leave public assistance. The amendment addresses all of the concerns raised at the public hearing by the public and by committee members. While we did not have a great deal of time, there was sufficient time to make sure this was a good bill.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 521-LOCAL, relative to the definition of terms and conditions of employment and to the subjects of bargaining in the public employee labor relations law. RE-REFER TO COMMITTEE

Rep. Richard E. Dolan for Labor, Industrial and Rehabilitative Services: During deliberation we found numerous concerns about the process used in collective bargaining between public employees and government entities. Since RSA 273 is the controlling statute, we feel this is an excellent vehicle to study the aforementioned concerns. Vote 15-0.

HB 579-FN-LOCAL, providing that a person who, having obtained a restraining order against an abuser and having made all reasonable efforts to preserve employment, leaves a job in order to protect himself or herself from domestic abuse, shall not be denied unemployment compensation. RE-REFER TO COMMITTEE

Rep. Joseph D. Kenney for Labor, Industrial and Rehabilitative Services: This bill provided that a person who, having obtained a restraining order against an abuser and having made all reasonable efforts to preserve employment, leaves a job in order to protect himself or herself from domestic abuse shall not be denied unemployment. Because of the social impact of this bill and the responsibility of who will administer it, the committee felt the need to do comprehensive research and work with state departments to develop logical policy. Vote 15-0.

LEGISLATIVE ADMINISTRATION

HB 385, relative to reporting and registration requirements for lobbyists and employees of lobbyists. OUGHT TO PASS WITH AMENDMENT

Rep. Amanda A. Merrill for Legislative Administration: This bill clarifies the requirements of the lobbyist reporting law and adds reporting requirements for employers of lobbyists. The bill is the result of work begun last session and continued through an interim study subcommittee. Vote 13-0.

HB 440-FN, changing the legislative mileage formula. OUGHT TO PASS WITH AMENDMENT

Rep. Donnalee Lozeau for Legislative Administration: In 1991, the IRS advised the State that legislative mileage reimbursement payments must be reported as income. Its conclusion was based in part on the rate paid for this reimbursement. This bill would provide each member of the legislature with the option of receiving reimbursement at the federally approved rate. In creating this option, the committee hopes that members may again have the opportunity to have their mileage treated as reimbursement. The amendment clarifies that this option will take effect beginning with those members of the general court elected in the 1998 state general election. Vote 11-0.

HJR 6, requiring the joint legislative historical committee to acquire and cause to be displayed a portrait of suffragist Marilla Marks Ricker
MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Robert R. Cushing for the Majority Legislative Administration: This resolution requires a portrait of Marilla Marks Ricker be displayed in the State House. Marilla Ricker was the first woman to attempt to vote in the United States, the first woman admitted to the New Hampshire bar, and the first woman to run for governor of New Hampshire. A lifelong Republican, she attempted to vote each year for thirty years, only to be denied the right to vote on account of her sex. With vision and the courage to persevere in the face of enormous odds, unjust law, and unpopular opinion, she lived a life that changed the course of history in New Hampshire for all people. Everyone who testified on HJR6 supported the resolution. A petition in support from Exeter students pointed out that at present over 200 portraits of men hang in the State House, but there are only four portraits of women. The majority believes that with the passage of this measure, at long last, Marilla Marks Ricker would enter the State House to be honored as a pioneer of justice. Vote 7-6.

Reps. Warren C. Henderson, Gregory G. Carson, Loren Jean and Ronald Nowe for the Minority of Legislative Administration: The minority of the committee believes that this well-intended resolution would set several bad precedents. For decades, the Joint Legislative Historical committee has worked directly with groups interested in honoring historical figures with portraits hung in the State House. The subjects of these portraits were

chosen by their admirers, funds were privately raised and the portraits were ceremoniously hung in conjunction with the Historical Committee. This bill would replace that traditional process with a single subject selection by legislative mandate at taxpayer expense without established criteria for selection. Converting the creation of historical portraits into another government function ill-serves our heritage. The legislature may properly recognize the great courage and commitment of citizens such as Marilla Ricker, but it should not preempt the proper roles of the Historical Committee and the general public.

LOCAL AND REGULATED REVENUES

HB 504-L, relative to the property tax obligation for real estate used as rental housing by qualified nonprofit charitable organizations. RE-REFER TO COMMITTEE

Rep. Laura C. Pantelakos for Local and Regulated Revenues: The majority of the committee felt we should review this bill further as it deals with the issue of affordable housing. Vote 9-8.

HB 556-L, authorizing municipalities to refund a portion of fees for municipal registration permits. INEXPEDIENT TO LEGISLATE

Rep. Betsy McKinney for Local and Regulated Revenues: While the purpose of this bill is laudable, the sponsors acknowledged and the committee agreed that the sums of money that would be refunded if this bill became law were relatively small while the record-keeping required of town and city clerks would create an unnecessary and far greater administrative burden on local communities. The committee also believed this bill could create a problem with commercial registrations, and could be abused. Vote 10-3.

HB 566-FN-A-L, preserving a municipality's authority to tax an electric generation plant as real estate when the plant is unregulated and increasing the franchise tax. OUGHT TO PASS WITH AMENDMENT

Rep. Stephanie Eaton for Local and Regulated Revenues: A strong majority of the committee supported the creation of a level playing field among competing electric generating plants in the current environment of utility deregulation. This bill will allow municipalities to tax electrical generating plants whether or not they're owned by regulated utilities, and closes a loophole in the current law. This bill is the result of an effort to compromise the interest of three competing groups, i.e., New Hampshire municipalities, PSNH and the independent power producers. Vote 13-2.

HB 668-FN, licensing, regulating, and taxing video gambling machine use. INEXPEDIENT TO LEGISLATE

Rep. Jean R. Wallin for Local and Regulated Revenues: This bill addresses an important issue in New Hampshire, the licensing, regulating and taxing of video gambling machines. However, both the sponsor and a majority of the committee feel this bill is badly drawn and will not accomplish the purpose for which it is intended. It is internally contradictory and not enough time is available to correct the flaws in the bill. There will be other bills on video gambling next session, if not next year. Vote 8-4.

HB 781-FN, relative to lucky 7 tickets and bingo games and requiring manufacturers and distributors of bingo supplies to be licensed. OUGHT TO PASS WITH AMENDMENT

Rep. Betsy McKinney for Local and Regulated Revenues: This bill as amended was a request of the Sweepstakes Commission to address concerns of a recent audit. The bill does the following: (1) Redefines "charitable organization" to comply with the definition of exempt organizations under IRS Code Sec. 501.C., (2) Requires that the charitable purpose be carried out at the same location as the charity, but allows bingo games and the sale of Lucky 7's to take place in another location; (3) Expands licensing of bingo suppliers and manufacturers the same way Lucky 7 distributors are currently licensed, and requires licensing for any out-of-state suppliers, distributors and manufacturers. Vote 13-2.

RESOURCES, RECREATION AND DEVELOPMENT

HB 536, requiring certain dam owners to develop emergency action plans, prohibiting the construction of any dam without a permit and clarifying the process for issuing orders for dam repair. OUGHT TO PASS WITH AMENDMENT

Rep. David M. Lawton for Resources, Recreation and Development: The majority of the committee strongly supports This bill which addresses problems highlighted by the recent dam breach in Alton and seeks to improve the overall safety of the dams in our state by requiring emergency action plans for dams found to be a menace to public safety. The amendment resolves the conflict with Part 2, Article 28a of the NH Constitution by requiring the local legislative body to vote to approve funding to develop an emergency action plan for those municipally-owned dams. Vote 13-4.

HR 17, relative to certain historical theaters in New Hampshire. OUGHT TO PASS WITH AMENDMENT

Rep. Mary Ann N. Blanchard for Resources, Recreation and Development: This house resolution urges the state of New Hampshire, through the historical resources council in conjunction with the division of historical resources, to recognize the important cultural and economic significance of certain historic theaters through letters of commendation to the owners of such restored theaters. Vote 11-4.

TRANSPORTATION

HB 238-FN, requiring certain vehicles to travel only in the right-hand lanes on highways. INEXPEDIENT TO LEGISLATE

Rep. Peter F. Leonard for Transportation: The committee feels that this is a safety concern issue. There are only 35 miles of three lane split highways in New Hampshire, and of those, there are many left turn exits. This creates a dangerous circumstance for merging vehicles. Vote 15-2.

HB 239, requiring a child under 13 years of age to wear protective headgear when riding a bicycle. INEXPEDIENT TO LEGISLATE

Rep. Robert J. Letourneau for Transportation: The committee feels strongly about safety and supports the concept of children's use of bicycle helmets. However, we also recognized that this bill is ill-conceived for several reasons: (1) Most children are already wearing them; (2) It is not enforceable, are we going to have the police confiscate bicycles? (3) The majority of the committee believes that this is a government intrusion into the personal lives of parents. Therefore, we believe that this bill is Inexpedient to Legislate. Vote 13-4.

HB 459-FN, establishing a graduated driver's license and related penalties for persons under 18 years of age. OUGHT TO PASS WITH AMENDMENT

Rep. Robert J. Letourneau for Transportation: This bill was the result of many hours of work from both the public sector and the legislative process. It is also the fruit of the combination of many bills presented to the committee during this session. This committee feels that this bill is a step in the right direction to create a safer driving environment for all of our citizens, and an effort to curb the rise in teenage driving fatalities in New Hampshire. Vote 13-1.

WILDLIFE AND MARINE RESOURCES

HB 671-A, establishing a committee to study the organization, structure, and administration of the department of fish and game, and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Robert J. L'Heureux for Wildlife and Marine Resources: This bill establishes a committee consisting of 5 senators appointed by president of the senate, 5 house members appointed by the speaker (one of whom shall be from house finance and two of whom shall be from the wildlife committee) to study the organizational structure of the fish and game department including its costs of operation as well as commission membership and appointment procedures. All aspects of the department operations will be addressed. The appropriation is intended to be used to hire expert consultants in the field of fish and game administration, if necessary. The committee felt the input of such experts would lend credence to their recommendations and legislative proposals. Suggested legislative initiatives are to be submitted by November 1, 1997. The amendments increased the wildlife committee membership from one to two members, reduced the appropriation from \$25,000 to \$10,000, and changes the effective date to "upon passage". Vote 12-1.

LAID ON TABLE

HR 19, affirming unrestricted revenue estimates for fiscal years 1998 and 1999. (Pending question is ordering to third reading.)

COMMITTEE HEARINGS

FRIDAY, MARCH 7

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. Subcommittee work session on HB 632-LOCAL, relative to changing the membership of the water well board and relative to board procedures in refusing, suspending, or revoking licenses.

1:00 p.m. Executive session on pending legislation, if needed.

JUDICIARY AND FAMILY LAW, Room 208, LOB

9:30 a.m. HB 623, allowing a landlord or housing owner under the housing finance authority to terminate a tenancy to allow a family member to occupy the premises.

10:30 a.m. HB 624, subjecting certain payments made to public employees upon resignation, discharge, or retirement to the right-to-know law.

1:00 p.m. HB 635, relative to a limitation on liability for emergency medical care providers.

2:00 p.m. HB 711, relative to post-termination commissions.

3:00 p.m. HB 768-FN, relative to certain abortions.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Telecommunications subcommittee work session on HB 452, establishing a legislative oversight committee on telecommunications restructuring and relative to aggregation of telecommunications services customers by municipalities and counties, if needed.

1:00 p.m. Electric Utilities subcommittee work session on HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and relative to the underground utility damage prevention system, HB 651-FN-LOCAL, relative to electric rate reduction financing, HB 528-LOCAL, relative to municipal water, gas and electric utilities and HB 411-LOCAL, authorizing municipalities to issue bonds for the purpose of defraying the cost of purchasing or taking public utility property, if needed.

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62), Room 306, LOB

9:00 a.m. Rescheduled regular meeting.

MONDAY, MARCH 10

ALTERNATIVE HIGHWAY FOR ROUTE 3 IN FRANKLIN FEASIBILITY STUDY (HB 1339, Chapter 48, Laws of 1996), Room 201, LOB

3:00 p.m. Regular meeting.

COMMERCE, Room 302, LOB

8:30 a.m. Subcommittee work session on HB 650, relative to limited liability companies.

10:00 a.m. HB 809, establishing a committee to study the feasibility of bringing the New England Patriots to New Hampshire.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Representatives Hall

9:00 a.m. HB 660, adding the name of Martin Luther King, Jr. to Civil Rights Day and SB 157, adding the name of Martin Luther King, Jr. to Civil Rights Day.

Room 202, LOB

1:00 p.m. Subcommittee work session on HB 283, establishing a study committee to examine the parity of salary scales between state troopers and other law enforcement officers.

1:15 p.m. Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FINANCE - (DIVISION I), Room 212, LOB

9:30 a.m. Executive session on the budget and other pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

10:00 a.m. Continued work session on Department of Transportation budget and executive session.

FINANCE - (DIVISION III), ROOM 210-211, LOB

10:00 a.m. Work and executive session on the budget.

JUDICIARY AND FAMILY LAW, Room 208, LOB

9:30 a.m. HB 773-FN, relative to intentional interference with child custody and visitation.

10:30 a.m. HB 774-FN, relative to child support, custodial rights, and visitation.

1:00 p.m. HB 787-FN, requiring the executive council to hold public hearings on judicial appointments.

2:15 p.m. HB 793, limiting the civil liability of persons engaged in equine activities.

3:15 p.m. HB 802, relative to judgments on past due rent and judgments for eviction.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

1:00 p.m. Work session on HB 622-FN, requiring legislative approval of certain out-of-court settlements of claims against the state.

Executive session on pending legislation to follow.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

1:30 p.m. Full committee work session on CACR 10, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute adopted by the legislature.

PERINATAL CHEMICAL DEPENDENCY (RSA 132:19), Room 101, LOB

9:00 a.m. Regular meeting.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:30 a.m. Executive session on HB 25-A, making appropriations for capital improvements.

SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB

1:00 p.m. Public hearing on proposed amendment to HB 716-FN, relative to economic development and retention rates and special contracts. (Copies of the amendment will be available from the Sergeant-at-Arms Office.)

1:30 p.m. Public hearing on proposed amendment to HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and relative to the underground utility damage prevention system. (Copies of the amendment will be available from the Sergeant-at-Arms Office.)

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

Subcommittee work session on HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and relative to the underground utility damage prevention system, HB 716-FN, relative to economic development and retention rates and special contracts, HB 528-LOCAL, relative to municipal water, gas and electric utilities and HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 301, LOB

9:30 a.m. HJR 7, urging the United States Congress and the Veterans Administration to maintain adequate health care services for New Hampshire veterans.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

TUESDAY, MARCH 11

FINANCE - (DIVISION II), ROOM 209, LOB

10:00 a.m. Work and executive session on the budget and other pending legislation.

SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Subcommittee work session on HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and relative to the underground utility damage prevention system, HB 716-FN, relative to economic development and retention rates and special contracts, HB 528-LOCAL, relative to municipal water, gas and electric utilities and HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry.

Noon Subcommittee work session on HJR 5, urging the United States Congress and the United States Environmental Protection Agency to make certain changes in the Clean Air Act which would result in more cost effective air pollutant emission reductions.

1:00 p.m. Subcommittee work session on HB 452, establishing a legislative oversight committee on telecommunications restructuring and relative to aggregation of telecommunications services customers by municipalities and counties and HB 482, relative to the access and development of interstate computer network systems.

1:30 p.m. Subcommittee work session on HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and relative to the underground utility damage prevention system, HB 716-FN, relative to economic development and retention rates and special contracts, HB 528-LOCAL, relative to municipal water, gas and electric utilities and HJR 4, urging the United States Congress and the Federal Energy Regulatory Commission to cooperate with state plans to restructure the electric utility industry.

WEDNESDAY, MARCH 12

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

8:30 a.m. Executive session on pending legislation, also following the House session

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

9:00 a.m. Executive session on pending legislation.

FINANCE - (DIVISION I), Room 212, LOB

9:30 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

10:00 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION III), ROOM 210-211, LOB

10:00 a.m. Work and executive session on the budget and other pending legislation.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

8:30 a.m. Executive session on pending legislation.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

Executive session on HB 25-A, making appropriations for capital improvements, immediately following the house session.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

Executive session immediately following the House session.

SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB

Executive session immediately following the House session.

THURSDAY, MARCH 13

COMMERCE, Room 302, LOB

10:00 a.m. Executive session on pending legislation, if necessary.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. Executive session on pending legislation, if needed.

EDUCATION, Representatives Hall

9:00 a.m. HB 50-FN-A-LOCAL, increasing aid for kindergarten programs, and establishing a program for the construction of public kindergarten facilities and making an appropriation therefor.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ELECTION LAW, Room 308, LOB

9:00 a.m. Executive session on pending legislation.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

1:00 p.m. Representatives of Region I Environmental Protection Agency, NH Office will brief the committee on pending issues.

ETHICS COMMITTEE (RSA 14-B:2), Room 105, State House (Please note room change.)

3:30 p.m. Regular meeting.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. Executive session on pending legislation, if needed.

FINANCE, Rooms 210-211, LOB

9:00 a.m. HB 51-FN-A, extending the temporary tax rates of the meals and rooms tax, communications services tax, and real estate transfer tax through the biennium ending June 30, 1999.

Executive session on pending legislation to follow.

Representatives Hall

1:00-5:00 p.m. HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 1998, and June 30, 1999.

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

Representatives Hall

7:00-10:00 p.m. HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 1998, and June 30, 1999.

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

FINANCE - (DIVISION I), Room 212, LOB

Work and executive session on the budget and the following bills:

10:30 a.m. HB 144-FN, relative to cash incentives paid to servants and agents, excluding commission employees, authorized to sell tickets.(A)

11:15 a.m. HB 186-FN, relative to fees for number plates and reducing the amount of the inventory fund in the department of safety.(A)

FINANCE - (DIVISION II), ROOM 209, LOB

10:00 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION III), ROOM 210-211, LOB

10:00 a.m. Work and executive session on the budget and other pending legislation.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

9:30 a.m. SB 103, establishing a committee to study issues relating to the licensing of child day care centers.

10:15 a.m. SB 4, relative to patient information.

1:00 p.m. SB 134, establishing a committee to study the certificate of need board and RSA 151-C.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

HOUSE FACILITIES (RSA 17-E:2), Room 103, State House

1:30 p.m. Regular meeting.

LEGISLATIVE FACILITIES (RSA 17-E:2), Room 103, State House

2:00 p.m. Regular meeting.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:00 a.m. Executive session on HB 25-A, making appropriations for capital improvements.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:00 a.m. Executive session on pending legislation.

SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB

9:30 a.m. Executive session on pending legislation.

FRIDAY, MARCH 14

FINANCE - (DIVISION I), Room 212, LOB

Work and executive session on the budget and the following bills:

9:30 a.m. HB 531-FN, increasing the amount superior court bailiffs are paid per day.

10:15 a.m. HB 658-FN, ensuring that the division of safety services, department of safety receives its 1/2 share of unrefunded tolls for boat motor fuels as required by law, and establishing a special fund therefor.

10:45 a.m. HB 674-FN-L, relative to dam registration and filing fees.

11:15 a.m. HB 533-FN, making technical corrections in the liquor laws.

1:00 p.m. HB 413, expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports.(A)

1:30 p.m. HB 402, relative to the use of revenues of the fish and game department.

FINANCE - (DIVISION III), ROOM 210-211, LOB

10:00 a.m. HB 582-FN, relative to medicaid rate setting.

11:00 a.m. HJR 1, urging the preservation and continued development of community services to people with developmental disabilities and their families.

1:00 p.m. HB 225-FN, requiring the commissioner of health and human services to establish a needle exchange pilot program.(A)

Executive sessions may be held throughout the day.

MONDAY, MARCH 17

FINANCE - (DIVISION I), Room 212, LOB

10:00 a.m. Work and executive session on the budget and HB 755-FN, increasing certain OHRV registration fees and requiring the department of fish and game to file an annual report to the legislature.

FINANCE - (DIVISION III), ROOM 210-211, LOB

10:00 a.m. Work and executive session on the budget and other pending legislation.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:30 a.m. Executive session on HB 25-A, making appropriations for capital improvements.

TUESDAY, MARCH 18

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. SB 29, establishing a pet overpopulation trust.

10:30 a.m. SB 31, relative to rabies certificates.

11:00 a.m. SB 145-LOCAL, relative to the definition of "open space land" for purposes of current use taxation.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

Executive session on HB 25-A, making appropriations for capital improvements, immediately following the House session..

WEDNESDAY, MARCH 19

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

Executive session on HB 25-A, making appropriations for capital improvements, immediately following the House session..

THURSDAY, MARCH 20

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

9:30 a.m. SB 24, relative to prescriptions for certain controlled drugs.

10:30 a.m. SB 133, relative to the task force on perinatal chemical dependency.

1:00 p.m. SB 35, including "accessibility lift" within the definition of "elevator".

1:30 p.m. SB 163, relative to the Uniform Anatomical Gift Act.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:00 a.m. Executive session on HB 25-A, making appropriations for capital improvements.

NUCLEAR DECOMMISSIONING FINANCE COMMITTEE (RSA 162-F:15), Seabrook Town Hall, 99 Lafayette Road, Seabrook

7:00 p.m. Regular meeting.

TRANSPORTATION, Room 203, LOB

9:00 a.m. SB 86-FN, requiring the division of motor vehicles to report those in default to a consumer reporting agency.

10:00 a.m. SB 153, requiring a check-off box on a driver's license application form relative to having the social security number indicated on the driver's license.

10:30 a.m. SB 63-FN, relative to access to motor vehicle records.

FRIDAY, MARCH 21

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular meeting.

MONDAY, MARCH 24

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 305, LOB

9:00 a.m. Hearing and regular meeting.

10:00 a.m. Rules hearing.

TUESDAY, MARCH 25

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:30 a.m. Rescheduled public hearing on SB 182-FN, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery.

10:30 a.m. Rescheduled public hearing on SB 64-FN-A, exempting motor fuel used for automobile racing from road toll taxation.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

11:15 a.m. Rescheduled public hearing on SB 175, establishing a committee on the feasibility of installing rumble strips before toll booths.

1:30 p.m. Rescheduled public hearing on SB 158-FN-A, relative to the funding of beach erosion control projects along the south side of the Hampton Harbor Inlet.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Department of Environmental Services, Air Resources Division will present Diesel Emissions Study to committee.

FRIDAY, MARCH 28

BOARD OF CLAIMS (RSA 541-B:3), Room 202, LOB

9:30 a.m. Rescheduled regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Belknap County Delegation will meet Monday, March 10 at 7:00 p.m. at the Belknap County Courthouse for a public hearing on the County Budget.

Rep. Gordon E. Bartlett, Chairman

Belknap County Delegation

COUNTY DELEGATION NOTICE

Coos County Delegation will meet Saturday, March 15 at the County Nursing Home in West Stewartstown at 10:00 a.m. This is to finalize the county budget.

Rep. Lynn C. Horton, Chairman

Coos County Delegation

COUNTY DELEGATION NOTICE

The Hillsborough County Executive Committee will hold a public hearing on Thursday, March 6 in the Hillsborough County Superior Court Building, 300 Chestnut Street, Manchester to consider cost items associated with the proposed Collective Bargaining Agreement.

Immediately following the public hearing, the Delegation will meet in convention at 7:30 p.m.

Rep. Frances L. Riley, Chairman

Hillsborough County Delegation

COUNTY DELEGATION NOTICE

The Executive Committee of the Merrimack County Delegation will meet Thursday, March 13 at 6:00 p.m. in Rooms 305-307, LOB to review the proposed 1997 county budget and any other business that may appropriately come before them.

Rep. Robert A. Lockwood, Chairman

Merrimack County Executive Committee

COUNTY DELEGATION NOTICE

There will be a public hearing on the 1997 operating budget before the Merrimack County Delegation at 7:00 p.m. on Thursday, March 13 in Rooms 305-307, LOB. The Delegation will meet immediately following the public hearing to review and adopt the Executive Committee's proposed 1997 operating budget and any other business that may appropriately come before them.

Rep. David W. Hess, Chairman

Merrimack County Delegation

COUNTY DELEGATION NOTICE

Strafford County Executive Committee will meet Friday, March 14 at 9:00 a.m. to review the proposed 1997 budget. The full County Delegation will meet Saturday, March 22 at 9:00 a.m. to review and vote on the 1997 budget. Both meetings will be held at the Strafford County Administration Building.

Rep. Deborah F. Merritt, Chairman

Strafford County Delegation

UPDATE ON THE LATE DELIVERY OF HOUSE CALENDARS:

We are still working with the US Postal representative in Bedford to determine the problem and improve delivery time. At the Postal representative's suggestion, we are stamping all of the envelopes FIRST CLASS and bundling them by zip codes with a marker for DIRECT DELIVERY. Please continue to help us track the problem by saving your envelope when it does arrive.; write on it the date of receipt and bring the

envelope to the Clerk's Office. We will continue to work at solving the problem. Thank you for your cooperation.

Karen O. Wadsworth, Clerk of the House

During House sessions, members that wish to keep book bags, briefcases etc. with them please place them under seats and not in the aisles in front of seats. This is asked as a courtesy to fellow colleagues and for safety and emergency evacuation purposes. Thank you.

Rob Johnson, House Sergeant-at-Arms

REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 186, 225, 340; 378, 557, 559, 560, 562, 564, 567; 569, 570; 573, 577, 578; 587, 588, 589; 595;596, 598, 602; 603; 604, 605; 607; 610; 615; 617; 618; 619;625; 626, 627; 637, 638; 643; 644,645; 649; 661; 663, 686; 689, 702, 716; 719; 720, 723, 724, 725, 726, 727, 729, 733, 734, 739, 740, 741, 742, 743, 747, 748, 749, 750, 751, 760, 761, 762, 763. 764, 765,766, 767, 768, 769, 771, 773, 774, 780, 781, 783, 784, 785, 786, 788, 791, 792, 794, 795 and 796.

Leo J. Callahan, Assistant Clerk

When the House Clerk is aware of House Members who are hospitalized or homebound by serious illness, it will publish a list of names and addresses so that their colleagues who so desire may send cards and greetings.

Charles H. Felch, Sr., PO Box 22, Seabrook, New Hampshire 03874-0022

Beverly A. Gage, 75 South Policy Street Lot 31, Salem, New Hampshire 03079-2919

Lawrence J. Guay, 404 Main Street, Gorham, New Hampshire 03581-1123

Francis C. Vincent, 14 Central Street, Somersworth, New Hampshire 03878-2402

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative policy or social activities and political meetings or events. Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

Members of the NH Senate and House are encouraged to utilize the complimentary ski privileges afforded them. Upon presentation of proper credentials at the ticket window, NH Senators and Representatives may receive a lift ticket for their personal use and one for a guest. The elected official must be present to personally present the credentials, unless prior arrangement is made with Commissioner Thomson. (Lift tickets are to be picked up at Guest Services at Sunapee; and at Guest Services or the Ticket Window at Cannon.)

Donna Sytek, Speaker

Improve your mind, and recycle! Bring a book - Buy a book is located outside the cafeteria. It is sponsored by the OWLs. All moneys go to the scholarship fund.

Rep. Betsy McKinney

Members interested in kindergarten are invited to visit with their constituents during the session lunch break on March 12, when the Children's Alliance and the General Federation of Women's Clubs - NH will hold Kindergarten Campaign Day in the Executive Council Chambers.

Rep. Raymond C. Buckley

The Order of Women legislators will meet at noon on March 12 in Rooms 306-308, LOB. The guest speaker will be Linda Murphy of Murphy Self Defense Studios. Boxed luncheon from the State House Cafeteria will be available at a nominal fee. All members of the House are invited to attend.

Rep. M. Virginia Burke

All are welcome to the 5th Annual St. Patrick's Day celebration, sponsored by the Merrimack County Democrats on Tuesday, March 18 from 5:30 p.m. to 8:00 p.m. at the Eagle's Nest at Eagle Square in Concord. A \$20 donation is appreciated and RSVP.

Rep. Miriam D. Dunn

All legislators and staff are invited to a reception by the NH/VT Direct Marketing Association on Wednesday, March 12 at the Holiday Inn from 3:00 to 7:00 p.m. (or immediately following the House Session). Hors d'oeuvres and refreshments will be served.

Rep. Lawrence A. Emerton, Sr.

The 5th Annual Breakfast sponsored by the NH School Food Service Association will be held March 13th from 8:00 to 10:00 a.m. in the State House Cafeteria. All legislators are invited to attend.

Rep. Ken W. Malcolm

All legislators and their staff are invited to attend the annual Spring Legislative reception sponsored by the Retail Merchants Association of NH, Make plans to attend this event on Wednesday, March 19 at the Holiday Inn, 172 North Main Street, Concord from 4:30 to 6:00 p.m.

Rep. Toni Crosby

The Legislative Tourism Caucus is holding its second meeting from 3:00 to 5:00 p.m. (or upon adjournment of the House session) in the Function Room at Forefathers Taverne (across from the State House) on Wednesday, March 19th.

The topic is BEYOND LOON MOUNTAIN: Balancing recreational Interests with Environmental Protection. Richard Ober, Senior Director of Communications with the Society of the Protection of New Hampshire Forests, will discuss the fine art of balancing tourism interests with environmental interests. Alice Pearce, Executive Director of Ski New Hampshire, will also discuss balancing multiple uses of the White Mountain National Forest that provides for recreational opportunities, including skiing. Ms. Pearce will also discuss the economic impact that the ski industry has on the state's economy. Wine, cheese and other refreshments will be available courtesy of the New Hampshire Lodging and Restaurant Association. All legislators are cordially invited.

Rep. Stephen G. Avery, Chairman

Legislative Tourism Caucus

The New Hampshire Order of Women Legislators Installation Banquet will be held Wednesday, April 2 at the Holiday Inn, Concord. Cocktails 5:30 p.m. Dinner 6:30 p.m. Tickets \$25 are available from Reps. Karen McRae (497-2186) or Anne Grassie (332-8562).

Reps. Karen K. McRae and Anne C. Grassie

The Department of Transportation will hold the following meetings:

Mar 18 Seabrook Elementary School Gymnasium, 257 Walton Road, Seabrook, 7:00 p.m. Public hearing , Seabrook, US Route 1.

Mar 25 Kennett High School Gymnasium, 176 Main Street, Conway, 7:00 p.m. Public hearing, Conway, NH Route 16 and West Side Road.

Mar 26 Community Room, Municipal Library, 26 Railroad Street, Charlestown, 7:00 p.m. Public hearing, Charlestown, NH Route 12A.

Apr 8 Town Office Meeting Room, Main Street, New Hampton, 7:00 p.m. Public Informational/Public Officials meeting, New Hampton, Dana Hill Road/NH Railroad.

Rep. Gene G. Chandler, Chairman

Public Works and Highways

WEDNESDAY, MARCH 12

AMENDMENTS

(Listed in numerical order.)

1997-0298h

Amendment to HB 102-LOCAL

Proposed by the Committee on Education

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

AN ACT relative to school employee background investigations.

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

1 Statement of Intent. It is the intent of this act to provide safe environments for pupils and to provide criminal history checks for those persons who are regularly in contact with pupils in the performance of their duties. It is not the intent to unduly burden volunteers and other such persons, contractors, or subcontractors who are not regularly in contact with pupils.

2 School Employee Background Investigations. RSA 189:13-a is repealed and reenacted to read as follows:

189:13-a School Employee Background Investigations.

I. The employing school administrative unit, school district, or charter school shall complete a background investigation, including a criminal history records check, on every selected applicant for employment in any position in the school administrative unit, school district, or charter school prior to a final offer of employment.

II. The selected applicant for employment with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form and a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school.

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history record inquiry through its records and through the Federal Bureau of Investigation.

IV. The school administrative unit, school district, or charter school may require the selected applicant for employment to pay the actual costs of the background investigation, including a criminal history records check.

V. Any person who has been convicted of murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping in this state, or under any statute prohibiting the same conduct in another state, territory or possession of the United States, shall not be hired by a school administrative unit, school district, or charter school.

VI. This section applies to any employee or selected applicant for employment with private businesses and agencies which contract with school administrative units, school districts, or charter schools to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel or, any other service where the contractor or employees of the contractor provide services directly to students of the district or charter school. The cost for background investigations, including criminal history records checks, for employees or selected applicants for employment with such contractors shall be borne by the contractor.

3 Application.

I. A school employee background investigation, including a criminal history records check, shall be performed, under RSA 189:13-a, for an employee working under a contract existing on the effective date of this act, only if the employee was hired after the effective date of this act.

II. A school employee background investigation, including a criminal history records check, shall be performed under RSA 189:13-a for each employee working under a contract entered into after the effective date of this act.

III. The provisions of RSA 189:13-a shall not prohibit more frequent criminal history records checks required by law, in addition to those required under RSA 189:13-a.

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

1997-0436h

Amendment to HB 117

Proposed by the Committee on State-Federal Relations and Veterans Affairs

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

1 End Date for Active Service; Qualifications for Bonus Payment. Amend RSA 115-A:9 to read as follows:

115-A:9 Qualifications for Bonus. Each person who actively served in any capacity as a member of the armed forces of the United States ~~[between]~~ ***on or after*** August 2, 1990[;] and ~~[a date to be determined by the Secretary of Defense]~~ ***on or before November 30, 1995***, and who earned the Southwest Asia Service Medal (SASM); and who was discharged, released or has a certificate of service therefrom, under honorable conditions, or who is missing in action ***or who was killed in action***; and who at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be entitled to the benefits provided under this subdivision. ~~[Residents of other states who were activated and served with a New Hampshire-based National Guard or reserve unit shall also qualify.]~~ ***A person shall demonstrate bona fide residency under this section through such person's home of record at time of entry as listed on a DD Form 214 or a written verification from a town or city clerk that such person was a resident of a New Hampshire town or city at the time of active service.*** No individual who has received a Persian Gulf War bonus payment from another state shall be qualified to receive the benefits provided under this subdivision.

2 New Section; Forfeiture of Bonus for Fraud. Amend RSA 115-A by inserting after section 14 the following new section:

115-A:15 Forfeiture of Bonus. Any person who obtains a bonus payment under this subdivision by fraud shall forfeit such bonus to the state.

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

AMENDED ANALYSIS

This bill clarifies the dates of active service and the residency requirement for qualifying for a Persian Gulf War bonus payment.

The bill also provides for forfeiture of any Persian Gulf War bonus payment obtained by fraud.

1997-0465h

Amendment to HB 136

Proposed by the Committee on Criminal Justice and Public Safety

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

AN ACT relative to the division of fire standards and training and the fire standards and training commission.

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

1 Division of Fire Standards and Training. Amend RSA 21-P:12-a to read as follows:

21-P:12-a Division of Fire Standards and Training; Disposition of Funds.

I. There is established within the department a division of fire standards and training under the supervision of an unclassified director of fire standards and training who shall administer and supervise a fire service training and research program throughout the state. ~~[This division shall establish training standards and offer instruction in methods of determining and dealing with the causes of fire and the prevention of fire, techniques in firefighting and rescue, research in techniques in firefighting and fire protection, and the administration and management of fire departments.]~~ The director of fire standards and training shall be nominated by the commissioner of safety, after consultation with the fire standards and training commission, for appointment by the governor, with consent of the council, and shall serve a term of 4 years until a successor is appointed. The commission shall take a recorded vote regarding its concurrence or non-concurrence in the commissioner's nomination decision. If the commission votes not to concur in the decision, it shall submit a letter to the commissioner so stating, and the commissioner shall in turn submit that letter to the governor and council. The director of fire standards and training shall be academically and technically qualified to hold the position, and shall receive the salary specified in RSA 94:1-a.

II. The director shall:

(a) Be responsible for the operations of the fire academy including, establishing training programs and offering instruction in methods of determining and dealing with the causes of fire and the prevention of fire, techniques in firefighting and rescue, research and techniques in firefighting and fire protection, and the administration and management of fire departments.

(b) Establish fees to be collected for tuition and services. Such fees shall be subject to the approval of the commissioner of the department of safety.

(c) Establish, maintain, approve, and certify programs, courses, institutions, and facilities for study for all fire service personnel and recruits according to accepted curricula.

(d) Provide all fire service personnel with professional instruction and training.

(e) Develop and promote new methods and practices of firefighting, rescue operations, fire prevention, and fire administration.

(f) Disseminate information relative to fire and rescues, techniques of firefighting and rescuing, fire prevention, fire administration, and other related subjects to all interested agencies and individuals throughout the state.

(g) Be authorized to employ part-time instructors or assistants and compensate them for organizing, developing, and conducting approved fire training and rescue courses or other work as directed at an hourly rate established by the commission and for mileage and expenses incurred in performing their official duties.

(h) With the approval of the commissioner, accept in the name of the state any and all donations, fees for tuition, rents, services and any and all moneys and grants from any governmental unit, public agency, institution, person, firm, or corporation and receive, utilize, expend, and dispose of such funds subject to budgetary provisions, consistent with the rules of the department of safety and the purposes or conditions of the donations or grant.

III. *The receipt of a donation or grant under subparagraph II(h) shall be noted in the biennial report of the department of safety, which will also identify the nature of the donation or grant and the conditions of the donation or grant, if any. Any moneys received by the division pursuant to subparagraph II(h) shall be deposited in the state treasury to the account of the department of safety and shall not lapse. In addition, the division may receive, hold, and use gifts, bequests, and devises either outright or in trust for purposes consistent with this chapter.*

2 Fire Standards and Training Commission. Amend RSA 21-P:25, I to read as follows:

I. The New Hampshire fire standards and training commission is hereby established and directed to ~~[administer and supervise a fire service training and research program throughout the state. The program shall offer instruction in]~~ **establish minimum educational and training standards for employment as a full-time firefighter, establish minimum selection standards for full-time fire service personnel, establish and publish educational and training standards for fire service personnel, and certify fire service personnel as meeting the educational and training standard. This commission shall also act in an advisory capacity to the director of the division of fire standards and training with reference to the instruction** methods of determining and dealing with the causes of fire, the prevention of fire, techniques of firefighting and rescue, research techniques in firefighting and fire protection, and the administration and management of fire departments. ~~[The program shall be open to, but not limited to, all fire personnel within the state.]~~ **The commission shall meet at least 4 times annually.**

3 Definition; Director. Amend RSA 21-P:25, II(b) to read as follows:

(b) "Director" means the director of the division of fire standards and training.

(c) "Fire service personnel" means firefighters, fire officers, rescue personnel connected with fire departments, fire prevention officers, inspectors, investigators, fire instructors, public education specialists, fire alarm personnel, or any other personnel who are members of fire departments or fire-related state agencies, whether full or part-time.

4 Rulemaking. Amend the introductory paragraph of RSA 21-P:27, I to read as follows:

I. The commission **and the commissioner of safety**, shall adopt rules, pursuant to RSA 541-A, relative to:

5 Reference Change. Amend RSA 21-P:27, I(a) to read as follows:

(a) The conduct of ~~[its]~~ **the meetings of the commission.**

6 Rulemaking Authority. Amend RSA 21-P:27, I(d)-(e) to read as follows:

(d) Procedures for the conduct of investigations ~~[authorized under this subdivision]~~ **regarding the certification of firefighters.**

(e) Matters necessary for the proper administration of ~~[this subdivision]~~ **the commission**, including the issuance of certificates evidencing the satisfaction of educational and training requirements.

7 Powers and Duties. RSA 21-P:28, I is repealed and reenacted to read as follows:

I. The commission, within budgetary limitations, shall:

- (a) Certify fire service personnel as meeting minimum educational and training standards.
- (b) Act upon request as the advisory committee to the state board of education concerning any fire educational programs.
- (c) Require submission of reports and information from fire departments within the state that may be pertinent to the functioning of the commission.
- (d) In coordination with the division of fire standards and training, make such investigations as may be necessary to determine whether governmental units are complying with the provisions of this subdivision.

8 New Paragraph; Certification, Education, and Training. Amend RSA 21-P:29 by inserting after paragraph II the following new paragraph:

III. Prior to any final vote regarding minimum standards, selection procedures, or certification, the commission shall:

- (a) Provide notice of the proposed action to members of the fire service.
- (b) Allow a 60-day period for the receipt of written comments on the proposal.
- (c) Hold public hearings, one in the daytime hours and another during the evening hours, in such a way as to maximize input from members of the fire service.

9 Reimbursement of Expenses. Amend RSA 21-P:30 to read as follows:

21-P:30 Reimbursement of Expenses. The ~~[commission]~~ **division, with the approval of the commissioner**, may reimburse fire departments or fire-related state agencies for expenses incurred in the training of their fire personnel in attendance at approved training programs to the extent it

considers reasonable ~~[given the amount of available funds]~~ ***provided there are funds available and allocated for that purpose, and*** provided that any such department or agency adheres to the selection and training standards adopted by the commission.

10 Reference Changed. Amend RSA 100-A:3, III-c to read as follows:

III-c. Notwithstanding the provisions of RSA 100-A:1, VIII, any permanent fireman who has been a group II member and who has 10 years' fire service experience, or any person included in the definition of "fire service personnel" as defined in RSA 21-P:25, ~~[(b)]~~ ***II(c)*** who has 10 years' fire service experience, who is or becomes the director of the division of fire safety, the administrator of the fire standards and training commission, any fire instructor, supervisor, instructor, or other technical specialist who has hazardous materials, firefighting, or rescue training functions and who has as a job requirement satisfied the fire standards and training commission's entrance and certification requirements for physical condition, education, and training shall be construed to be a permanent fireman for the purposes of membership in group II and shall remain in the system for the duration of ~~[his]~~ service in that capacity with the fire standards and training commission.

11 Repeal. The following are repealed:

- I. RSA 21-P:27, I(f), relative to the establishment of fees and rulemaking authority of the fire standards and training commission.
- II. RSA 21-P:28, II(d), relative to acceptance of donations, fees, rents, and other moneys by the fire standards and training commission.
- III. RSA 21-P:31, relative to the expenditure of funds for fire standards and training purposes.

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

AMENDED ANALYSIS

This bill:

- I. Establishes the duties of the director of the division of fire standards and training.
- II. Imposes duties upon the fire standards and training commission.
- III. Requires the fire standards and training commission to abide by certain procedural requirements prior to any final vote on minimum standards, selection procedures, or certification.
- IV. Modifies the mechanism and circumstances by which fire departments and fire-related state agencies are reimbursed for expenses.
- V. Repeals certain laws relative to fire standards and training.

1997-0559h

Amendment to HB 151-FN-LOCAL

Proposed by the Committee on Criminal Justice and Public Safety

Amend the bill by replacing section 1 with the following:

1 Statement of Purpose. The legislature finds that the public safety and welfare requires that persons serving as police officers and state corrections and probation-parole officers be physically and emotionally fit to perform the exacting and demanding essential tasks required of law enforcement officers. The legislature recognizes physical fitness as a necessary component to ensure that only reasonable and necessary force is used in making arrests and assuming and maintaining custody and control of prisoners and that officers must be capable of performing strenuous duties in search and rescue operations and subduing violent persons. The legislature further recognizes that requiring officers to maintain minimum fitness levels should minimize and reduce costs to the state, its political subdivisions and the New Hampshire retirement system due to excessive sick leave, worker's compensation claims, and disability retirements. The legislature further recognizes that police and corrections duties and the supervision of probationers and parolees should only be performed by officers who are free from inappropriate behavior traits. Therefore, it is in the best interests of the people of the state and its political subdivisions to request certain minimum medical and psychological standards for persons serving in these critical positions.

Amend RSA 188-F:27, III-i - III-l as inserted by section 3 of the bill by replacing them with the following:

III-i. A licensed physician, psychiatrist, psychologist, or person acting under the licensee's supervision, whose examination administered under this

chapter results in an employment decision adverse to a police, corrections, or probation-parole officer shall be immune from suit resulting from such examination or decision, providing such examination is conducted in good faith, not in a wanton or reckless manner.

III-j. To the extent required to comply with federal or state law, the council may grant a waiver, with respect to employment at a specific agency, to an officer who cannot meet the standards in paragraphs III-d - III-g.

III-k. Nothing in this section shall prevent individual hiring agencies from adopting physical fitness programs for their officers that are more stringent or frequent than those required in this section.

III-l. Except as provided in paragraph III-h and notwithstanding other provisions of law to the contrary, a hiring authority may assess a testing fee to cover all or part of the cost of any medical or psychological examination in cases where the person has been given a conditional offer of employment. A hiring authority may also make repayment of a testing fee part of any training or hiring contract that establishes a minimum term of employment for such an officer.

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

4 Applicability. On or before July 1, 1998, the police standards and training council shall notify each affected local and county law enforcement agency as to those provisions of RSA 188F:27, III-j through III-l, that assign additional standards. Such standards shall take effect in those localities when they are approved for funding by the legislative body of the political subdivision.

5 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity 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.

6 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill requires that all part-time and full-time police officers, state corrections officers, and probation parole officers meet certain medical, physical and psychological standards established in rules adopted by the police standards and training council, subject to the approval of the employing political subdivision.

This bill is a request of the department of postsecondary technical education.

1997-0647h

Amendment to HB 181

Proposed by the Committee on Resources, Recreation and Development

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

AN ACT prohibiting the sale or distribution of exotic aquatic weeds and increasing certain fees.

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

1 Increasing Lake Restoration and Preservation Fee. Amend RSA 270-E:5, II(a) to read as follows:

(a) [~~\$50~~] **\$2** for each registration specified in paragraph I. The fees collected under this subparagraph shall be paid into the lake restoration and preservation fund established under RSA 487:25.

2 Exotic Aquatic Weeds; Definition. Amend RSA 487:16, II to read as follows:

II. The term "exotic aquatic weeds" includes only those species of vascular aquatic plants which were not part of New Hampshire's native aquatic flora before 1950 [~~, and which are considered to be nuisance species~~]. *Cabomba caroliniana* and *Myriophyllum heterophyllum* are ***examples of*** exotic aquatic weeds.

3 New Section; Prohibition. Amend RSA 487 by inserting after section 16 the following new section:

487:16-a Exotic Aquatic Weed Prohibition. No exotic aquatic weeds shall be offered for sale, distributed, sold, imported, purchased, propagated,

transported, or introduced in the state. The commissioner may exempt any exotic aquatic weed from any of the prohibitions of this section consistent with the purpose of this subdivision.

4 New Subparagraphs; Emergency Response Protocol; Designation of Control Areas. Amend RSA 487:17, II by inserting after subparagraph (b) the following new subparagraphs:

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

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

5 New Paragraphs; Rulemaking. Amend RSA 487:24 by inserting after paragraph VII the following new paragraphs:

VII-a. Administration and enforcement of, and exemptions to, the exotic aquatic weed prohibition under RSA 487:16-a.

VII-b. Criteria governing the emergency response protocol under RSA 487:17, II(c).

VII-c. Designation of restricted use exotic aquatic weed control areas under RSA 487:17, II(d).

6 Lake Restoration and Preservation Fee. Amend RSA 487:25, I to read as follows:

I. An additional fee of [~~\$.50~~] **\$2** to those already collected under the provisions of RSA 270-E:5 for each private boat registered shall be paid to the director of the division of motor vehicles. The director of the division of motor vehicles shall pay over said additional fees to the state treasurer who shall keep said fees in a special fund to be expended by the department of environmental services. ***The department shall use \$.50 of the fee*** for lake restoration and preservation measures, [~~including~~] ***exclusive of exotic aquatic weed control, and \$1.50 of the fee for*** the control of exotic aquatic weeds. The special fund shall be nonlapsing. All funds received under this section are continually appropriated to the department for the purposes of this subdivision.

7 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill prohibits the advertising for sale, distribution, or sale of exotic aquatic weeds and allows the department of environmental services to develop an emergency response protocol and control areas for exotic aquatic weeds.

This bill also increases the additional boat registration fees designated for lake restoration and preservation.

1997-0576h

Amendment to HB 187-FN-A

Proposed by the Committee on Environment and Agriculture

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

AN ACT relative to groundwater monitoring for pesticides.

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

1 New Subparagraph; Rulemaking Added; Groundwater Protection Plan. Amend RSA 430:31, IV by inserting after subparagraph (w) the following new subparagraph:

(x) Development and administration of state management plans to protect groundwater from pesticide contamination, for pesticides that are classified as restricted-use under the Federal Insecticide, Fungicide, and Rodenticide Act section 3(d)(1)(C)(ii) subject to restrictions under United States Environmental Protection Agency approved management plans funded through the fund established in RSA 430:34, V.

2 New Subparagraph; Groundwater Samples. Amend RSA 430:43, VI by inserting after subparagraph (b) the following new subparagraph:

(c) Samples in conjunction with management plans to protect groundwater from pesticide contamination, including soil, surface waters, monitoring wells, and other wells;

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

AMENDED ANALYSIS

This bill allows the pesticide control board and the division of pesticide control to develop plans for protection of groundwater from certain pesticides to be funded through the fund established in RSA 430:34, V.

1997-0591h

Amendment to HB 190

Proposed by the Committee on Commerce

Amend RSA 384:60-c as inserted by section 1 of the bill by replacing it with the following:

384:60-c Application and Investigation Fee Required. An out-of-state bank or out-of-state bank holding company acquiring a New Hampshire bank or seeking to establish a New Hampshire branch pursuant to this subdivision shall file an application with the bank commissioner on a form prescribed by the bank commissioner. A \$1,500 investigation fee shall accompany each application for approval to establish a New Hampshire branch and each application to acquire a New Hampshire bank. The commissioner shall examine such application, and if the commissioner determines that the applicant meets the requirements of this subdivision for the establishment of a New Hampshire branch or the acquisition of a New Hampshire bank, the bank commissioner shall approve the application. A duplicate original of the commissioner's approval shall be filed by the applicant with the secretary of state.

Amend the bill by replacing section 2 with the following:

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

1997-0204h

Amendment to HB 196-FN

Proposed by the Committee on Environment and Agriculture

Amend RSA 433-A:6 and 433-A:7 as inserted by section 1 of the bill by replacing them with the following:

433-A:6 Registration and Inspection Fees; Fund Established. The commissioner shall collect a \$50 annual registration and inspection fee for each product registered. The fees collected under this section shall be deposited with the state treasurer into the agriculture products and scale testing fund established in RSA 435:20, IV. Moneys from the fund shall be used to offset costs associated with registration and inspection of horticultural growing media.

433-A:7 Exemptions.

I. Distribution of horticultural growing media planted with live plant material is exempt from the labeling and registration requirements imposed pursuant to this chapter.

II. Distribution of horticultural growing media that is sold to consumers at the site of production and is not distributed by other means or intended for commercial use is exempt from the registration requirements imposed pursuant to this chapter.

III. Distribution of custom media is exempt from registration requirements imposed pursuant to this chapter provided it is prepared for a single end user.

IV. Distribution of horticultural growing media with applied plant nutrients shall be exempt from the requirements of RSA 431:1-20.

Amend RSA 433-A:11, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Distribute an adulterated horticultural growing medium. Such medium shall be deemed to be adulterated if:

(a) It contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant, animal, human or aquatic life or to soil or water when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life, animal, human, or aquatic life or soil or water are not shown upon the label.

(b) Its composition falls below or differs significantly from that which it is purported to possess by its labeling.

(c) It contains viable weed seed exceeding the amounts specified in RSA 433:4, I(c)-(e).

Amend RSA 433-A:12, I as inserted by section 1 of the bill by replacing it with the following:

I. Any person who, individually or through a servant or agent, violates any provision of this chapter or rule adopted under this chapter shall be guilty of a misdemeanor. For any subsequent offense, a person shall be guilty of a misdemeanor if an individual, or guilty of a felony if any other person.

Amend the bill by replacing section 2 with the following:

2 Agricultural Product and Scale Testing Fund. Amend RSA 6:12, I(zz) to read as follows:

(zz) One-half the registration fees collected under RSA 435:20 *and all fees collected under RSA 433-A:6*, which shall be credited to the agricultural product and scale testing fund, established under RSA 435:20, IV.

AMENDED ANALYSIS

This bill provides for the registration and inspection of horticultural growing media.

The bill establishes fees for registration and inspection and penalties for violations.

1997-0540h

Amendment to HB 241

Proposed by the Committee on Commerce

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

1 Long-term Care Insurance Coverage. Amend RSA 141-H:4 and RSA 141-H:5 to read as follows:

141-H:4 Use of Genetic Testing in Health Insurance *and Long-term Care Insurance*. ~~[A health]~~ *An* insurer in connection with providing health insurance *or long-term care insurance* shall not:

I. Require or request directly or indirectly any individual or a member of the individual's family to undergo genetic testing.

II. Require or request directly or indirectly any individual to reveal whether the individual or a member of the individual's family has undergone genetic testing or the results of the testing, if undergone by the individual or a member of the individual's family.

III. Condition the provision of health insurance coverage, *long-term care insurance coverage*, or health care benefits on whether an individual or a member of the individual's family has undergone genetic testing or the results of the testing, if undergone by the individual or a member of the individual's family.

IV. Consider in the determination of rates or any other aspect of health insurance coverage, *long-term care insurance coverage*, or health care benefits provided to an individual whether an individual or a member of the individual's family has undergone genetic testing or the results of the testing, if undergone by the individual or a member of the individual's family.

141-H:5 Use of Genetic Testing in Life[;] *and* Disability Income~~[-and Long-term Care]~~ Insurance

I. Except as provided in paragraph II of this section, the provisions of this chapter shall not apply to the provision of life insurance[;] *or* disability income insurance~~[-or long-term care insurance]~~.

II. A person in the business of providing life[;] *or* disability income~~[-or long-term care]~~ insurance who obtains information with respect to any genetic testing of an individual or a member of the individual's family shall not use that information in writing a type of insurance coverage other

than life[;] **or** disability income[; ~~or long-term care~~] insurance.

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

AMENDED ANALYSIS

This bill provides that an insurer providing long-term care insurance shall not require persons to undergo genetic testing unless under the terms of an employee benefit plan.

1997-0375h

Amendment to HB 257

Proposed by the Committee on State-Federal Relations and Veterans Affairs

Amend RSA 115-B:1, II as inserted by section 2 of the bill by replacing it with the following:

II. "Eligible veteran" means a person who:

(a) Served on active duty and was discharged or released from active duty with an honorable discharge;

(b) Was discharged or released from active duty because of a service-connected disability; or

(c) As a member of a reserve component under an order to active duty, served on active duty during a period of war or in a campaign or expedition for which a campaign badge or ribbon is authorized and was discharged or released from such duty with an honorable discharge.

Amend RSA 115-B:1, IV as inserted by section 2 of the bill by replacing it with the following:

IV. "Reserve component" includes any branch of the military which is called up to active duty, including any military defense forces.

Amend RSA 115-B:5 as inserted by section 2 of the act by replacing it with the following:

115-B:5 Discrimination Complaints. Complaints of discrimination arising under this chapter shall be investigated and remedied to the extent allowed by law. Complaints shall be made to the state veterans' council by the veteran or such veteran's authorized representative.

1997-0456h

Amendment to HB 340

Proposed by the Committee on Commerce

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

1 New Section; Reciprocity for Licensure. Amend RSA 331-A by inserting after section 11 the following new section:

331-A:11-a Reciprocity For Licensure. If an applicant holds an active real estate license in good standing, and issued by examination in accordance with the laws of another jurisdiction, that applicant may apply for an original New Hampshire license by first taking the New Hampshire portion of the licensing examination, provided the jurisdiction that issued such nonresident license has previously entered into a licensing reciprocity agreement which has been approved by the commission, and provided that all of the other requirements of this chapter applicable to residents of New Hampshire have been met. This section applies to nonresident salesperson applicants only when such applicants are applying for an original New Hampshire salesperson license.

2 New Section; Inactive License Status. Amend RSA 331-A by inserting after section 12 the following new section:

331-A:12-a Inactive Licensure Status.

I. Any licensee who does not want to perform as a broker or salesperson as defined in RSA 331-A:2, and who wants to preserve the license while not engaged in any brokerage activities, including the receiving of referral fees or any other form of compensation, may surrender that license to the commission for placement on inactive status. The commission shall place the licensee on inactive status only upon application by the licensee. While on inactive status, the licensee shall renew the license biennially by satisfying the renewal requirements under RSA 331-A:19 and the

continuing education requirements adopted by the commission, but is not required to maintain a place of business, or in the case of licensed broker, to maintain a surety bond pursuant to RSA 331A:14.

II. Any licensee on inactive license status may have the license reinstated to active status by demonstrating compliance in the previous biennium with the continuing education requirements adopted by the commission and applying to change status from inactive to active, and, in the case of a licensed broker, providing evidence of a surety bond as required by RSA 331-A:14.

3 Bonding Requirements. Amend RSA 331-A:14 to read as follows:

331-A:14 Bonds. No *active* broker's license shall be issued or renewed until the applicant gives to the commission a surety bond in the form approved by the commission in a sum of not less than \$25,000, executed by the applicant and by a surety company authorized to do business in this state. The bond shall be payable to the state of New Hampshire, for the benefit of any person aggrieved, and shall be conditioned upon the faithful accounting by the broker for all funds entrusted to the broker in the broker's capacity as [a] *an active* licensed real estate broker. Any person so aggrieved may bring suit on the bond in [his] *the aggrieved person's* own name; provided, however, that the aggregate liability of the surety to all persons shall, in no event, exceed the sum of such bond. The commission may revoke the license of any *active* broker whenever the bond filed by the broker ceases to be in full force and effect.

4 Nonresidents and Reciprocity. Amend RSA 331-A:22 to read as follows:

331-A:22 Nonresidents and Reciprocity.

I. A nonresident of this state may become a [real-estate] broker or salesperson in this state by conforming to all of the conditions of this chapter applicable to residents of this state. If an applicant already holds an active real estate license in good standing, issued by examination in accordance with the laws of another jurisdiction, that applicant need pass only the New Hampshire state portion of the licensing examination to satisfy the examination requirement for an original New Hampshire license with the state of New Hampshire, provided the jurisdiction that issued such nonresident license has previously entered into a licensing reciprocity agreement which has been approved by the commission, and provided that all of the other requirements of this chapter applicable to residents of New Hampshire have been met.

II. Upon making application, such nonresidents shall file an irrevocable consent and power providing that legal actions may be commenced against them in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by service of process or pleading authorized by the laws of this state on a member of the commission or its executive director, the consent or power stipulating that such service of process or pleading shall be taken in all courts to be valid and binding as if personal service had been made upon the nonresident in this state.

III. This section applies to nonresident license applicants only.

5 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill:

I. Establishes reciprocity for licensure for persons with certain credentials from other jurisdictions and requires that such persons sit only for the New Hampshire portion of the licensure examination.

II. Establishes requirements for licensees seeking inactive status and revises bonding requirements.

1997-0426h

Amendment to HB 351-LOCAL

Proposed by the Committee on Local and Regulated Revenues

Amend the bill by replacing section 1 with the following:

1 Total of Tax Deferrals for Elderly and Disabled Limited. Amend RSA 72:38-a, I to read as follows:

I. Any resident property owner may apply for a tax deferral if the person:

(a) Is either at least 65 years old or eligible under Title II or Title XVI of the federal Social Security Act for benefits for the disabled; and

(b) Has owned the homestead for at least 5 years; and

(c) Is living in the home.

The assessing officials may annually grant a person qualified under this paragraph a tax deferral for all or part of the taxes due, plus annual interest at 5 percent, if in their opinion the tax liability causes the taxpayer an undue hardship or possible loss of the property. The total of tax deferrals on a particular property shall not be more than 85 percent of its [assessed] *equity* value. ***The total of tax deferrals shall be determined by the following formula:***

Assessed Value = Equalized Assessed Value

Equalization Ratio

Equalized Assessed Value - Total of Priority Liens = Equity Value

Equity Value X .85 = Total Amount Which May be Deferred

At any time during the tax deferral process, the governing body may consider an abatement pursuant to RSA 76:16.

AMENDED ANALYSIS

This bill limits the total of tax deferrals for the elderly and disabled on a particular property to 85 percent of the property's equity value. Equity value is the equalized assessed value of the property reduced by any priority liens.

1997-0428h

Amendment to HB 367-FN-LOCAL

Proposed by the Committee on Criminal Justice and Public Safety

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; Notification to Parent or Guardian. Amend RSA 78:12c, V to read as follows:

V.(a) Any person under 18 years of age who violates this section shall be guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be required to complete up to 20 hours of community service for each offense, or both. Where available, punishment may also include participation in an educational program.

(b) The parent or guardian of any person under 18 years of age who violates this section shall be notified of such violation by the local law enforcement officer or agency.

1997-0413h

Amendment to HB 372

Proposed by the Committee on Election Law

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

AN ACT relative to age requirements for assistant election officials.

Amend the bill by deleting section 1 and renumbering the original sections 2-4 to read as 1-3, respectively.

AMENDED ANALYSIS

I. Requires that assistant election officers be at least 17 years of age before initiating official duties.

II. Removes the law relative to listing of names of candidates on primary ballots.

1997-0328h

Amendment to HB 379-FN

Proposed by the Committee on Election Law

Amend the bill by replacing the title with the following:

AN ACT requiring all candidates for speaker of the house or senate president to file certain reports of contributions and to register as political committees.

Amend the bill by replacing section 1 with the following:

1 New Section; Reporting of Contributions to Candidates for Senate President or Speaker of the House Required. Amend RSA 664 by inserting after section 7 the following new section:

664:7-a Reporting by Candidates for Senate President or Speaker of the House of Representatives.

I. Each candidate seeking election by the senate for senate president or seeking election by the house of representatives for speaker of the house of representatives, who has expenditures exceeding or receipts exceeding \$500, shall:

(a) File statements before and after such election in like manner and detail prescribed in RSA 664:6, II, II-a, and III, up to and including the additional dates of 7 days prior to, and 7 days following, the date of the respective election; and

(b) Register as a political committee, pursuant to RSA 664:3, on the date that such person becomes a candidate for senate president or speaker of the house of representatives, notwithstanding the definition of the term "political committee" in RSA 664:2, III.

II. In this section, and notwithstanding RSA 664:2, II, the term "candidate" means a person who seeks nomination for election, or election, for speaker of the house of representatives or for senate president, and for purposes of this section, a person shall be deemed to seek nomination for election, or election if such person:

(a) Has received gifts or contributions aggregating in excess of \$500 or has made expenditures aggregating in excess of \$500; or

(b) Has given his or her consent to another person to receive gifts or contributions or make expenditures on behalf of such person and if such other person has received such gifts or contributions aggregating in excess of \$500 or has made such expenditures aggregating in excess of \$500.

AMENDED ANALYSIS

This bill requires all candidates for house speaker or senate president to file certain reports of contributions and to register as political committees.

1997-0435h

Amendment to HB 380-LOCAL

Proposed by the Committee on Municipal and County Government

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

1 Sale of Town-Owned Land, Buildings, or Both. Amend the section heading of RSA 41:14-a and RSA 41:14-a, I to read as follows:

41:14-a Sale of Town-Owned Land, ***Buildings, or Both.***

I. If adopted in accordance with RSA 41:14-c, in towns with 10,000 or more inhabitants, the selectmen shall have the authority to sell town-owned land, ***buildings, or both***; provided, however, they shall first submit any such proposed sale to the planning board and to the conservation commission for review and recommendation by those bodies, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed sale; provided, however, upon the written petition of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the provisions of RSA 39:3, the proposed sale shall be inserted as an article in the warrant for the town meeting. The selectmen's vote shall take place no sooner than 10 days nor later than 14 days after the second public hearing which is held.

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

1997-0571h

Amendment to HB 385

Proposed by the Committee on Legislative Administration

Amend RSA 15:2, II as inserted by section 1 of the bill by replacing it with the following:

II. "Employer" means any person who engages the services of a lobbyist for compensation. Employer includes an organization which communicates through or uses the services of a lobbyist but shall not include a lobbying firm or a law firm providing lobbying services.

Amend RSA 15:6, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Total compensation paid to lobbyists to be reported in the following categories:

- (1) \$0 - 5,000;
- (2) \$5,001 - 10,000;
- (3) \$10,001 - 25,000;
- (4) \$25,001 - 50,000;
- (5) \$50,001 - 75,000;
- (6) \$75,000 - 100,000;
- (7) over \$100,000; and

Amend RSA 15:11 as inserted by section 1 of the bill by replacing it with the following:

15:11 Testimonial Privilege. No individual shall be excused from testifying in a proceeding instituted against another person under this chapter for the reason that the testimony might result in self-incrimination; but no testimony so given by the individual shall be used directly or indirectly as evidence against the individual in any prosecution, nor shall that individual be prosecuted for any offenses so disclosed.

1997-0347h

Amendment to HB 386

Proposed by the Committee on Criminal Justice and Public Safety

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

AN ACT relative to the definition of "suitable person" for purposes of licensing a suitable person to carry a loaded pistol or revolver.

Amend the bill by replacing section 1 with the following:

1 Definition of "Suitable Person;" License to Carry Pistol or Revolver. Amend RSA 159:6 to read as follows:

159:6 License to Carry. The selectmen of a town or the mayor or chief of police of a city or some full-time police officer designated by them respectively, upon application of any resident of such town or city, or the director of state police, or some person designated by such director, upon application of a nonresident, shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver in this state for not less than 4 years from the date of issue, if it appears that the applicant has good reason to fear injury to the applicant's person or property or has any proper purpose, and that the applicant is a suitable person to be licensed. *A "suitable person to be licensed" means a person who is not prohibited by law from owning or possessing pistols or revolvers.* Hunting, target shooting, or self-defense shall be considered a proper purpose. The license shall be valid for all allowable purposes regardless of the purpose for which it was originally issued. The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original shall be delivered to the licensee and the duplicate shall be preserved by the people issuing the same for 4 years. When required, license renewal shall take place within the month of the fourth anniversary of the license holder's date of birth following the date of issuance. The license shall be issued within 14 days after application, and, if such application is denied, the reason for such denial shall be stated in writing, the original of which such writing shall be delivered to the applicant, and a copy kept in the

office of the person to whom the application was made. The fee for licenses issued to residents of the state shall be \$10, which fee shall be for the use of the law enforcement department of the town granting said licenses; the fee for licenses granted to out-of-state residents shall be \$20, which fee shall be for the use of the state. The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and forms for the application for such licenses and to supply the same to officials of the cities and towns authorized to issue the licenses. No other forms shall be used by officials of cities and towns. The cost of the forms shall be paid out of the fees received from nonresident licenses.

AMENDED ANALYSIS

This bill defines "a suitable person to be licensed" to carry a loaded pistol or revolver.

1997-0536h

Amendment to HB 399-LOCAL

Proposed by the Committee on Local and Regulated Revenues

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

AN ACT changing the name of the optional property tax exemption for the totally and permanently disabled.

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

1 Exemption for the Disabled. Amend RSA 72:37-b to read as follows:

72:37-b Exemption for the ~~[Totally and Permanently]~~ Disabled.

- I. Upon its adoption by a city or town as provided in RSA 72:37-c, any person who is eligible under Title II or Title XVI of the federal Social Security Act for benefits to the ~~[totally and permanently]~~ disabled shall receive a yearly exemption in an amount to be chosen by the town or city.
- II. The exemption in paragraph I may be applied only to property which is occupied as the principal place of abode by the ~~[totally and permanently]~~ disabled person. The exemption may be applied to any land or buildings appurtenant to the residence or to manufactured housing if that is the principal place of abode.

2 Procedure for Adoption. Amend RSA 72:37-c to read as follows:

72:37-c Procedure for Adoption.

- I. Any town or city may adopt the provisions of RSA 72:37-b for an optional exemption for the ~~[totally and permanently]~~ disabled in the following manner:
- (a) In a town, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39:3, and shall be voted on by ballot. In a city, the legislative body may consider and act upon the question in accordance with their normal procedures for passage of resolutions, ordinances, and other legislation. The legislative body of a city may vote to place the question on the official ballot for any regular municipal election, or in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.
- (b) The selectmen or city council shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.
- (c) The wording of the question shall be: "Shall we adopt an exemption for the ~~[totally and permanently]~~ disabled? The exemption, based on assessed value, for qualified taxpayers shall be (here insert dollar amount). To qualify, the person must have been a New Hampshire resident for at least 5 years and own and occupy the real estate individually or jointly, or if the real estate is owned by a spouse, they must have been married for at least 5 years. In addition, the taxpayer must have a net income of not more than (here insert dollar amount) or, if married, a combined net income of not more than (here insert dollar amount); and own net assets not in excess of (here insert dollar amount) excluding the value of the person's residence."
- II. If a majority of those voting on the question vote "Yes," the exemption for the ~~[totally and permanently]~~ disabled shall apply within the town or city on the date set by the selectmen or the city council; provided, however, that upon adoption the exemption shall take effect no later than April 1 next following the referendum.

III. A municipality may change the amounts of the exemption for the ~~[totally and permanently]~~ disabled in the manner described in paragraph I. The wording of the question shall be the same as set out in subparagraph I(c), except the word "adopt" shall be changed to "modify."

IV.(a) A town or city may consider rescinding its action in the manner described in paragraph I. The wording of the question shall be the same as set out in subparagraph I(c), except the word "adopt" shall be changed to "rescind."

(b) If a majority of those voting on the question vote "Yes," then as of the next April 1, following the action taken to rescind, the exemption for the ~~[totally and permanently]~~ disabled shall not apply within the town or city.

3 Applicability. Any municipality which has adopted an exemption for the totally and permanently disabled under RSA 72:37-b prior to the effective date of this act shall be construed to have adopted the exemption for the disabled under the provisions of this act.

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

AMENDED ANALYSIS

This bill changes the property tax exemption for the "totally and permanently disabled" to an exemption for the "disabled."

1997-0424h

Amendment to HB 415

Proposed by the Committee on Transportation

establishing a nighttime speed limit for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg.

Amend RSA 215-A:4-a as inserted by section 1 of the bill by replacing it with the following:

215-A:4-a Night Speed Limit for OHRVs on Frozen Surface of Back Lake. No person shall operate any OHRV in excess of 35 miles per hour during night hours, on the frozen surface of Back Lake in the town of Pittsburg. As used in this section, "night hours" means the hours between ½ hour after sunset and ½ hour before sunrise. Any person who violates this section shall be guilty of a violation.

AMENDED ANALYSIS

This bill establishes a nighttime speed limit for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg.

1997-0449h

Amendment to HB 416

Proposed by the Committee on Criminal Justice and Public Safety

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

1 Commitment of Minor to Custody of Department of Youth Development Services Allowed and Expanded. Amend RSA 169-B:19, I(j) to read as follows:

(j) Commit the minor to the *custody of the department of* youth development ~~[center]~~ *services* for the remainder of minority. *Commitment may include, but is not limited to, placement by the department of youth development services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI, administrative release to parole pursuant to RSA 621:19, or administrative release consistent with the cap on youth development center population under RSA 621:10, provided that the appropriate juvenile services officer is notified.*

2 Reference Removed. Amend RSA 169-B:19, VI to read as follows:

VI. ~~[Notwithstanding RSA 169-B:19, I(j), a]~~ *A* minor committed to the youth development center for the remainder of minority may be placed at any facility certified by the commissioner of the department of health and human services for the commitment of minors. The commissioner of the department of youth development services shall be responsible for notifying the court, *within 5 business days*, of any such placement and of any subsequent changes in placement *made within 60 days of the original placement.*

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

AMENDED ANALYSIS

This bill authorizes the court to commit a delinquent minor to the custody of the department of youth development services for the remainder of minority. The bill also expands such commitment, without limiting it, to placement in a facility certified for the commitment of minors, administrative release to parole, or administrative release consistent with the cap on youth development center population.

This bill also requires that the commissioner of the department of youth development services to notify the court, within 5 business days, of any commitment and of any subsequent changes in placement made within 60 days of the original placement.

1997-0384h

Amendment to HB 417

Proposed by the Committee on Election Law

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

AN ACT relative to ballot certification for political parties and choosing certain party candidates by caucus or convention.

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

2 New Section; Choosing Candidates by Party Caucus or Convention. Amend RSA 653 by inserting after section 8 the following new section:

653:8-a Choosing Candidates by Means other than State Primary Election. Notwithstanding any other provision of law to the contrary, any party, as defined in RSA 652:11, which has a membership of less than 3 percent of the total registered voters in the state shall choose its candidate by holding a caucus or convention rather than by means of the state primary election. A list of candidates so nominated by caucus shall be submitted to the secretary of state no later than the Wednesday 3 weeks before the primary.

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

AMENDED ANALYSIS

This bill changes the definition of the term "party" for purposes of elections, including what is required for ballot certification. This bill also provides for choosing of certain party candidates for election by caucus or convention rather than state primary election.

1997-0151h

Amendment to HB 426

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend section 3 of the bill by replacing subparagraph I(b) with the following:

(b) The committee shall solicit information from the following:

- (1) The New Hampshire board of nursing.
- (2) New Hampshire Nurses Association.
- (3) The commissioner of health and human services, or designee.
- (4) New Hampshire Health Care Association.
- (5) The New Hampshire pharmacy board.
- (6) The New Hampshire Association of Residential Care Homes (NHARCH).
- (7) Any other entity or person the board deems relevant to its study.

1997-0500h

Amendment to HB 430

Proposed by the Committee on Election Law

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

AN ACT relative to registration of political committees and to political expenditures and contributions.

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

1 Registration of Political Committees. Amend RSA 664:3, I-II to read as follows:

I. Any political committee, except the political committee of a political party, shall register with the secretary of state as provided in this section. The committee shall register with the secretary of state ~~[before receiving any contribution]~~ **not later than 24 hours after receiving any contribution in excess of \$500** or **before** making any expenditure~~[-, and in no event shall any political committee register with the secretary of state later than the second Wednesday following any primary election]~~ **in excess of \$500**. The registration shall be accompanied by a fee of \$50, which shall be deposited by the secretary of state into the general fund; provided, however, that the political committee of a candidate which registers under this section shall not be required to pay the \$50 fee. **Each political committee shall designate a treasurer or agent who is a citizen of this state and who is authorized to receive all process and other legal documents on behalf of the political committee, and through whom may be obtained access to all books and records of the political committee.** The political committee shall file with the secretary of state a statement of the purpose of the committee and shall indicate whether the committee will be making independent expenditures in support of or in opposition to any candidate including ~~[the full name of each candidate;]~~ a statement of the name, address, occupation, and principal place of business of its ~~[chairman]~~ **chairperson**, treasurer **or agent**, and other officers~~[-, and a declaration signed by its chairman and treasurer that the political committee will not exceed the expenditure limitations allowed under RSA 664:5, V].~~

II. No member of a political committee **which is required to register under RSA 664:3, I**, except members of political committees of political parties, shall do any act directly or indirectly on behalf of the committee to promote the success or defeat of a political party, a measure or a candidate, ~~[until the statements required by paragraph I are filed. Only those political committees that have filed a declaration with respect to independent expenditures as provided in paragraph I may make such expenditures]~~ **unless the requirements of RSA 664:3, I are met.**

2 Prohibited Political Expenditures. Amend RSA 664:5, I-II to read as follows:

I. By a political committee, except the political committee of a political party, unless the political committee ~~[files with the secretary of state pursuant to]~~ **meets the requirements of** RSA 664:3, I.

II. By a political committee **which is organized** to support a candidate in any election, or to such candidate or ~~[his]~~ **the candidate's** fiscal agent unless the committee secures and files the written consent of the candidate or ~~[his]~~ **the candidate's** fiscal agent with the secretary of state in accordance with RSA 664:3, III.

3 Reporting by Political Committee. Amend RSA 664:6, IV-a to read as follows:

IV-a. Any political committee whose independent expenditures, **in aggregate**, exceed \$500 shall file an itemized statement with the secretary of state not later than 24 hours after such expenditures are made, and thereafter each time a further \$500 is expended. Such itemized statements shall cover the period during which independent expenditures totaling \$500 were made. **Each statement shall include a certification by the political committee that the independent expenditure meets the definition in RSA 664:2, XI.** Each statement shall contain the date of ~~[the]~~ **each** independent expenditure; the name and address of the person to whom the expenditure was made; the name of the candidate on whose behalf or against whom each expenditure was made; the amount of each expenditure; the purpose of each expenditure and the aggregate amount of all previous independent expenditures. If the independent expenditure is made in support of or to oppose more than one candidate, the statement made under this paragraph shall allocate the way in which the expenditure was made among the candidates on a reasonable basis. For the purposes of this paragraph, "reasonable basis" means a statement which reflects the benefit or the burden reasonably expected to be derived or suffered by each candidate. The filing requirements of this paragraph shall be in addition to all other filing requirements under this section, and shall not be limited to the filing periods during which expenditures must otherwise be reported.

4 Committee Treasurer. Amend RSA 664:13 to read as follows:

664:13 Committee Treasurer. ~~[Each political committee shall have a treasurer, who shall be a citizen of this state, and shall receive and pay out all money handled by the committee.]~~ If ~~[there be]~~ **a political committee has** no treasurer, or if ~~[he]~~ **the treasurer** fails to make a report, it shall be the duty of each member of said committee who received or pays out any money in behalf of said committee to make such a report or to cause the same to be made. No member of such committee shall make or permit any unlawful expenditure or act by said committee, in whole or in part, or consent thereto, or aid, abet or conspire to make or permit the same.

5 Repeal. The following are repealed:

- I. RSA 664:5, IV, relative to purchase of advertising space promoting success or defeat of a candidate.
- II. RSA 664:5, V, relative to limiting independent expenditures by political committees.

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

AMENDED ANALYSIS

This bill:

- I. Changes the deadline for political committees to register with the secretary of state.
- II. Requires each political committee to designate a treasurer or agent.
- III. Modifies other registration requirements for political committees and certain reporting requirements for such committees.
- IV. Repeals certain laws relative to campaign advertising and to independent political committee expenditures.

1997-0460h

Amendment to HB 436-FN-LOCAL

Proposed by the Committee on Education

Amend the bill by replacing section 4 with the following:

4 Effective Date.

- I. Section 1 of this act shall take effect July 1, 1998.
- II. The remainder of this act shall take effect 60 days after its passage.

1997-0461h

Amendment to HB 440-FN

Proposed by the Committee on Legislative Administration

Amend the bill by inserting after section 1 the following and renumbering the original sections 2 and 3 to read as 3 and 4, respectively:

2 Application. The provisions of section 1 of this act relative to the travel allowance for members of the general court shall apply beginning with the members of the general court elected in the 1998 state general election.

AMENDED ANALYSIS

This bill changes the mileage formula used to reimburse general court members beginning with the 1998 general election by allowing each member to choose to be paid either for each day of attendance or for actual mileage at the rate used by the Internal Revenue Service.

1997-0628h

Amendment to HB 442

Proposed by the Committee on Commerce

Amend RSA 417-D:2-b as inserted by section 1 of the bill by replacing it with the following:

417-D:2-b Reconstructive Surgery. Every insurer subject to this chapter that provides individual or group coverage for mastectomy surgery shall provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce

a symmetrical appearance if the patient elects reconstruction.

1997-0489h

Amendment to HB 447

Proposed by the Committee on Executive Departments and Administration

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

1 Requirement to Pass Examination. Amend RSA 310-A:12, III-IV to read as follows:

III. Applicants with a minimum of 25 years of engineering experience of which at least 10 years shall have been in responsible charge of engineering work satisfactory to the board may apply for licensure under this section on the basis of education and experience, ***provided that they have successfully passed the professional engineers examination required by RSA 310-A:17.***

IV. Whenever the evidence presented in an application under paragraph I, II, or III does not appear to the board conclusive and warranting the issuance of a license, the applicant [~~may~~] ***shall*** be required to pass an oral or written examination, or both, as the board may determine.

2 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill modifies the law which allows certain persons with engineering experience to apply for licensure on the basis of partial education and experience by adding the condition that such persons pass the professional engineers examination.

This bill also makes certain other applicants for licensure as professional engineers subject to mandatory passage of an examination.

1997-0507h

Amendment to HB 457-FN

Proposed by the Committee on Executive Departments and Administration

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

AN ACT requiring all state agencies, departments, and commissions in all 3 branches of government to have a presence on the New Hampshire automated information system by January 1, 1998, and designating the state library as the official repository of state government information.

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

1 Statement of Purpose. The purpose of this act is to build on the historical role of the New Hampshire state library as a compiler, indexer, and disseminator of state government information. It is also to provide a mechanism for state agencies to make more government information available electronically. The intent of the legislature in enacting this bill is to update and enhance the New Hampshire automated information system, which is the result of a cooperative effort of many state agencies and is coordinated by the New Hampshire state library with the technical assistance of the New Hampshire department of regional community-technical colleges.

2 Official Repository of Public Information; State Library Designated. Amend RSA 201-A:1 to read as follows:

201-A:1 State Library. There shall be a state library as provided for in RSA 21K:5. ***The state library shall be the official repository of state government information.***

3 New Paragraph; Definition Added. Amend RSA 201-A:21 by inserting after paragraph I the following new paragraph:

I-a. The "New Hampshire automated information system" or "automated information system" means the system or method by which a component of state government or its authorized agent disseminates state government information products to the public via a telecommunications network or successor technology.

4 New Paragraph; Purpose of New Hampshire Automated Information System Modified. Amend RSA 201-A:23 by inserting after paragraph II the following new paragraph:

III. Provide electronic access to state government information to libraries, state agencies, and the general public.

5 Presence of State Entities on Automated Information System Required. On or before January 1, 1998, every state department, agency, institution, and commission shall have a presence on the New Hampshire automated information system containing basic information including, but not limited to, the name of the department, agency, institution, or commission, and its mission, address, telephone number, and contact person.

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

AMENDED ANALYSIS

This bill:

- I. Designates the state library as the official repository of public information.
- II. Requires that, on or before January 1, 1998, every state department, agency, institution, and commission shall have a presence on the New Hampshire automated information system.
- III. Defines the "New Hampshire automated information system" or "automated information system".

1997-0646h

Amendment to HB 459-FN

Proposed by the Committee on Transportation

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

AN ACT establishing a youth operator's license for persons under 18 years of age.

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

1 Original and Youth Operator's Licenses. Amend RSA 263:14 to read as follows:

263:14 Original *and Youth Operators* Licenses.

I. The director, upon receiving proper application for an original driver's license, may in ~~his~~ **the director's** discretion issue a license designated as an original, with such designation to be effective until the fourth anniversary of the license holder's date of birth following the date of issuance to allow such applicant to gain proper driving habits, attitudes and experience.

II.(a) **The director shall issue a youth operator's license to applicants who are 16 years of age or older and under 18 years of age. In addition to any other requirements established by law, no such license shall be issued unless the applicant furnishes written consent from the applicant's parent or legal guardian and a certificate of successful completion of a driver education course as provided in RSA 263:19. The fee for the youth operator's license shall be \$32. The term of the license shall be 2 years.**

(b) **The holder of a youth operator's license shall not operate a motor vehicle between the hours of 1:00 a.m. and 5:00 a.m., nor shall such holder operate a motor vehicle when the number of occupants exceeds the number of safety restraints in the vehicle.**

(c) **During the first 90 days after issuance of the license, the holder of a youth operator's license shall not operate a motor vehicle unless accompanied by a licensed responsible adult who is at least 25 years of age.**

(d) **Violation of RSA 263:14, II,(b) or (c) shall subject the violator to a fine not to exceed \$100 and a license suspension not to exceed 30 days. Subsequent violations shall subject the violator to a fine of not more than \$200 and a license suspension of up to 90 days.**

(e) **This paragraph shall not apply to drivers licensed under RSA 263:21.**

(f) **The restrictions set forth in RSA 263:14, II(b), (c), and (d) shall not apply to drivers who are over 18 years of age.**

III. The director, after hearing, may suspend or revoke ~~any such~~ **an** original license **or any license held by a person under 20 years of age** for good cause upon receipt of proper evidence or information of misconduct, misuse or abuse of such driving privileges.

2 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill establishes a youth operator's license for persons under 18 years of age.

1997-0467h

Amendment to HB 462-FN

Proposed by the Committee on Criminal Justice and Public Safety

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

AN ACT requiring the department of safety to inform persons under 21 years of age of the DWI laws.

Amend the bill by replacing section 1 with the following

1 New Section; Informing License Applicants Under 21 Years of Age of the DWI laws. Amend RSA 263 by inserting after section 17 the following new section:

263:17-a Informing Persons Under 21 Years of Age of the DWI laws. Before issuing a driver's license or permit to any person under 21 years of age, the department shall inform the applicant of the following:

- I. It is unlawful to drive with an alcohol concentration of 0.02 percent or greater.
- II. The penalty for violations relating to paragraph I is an automatic 6-month license suspension for a first offense and a 2-year license suspension for a second offense; a minimum mandatory fine of \$350; and mandatory attendance and successful completion of the impaired driver intervention program prior to restoration of driving privileges.
- III. A refusal to take, or a failure to complete, a preliminary breath test or, upon arrest, any physical or chemical test for the purpose of determining a level of alcohol in your system shall result in an automatic 6-month license suspension for a first refusal and a 2-year license suspension for a subsequent refusal.
- IV. The fee for reissuance of a driver's license after suspension for any of the reasons stated above.
- V. It is unlawful to transport any alcoholic beverage, except when accompanied by a parent, legal guardian or legal age spouse, or when such transportation is within the course of legal employment.
- VI. It is unlawful to be in possession of any alcoholic beverage, except when such possession is within the course of legal employment.
- VII. Any other information concerning driving responsibility that the director deems necessary.

AMENDED ANALYSIS

This bill requires the department of safety to inform any person under 21 years of age of the state's DWI laws before issuing a driver's license.

1997-0527h

Amendment to HB 468-LOCAL

Proposed by the Committee on Municipal and County Government

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

1 Requirement for Keeping Original Copies of Returns of Attachments on File Eliminated. Amend RSA 511:4 to read as follows:

511:4 Return.

I. The officer's return is sufficient evidence that the copy has been so left, and of the time thereof, but the register of deeds shall certify thereon the

time when the copy was received and ~~[shall]~~ *may* keep it on file *or record it as provided in paragraph II.*

II. The register of deeds may cause the originals of copies filed under paragraph I to be photographed and preserved on microfilm or optical disk or both, in addition to or in lieu of other recording methods.

2 Requirement for Keeping Original Copies of Writs of Execution on File Eliminated. Amend RSA 529:30 to read as follows:

529:30 Register's Duty.

I. The register of deeds shall certify upon each copy the time when it was received, and ~~[shall]~~ *may* keep it on file *or record it as provided in paragraph II.* ~~[He]~~ ***The register of deeds*** shall also enter a record of it upon the index ~~[of attachments]~~, as in the case of attachments of real estate with the exception that the record shall state that the writ is a writ of execution.

II. The register of deeds may cause the originals of copies filed under paragraph I to be photographed and preserved on microfilm or optical disk or both, in addition to or in lieu of other recording methods.

3 Effective Date. This act shall take effect January 1, 1998.

1997-0279h

Amendment to HB 472

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend RSA 126-I:1 as inserted by section 2 of the bill by replacing it with the following:

126-I:1 Council Established; Membership; Terms.

I. There is established the council for children and adolescents with chronic health conditions and their families which shall consist of the following members:

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

(b) One member of the house of representatives, appointed by the speaker of the house.

(c) One representative of the department of health and human services, appointed by the commissioner.

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

(e) One representative of the insurance department, appointed by the commissioner.

(f) A director from a community-based agency which has been charged by the council with providing support and services to children and adolescents with chronic health conditions and their families.

(g) Up to 6 representatives of professional and community organizations, which shall represent a cross-section of disciplines and constituencies such as, but not limited to, physicians, nurses, and educators, appointed by the council in accordance with its bylaws.

(h) Up to 13 members who are the parent or guardian of a child or adolescent with a chronic health condition, appointed by the council in accordance with its bylaws.

(i) One parent or guardian of a child or adolescent with a chronic health condition, appointed by the governor.

II. Terms of office shall be for 3 years, except that legislative members who shall serve the terms of their office. No member shall serve more than 2 full consecutive terms. One third of the total members' terms shall expire annually as established in the bylaws.

III. Members shall elect annually from among their number a chairperson and such other officers as they may determine.

IV. Legislative members shall receive mileage at the legislative rate.

1997-0567h

Amendment to HB 481

Proposed by the Committee on Election Law

Amend RSA 664:7 as inserted by section 1 of the bill by replacing it with the following:

664:7 Reporting by Candidates. Each candidate at the primary or general election for governor, *executive* councilor, *senate president*, *speaker of the house*, state senator, representative to general court, or county officer, *who has received contributions exceeding \$500, or* who has expenditures exceeding \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, II, II-a, III, IV, and V, excepting, however, the *contributions to and* expenditures of political committees of the party to which the candidate belongs in elections other than primaries. *In addition, each candidate for executive councilor, state senator, representative to the general court, or county officer who is subject to this section shall file a duplicate statement with the city or town clerk in the city or town in which the candidate is domiciled.*

1997-0287h

Amendment to HB 488-FN

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; Definition Revised. Amend RSA 135-C:27, I by inserting after subparagraph (c) the following new subparagraph:

- (d) The person meets all of the following criteria:
- (1) The person has been determined to be severely mentally disabled in accordance with rules authorized by RSA 135-C:61 for a period of at least one year;
 - (2) The person has had at least one involuntary admission, within the last 2 years, pursuant to RSA 135C:34-54;
 - (3) The person has no guardian of the person appointed pursuant to RSA 464A;
 - (4) The person is not subject to a conditional discharge granted pursuant to RSA 135-C:49, II;
 - (5) The person has refused the treatment determined necessary by a mental health program approved by the department; and
 - (6) A psychiatrist at a mental health program approved by the department has determined, based upon the person's clinical history, that there is a substantial probability that the person's refusal to accept necessary treatment will lead to death, serious bodily injury, or serious debilitation if admission is not ordered.

1997-0524h

Amendment to HB 498-FN-A

Proposed by the Committee on Environment and Agriculture

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

AN ACT recognizing the New Hampshire Farm Museum in Milton, New Hampshire as the first official state of New Hampshire farm museum.

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

- 1 New Hampshire Farm Museum.
- I. The New Hampshire Farm Museum in Milton, New Hampshire is recognized as the first official state farm museum. The museum shall retain its status as an independent, self-sufficient nonprofit entity.
 - II. The commissioner of agriculture, markets, and food, the commissioner of cultural affairs, and the commissioner of education shall be invited to serve as ex officio members of the museum.

III. The museum trustees shall continue to employ a director of the museum and such staff as may be necessary to perform all museum duties. The director shall continue to serve at the pleasure of the trustees at a salary established by the trustees.

IV. The museum shall continue to institute promotional programs to solicit and receive gifts, grants, or donations, of any kind, made for the development or operation of the museum. The museum may continue to accept gifts of money and property, including real property, for use in institutional programs. The museum has established its own endowment fund.

2 Effective Date. This act shall take effect August 9, 1997.

AMENDED ANALYSIS

This bill recognizes the New Hampshire Farm Museum in Milton, New Hampshire as the first official state farm museum.

1997-0433h

Amendment to HB 516-FN

Proposed by the Committee on Finance

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

2 Fund Transfer. Within 30 days after the effective date of this section, the department of environmental services shall transfer \$1,000,000 from the oil pollution control fund, as established by RSA 146-A:11-a, to the fuel oil discharge cleanup fund, as established by RSA 146-E:3, I. This shall be a one-time only transfer to the fuel oil discharge cleanup fund. Notwithstanding any provision of law to the contrary, 1/2 of the \$.005 per gallon collected for fuel oil storage facilities pursuant to RSA 146-E:3 after the effective date of this section shall be deposited in the oil pollution control fund until the \$1,000,000 has been returned in full.

3 Eligible Expenses; On-premise-use Facility Cleanup Liability. Amend RSA 146-E:6, I to read as follows:

I. The fund shall be available to owners of on-premise-use facilities, owners of land upon which on-premise-use facilities are located, and bulk storage facilities as defined in this chapter. The oil fund disbursement board may adopt rules for administering disbursements from the fund using the same rulemaking process and authorities established in RSA 146-D:5, I, including the development of additional eligibility criteria. Owners of bulk storage facilities shall be liable to the fund for initial cleanup costs in the manner described in RSA 146-D:6, II. *Owners of on-premise-use facilities shall be liable to the fund for the initial \$500 of cleanup costs at each facility owned, to the extent such amount is expended from the fund, or for such lesser amount as is expended.*

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

AMENDED ANALYSIS

This bill increases the fee assessed on fuel oil imported into the state.

This bill provides for the transfer of \$1,000,000 from the oil pollution control fund to the fuel oil discharge cleanup fund, which shall be returned from a portion of the revenue collected from fees assessed on fuel oil imported into this state.

This bill makes owners of on-premise-use facilities liable for the initial \$500 of cleanup costs expended by the fuel oil discharge cleanup fund.

1997-0523h

Amendment to 525-LOCAL

Proposed by the Committee on Education

Amend the bill by replacing section 2 with the following:

2 New Section; Special Education Services; Braille Literacy for Functionally Blind Pupils. Amend RSA 186-C by inserting after section 7-a the following new section:

186-C:7-b Braille Instruction for Functionally Blind Pupils. In developing the individualized education program for a functionally blind pupil, there shall be:

- I. A presumption that proficiency in Braille reading and writing is essential for the pupil's satisfactory educational progress. Every functionally blind pupil shall be entitled to Braille reading and writing instruction unless all members of the pupil's special education team concur that instruction in Braille or the use of Braille is not appropriate for the pupil.
- II. Instruction in Braille shall be provided by a teacher certified by the state department of education to teach pupils with visual impairment.
- III. An initial learning media assessment by a teacher certified in the education of pupils with visual impairment shall be conducted. This assessment shall be conducted every 3 years and reviewed annually.

1997-0451h

Amendment to HB 534

Proposed by the Committee on Public Works and Highways

Amend subparagraph I(b) as inserted by section 3 of the bill by replacing it with the following:

- (b) Six members of the house of representatives, at least 4 of whom shall be members of the house public works and highways committee, appointed by the speaker of the house.

Amend paragraph III as inserted by section 4 of the bill by replacing it with the following:

- III. Any other issues relative to the statement of purpose in section 1 of this act, which the committee deems appropriate.

Amend the bill by replacing section 7 with the following:

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

1997-0516h

Amendment to HB 536

Proposed by the Committee on Resources, Recreation and Development

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Unfunded Mandate Compliance.

- I. On or before July 1, 1998, the department of environmental services shall determine which political subdivisions own dams; the department shall notify by certified mail the governing body of each such political subdivision that the emergency action plan constitutes a mandated program and the approximate costs thereof.
- II. In political subdivisions where the legislative body is the town meeting, the selectmen shall place a warrant article on the ballot at the next regular town meeting to determine if the voters will approve the emergency action plan for funding. The town clerk shall certify to the department the results of said vote.
- III. In political subdivisions where the legislative body is a town or city council, board of aldermen or county delegation, that body shall within 60 days of receipt of the certified mail from the department vote to approve or disapprove the emergency action plan for funding and certify to the department of environmental services the results of said vote.
- IV. The question before the legislative body shall be stated as, "Shall the town/city of _____ approve for funding those provisions of RSA 482:11-a which constitute a new state mandate requiring the development of an emergency action plan for any dam, the failure of which may threaten life or property?"
- V. The department shall not implement these new provisions in any political subdivision which fails to pass the resolution. The department may request any political subdivision that has not accepted these provisions to reconsider the question no more frequently than at 5-year intervals.

1997-0533h

Amendment to HB 537-FN

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

1 New Chapter; Allied Health Professionals. Amend RSA by inserting after RSA 328-E the following new chapter:

CHAPTER 328-F

ALLIED HEALTH PROFESSIONALS

328-F:1 Purpose. The purpose of this chapter is to regulate allied health professionals in the state to assure that the services provided are effective and of a quality consistent with the standard of care within each profession, and to safeguard the public against harm which may be caused by unqualified, impaired, or unlicensed practitioners.

328-F:2 Definitions.

I. "Board of directors" means the chairpersons or their appointees of all the governing boards which shall be responsible for the administrative operation of the office of licensed allied health professionals.

II. "Governing boards" means individual licensing boards of athletic trainers, certified occupational therapy assistants, occupational therapists, physical therapists, physical therapy assistants, respiratory care practitioners, and speech-language pathologists.

III. "Occupational therapy" means "occupational therapy" as defined in RSA 326-C:1, IV.

IV. "Office of licensed allied health professionals" means an agency of multiple governing boards in professions of the allied health field.

V. "Physical therapy" or "physiotherapy" means "physical therapy" or "physiotherapy" as defined in RSA 328-A:1, VI.

VI. "Practice of athletic training" means "practice of athletic training" as defined in RSA 326-G:1, V.

VII. "Respiratory care" means "respiratory care" as defined in RSA 326-E:1, VI.

VIII. "Speech-language pathology" means "speech-language pathology" as defined in RSA 326-F:1, IV.

328-F:3 Governing Boards Established; Board of Directors; Office of Licensed Allied Health Professionals.

I. There shall be established governing boards of athletic trainers, occupational therapists, respiratory care practitioners, physical therapists, and speech-language pathologists.

II. The governing boards' chairpersons or their appointees shall make up the board of directors of the office of licensed allied health professionals. The board of directors shall have authority to hire an unclassified executive director to serve the members of the governing boards in the execution of their duties, as well as classified and other technical and clerical staff to run the office's business in an efficient manner.

III. There shall be an office of licensed allied health professionals established in Concord. It shall be an administratively attached agency, under RSA 21-G:10, to the department of health and human services.

Governing Boards

328-F:4 Governing Boards; Memberships; Appointments.

I. Each governing board shall be composed of 5 persons, each to be appointed by the governor with the approval of the council, to a term of 3 years. Members shall serve until the expiration of the term for which they have been appointed or until their successors have been appointed and qualified. No board member shall be appointed to more than 2 consecutive terms. Any professional members of all governing boards shall maintain current and unrestricted New Hampshire licenses.

II. The initial appointees to the governing boards shall serve as follows: one initial appointee who is a licensed professional shall serve a term of one year, one initial appointee who is a licensed professional shall serve a term of 2 years, one initial public member shall serve a term of 2 years, and the remaining 2 initial appointees shall serve terms of 3 years. An initial appointment of less than 3 years shall not be considered a full term.

III. Each public member of a governing board shall be a person who is not, and never was a member of the applicable allied health profession or the

spouse of any such person, and who does not have, and never has had a material financial interest in either the provision of that allied health service, a health insurance company, or health maintenance organization, including representation of the board or profession for a fee at any time during the 5 years preceding appointment.

IV. The athletic trainers governing board shall consist of 3 licensed athletic trainers, who have actively engaged in the practice of athletic training in this state for at least 3 years, one physician educated in the current practice of sports medicine, and one public member.

V. The occupational therapy governing board shall consist of 2 licensed occupational therapists and one occupational therapy assistant, who have actively engaged in the practice of occupational therapy in this state for at least 3 years, one physician knowledgeable in the practice of occupational therapy, and one public member.

VI. The physical therapy governing board shall consist of 2 licensed physical therapists and one physical therapist assistant, who have actively engaged in the practice of physical therapy in this state for at least 3 years, and 2 public members.

VII. The respiratory care practitioner governing board shall consist of 3 licensed respiratory care practitioners, who have actively engaged in the practice of respiratory care in this state for at least 3 years, one physician knowledgeable in the practice of respiratory care, and one public member.

VIII. The speech-language pathology governing board shall consist of 4 licensed speechlanguage pathologists who have actively engaged in the practice of speech-language pathology in this state for at least 3 years, and one public member. At least one speech-language pathologist shall be employed in an educational setting and at least one employed in a clinical setting.

328-F:5 Duties. Each governing board shall:

I. Examine and investigate persons who apply for the authority to practice in New Hampshire and license those who are found qualified under the standards of this chapter.

II. Investigate and examine existing licensees and commence disciplinary action concerning licensees in accordance with the standards of this chapter.

III. Investigate and prepare reports on any matter within the scope of this chapter.

IV. Assess, compromise, and collect civil penalties against persons engaged in unauthorized practice or other violations of this chapter.

V. Report final disciplinary actions to appropriate national databases.

328-F:6 Compensation; Expenses. Members of the governing boards shall receive \$50 per day for meetings, and shall be reimbursed for travel expenses incurred in connection with the work of the board.

328-F:7 Removal of Members; Vacancies. The governor and council may remove any member of the governing boards for misconduct, incompetence, neglect of duty, or other sufficient cause after the member has been given a written statement of the charges and an opportunity to be heard regarding such charges. Any vacancy in the membership of the board shall be promptly filled for the unexpired term.

328-F:8 Organization and Meeting. Each governing board shall meet monthly, or more often as its business requires. A majority of each board shall constitute a quorum.

328-F:9 Records. A true record of all of each board's official acts shall be made and preserved by the executive director. The records shall be public and shall be open to inspection at all reasonable times, except for records compiled in connection with disciplinary investigations and records otherwise exempt from disclosure under RSA 91-A, RSA 329:18, or other applicable statutes.

328-F:10 Records of Licensees and Disciplinary History.

I. Each governing board shall maintain a current list of living or deceased persons who has ever been licensed to practice under this chapter. The list shall show the licensee's last known place of employment, last known place of residence, and the date and number of the license.

II. Each governing board shall maintain a current list of persons against whom the board has taken any disciplinary actions. This list shall include the names, type and cause of action, date and penalty incurred, and the length of penalty. This list shall be available for public inspection during regular business hours. This list shall be supplied to similar boards in other states upon request.

328-F:11 Rulemaking.

- I. The governing board of athletic training shall adopt rules as provided in RSA 326-G:7.
- II. The governing board of occupational therapy shall adopt rules as provided in RSA 326C:11.
- III. The governing board of physical therapy shall adopt rules as provided in RSA 328-A:14.
- IV. The governing board of respiratory care practitioners shall adopt rules as provided in RSA 326-E:3.
- V. The governing board of speech-language pathology shall adopt rules as provided in RSA 326-F:13.

Board of Directors

328-F:12 Responsibilities.

- I. The board of directors shall be responsible for preparing and submitting the biennial budget, setting fees, and allocating appropriated funds to each governing board.
- II. Annually, the board of directors shall submit to the governor a report of the transactions of the preceding year and a complete statement of the receipts and expenditures of the boards.
- III. The board of directors shall meet at least quarterly and more often if needed.
- IV. The board of directors shall provide a forum for multi-disciplinary practice issues, but shall not set policy.

328-F:13 Board of Directors; Rulemaking Authority. The board of directors shall adopt rules, pursuant to RSA 541-A, relative to:

- I. The application procedure for any license issued under this chapter.
- II. The design and content of all forms required under this chapter.
- III. The procedural requirements for the reinstatement of licenses after lapses, inactive status, voluntary surrender, or disciplinary action consistent with this chapter.
- IV. Procedures to be followed for the filing of charges and conduct of hearings with respect to disciplinary proceedings.
- V. The establishment of fees required under this chapter.
- VI. Procedural requirements for assessing, compromising, and collecting administrative fines against licensees as authorized under this chapter.

328-F:14 Receipts and Disbursements. The board of directors shall receive and account for all moneys derived under the provisions of this chapter, and shall pay such moneys to the state treasurer to be deposited in the general fund.

328-F:15 Fees. The board of directors shall establish fees for examination of applicants, licensure, registration, renewal of license, transcribing and transferring records, and other services, including investigations and hearings conducted under this chapter.

Licensing Provisions

328-F:16 Interim License.

- I. The governing boards may issue interim licenses to applicants who are qualified. Such interim licenses shall be available to the following applicants:
 - (a) A student awaiting results of an examination.
 - (b) Applicants licensed in other states who are awaiting a final governing board decision.
 - (c) Applicants educated outside the United States awaiting results of an examination.
- II. No interim license shall exceed 9 months nor shall it be renewed.

328-F:17 Applicants From Other States.

- I. A governing board may grant a license to any applicant who is licensed in any other state, provided the other state's licensure requirements are substantially equivalent to or higher than those of this state.
- II. The applicant shall certify under oath that all credentials and licenses are in good standing and are not currently under investigation or disciplinary action.
- III. The applicant shall provide verification of continuing education or evidence of continued competency which the rules of the governing boards require.

328-F:18 Action on License Applications.

- I. The individual governing boards shall make no final decision concerning the qualifications of a new or reinstatement applicant in its profession until it has received the results of all required examinations and all third-party certifications required to be submitted with the license application, and the time periods specified by RSA 541-A:29 shall be calculated from the date the last of the required documents is received by the governing board.
- II. No application shall be granted unless the professions' governing board finds that the applicant possesses the necessary educational, character, and other professional qualifications to practice in their occupation, and that no circumstances exist which would be grounds for disciplinary action against a licensed allied health professional, and that no credentials or prior licenses have been revoked for disciplinary actions.
- III. Each individual governing board shall grant an unrestricted permanent license to persons it finds to have the necessary professional qualifications. The governing boards may also, by consent or after notice and the opportunity to be heard, resolve issues concerning professional qualifications by granting a temporary license, or a temporary or permanent license with restrictions.
- IV. Licenses shall be signed and dated by the chairperson of each governing board, stating that the licensee is authorized to practice their profession, be numbered consecutively, and be recorded.
- V. Persons holding interim or provisional licenses shall be subject to the disciplinary provisions of this chapter and such additional professional character and competency requirements as the governing boards may require by rule.

328-F:19 Renewal. Every person licensed to practice under this chapter shall apply to the office for biennial renewal of license on forms provided by the office and shall pay a renewal fee established by the office of allied health practitioners.

328-F:20 Notice of Renewal.

- I. On or before October 15 of each renewal year, the office shall mail each licensee an application for renewal of license.
- II. Any licensee who fails to file an application for renewal by December 31 of the renewal year shall be required to pay double the renewal fee. Any failure, neglect, or refusal on the part of any person licensed by the board to renew the license within 60 days of December 31 of the renewal year shall automatically result in the lapse of such license. Licenses lapsed under this section shall not be restored except upon payment of a reinstatement fee as established by the office of licensed allied health professionals, and showing of such evidence of professional competence as the governing board may reasonably require.

328-F:21 Change of Address. Licensees shall maintain their current business and home address on file with the applicable board. Any changes in address shall be provided to the office no later than 30 days from the date of the change.

328-F:22 Reinstatement. Any person whose license has lapsed may be restored to active status upon the filing of a written request for reinstatement of license, accompanied by the reinstatement fee, and proof of satisfaction of continuing education requirements established by the governing boards, and such other evidence of professional competence as the governing boards may reasonably require.

Disciplinary Action; Hearings

328-F:23 Disciplinary Action.

- I. Any governing board may undertake disciplinary proceedings (a) upon its own initiative, or (b) upon written complaint of any person which charges that a person licensed by the board has committed misconduct as set forth in paragraph IV of this section and which specifies the grounds therefor.

II. Every licensed hospital, clinic or other health care facility, educational facility or agency within the state shall report to the appropriate governing board any disciplinary or adverse action relating to professional practice against a person licensed by the board within 30 days after such action is taken.

III. Every professional society within the state comprised primarily of persons licensed by the board shall report to the board any disciplinary action against a member relating to professional ethics, professional incompetence, moral turpitude, or drug or alcohol abuse within 30 days after such disciplinary action is taken.

IV. Each governing board, after hearing, may take disciplinary action against any person licensed by it upon finding that the person:

(a) Has knowingly provided false information during any application for professional licensure or institutional privileges, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.

(b) Is impaired through the use of drugs or intoxicants or is proven to be unable to safely provide care to the public due to a compromise of physical or mental functional abilities.

(c) Has displayed a pattern of behavior which is incompatible with basic knowledge and competence expected of persons licensed to practice their profession or any particular aspect or specialty thereof.

(d) Has engaged in dishonest or unprofessional conduct, or has been grossly or repeatedly negligent in practicing their profession in performing activities ancillary to their occupation or any particular aspect or specialty thereof, or has intentionally injured a patient while practicing or performing such ancillary activities.

(e) Has employed, allowed or is aware of an unlicensed person practicing a profession licensed by this chapter.

(f) Has failed to provide adequate safeguards in regard to aseptic techniques and universal precautions.

(g) Has included in advertising any statement of a character tending to deceive or mislead the public or any statement claiming professional superiority.

(h) Has willfully or repeatedly violated any provision of this chapter or any substantive rule of the board.

(i) Has been convicted of any criminal act excluding minor traffic violations under the laws of the United States or any state.

(j) Has failed to maintain adequate clinical record documentation on diagnostic and therapeutic treatment provided or has unreasonably delayed clinical record transfer.

(k) Has failed to adhere to the recognized standards of ethics of their profession.

(l) Has failed to report to the governing boards any act or omission of a licensee or applicant or any person which violates the provisions of this chapter.

(m) Has interfered with, or refused to cooperate in, an investigation or disciplinary proceeding by willful misrepresentation of facts or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any legal action.

(n) Has engaged in sexual misconduct. Sexual misconduct includes engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while an allied health professional/patient relationship exists: or sexual harassment which includes making sexual advances, requesting sexual favors, and engaging in other verbal conduct or physical contact of a sexual nature.

V. The governing board, upon making an affirmative finding under IV, may take disciplinary action in any one or more of the following ways:

(a) By reprimand.

(b) By suspension, limitation, or restriction of a license or probation for a period of time as determined reasonable by the governing board.

(c) By revocation of license.

(d) By requiring the person to submit to the care, treatment, or observation of a physician, counseling service, health care facility, professional assistance program or any combination thereof which is acceptable to the governing board.

- (e) By requiring the person to participate in a program of continuing education in the area or areas in which the person has been found deficient.
- (f) By requiring the person to practice under supervision, in a public institution, public or private health care program, or private practice for a period of time specified by the governing board.
- (g) By assessing administrative fines in amounts established by the board which shall not exceed \$2,000 per offense, or, in the case of continuing offenses, \$200 for each day that the violation continues, whichever is greater.

VI. The governing boards may issue a non-disciplinary reprimand to licensees. Such reprimand shall not constitute disciplinary action in the meaning of paragraph V, but is consistent with the purpose and intention of that paragraph and best interest of the public. The letters of concern may be released to the public or other licensing authority at the discretion of the issuing governing board. The letters may be used as evidence in subsequent disciplinary proceedings by the board.

VII. Disciplinary action taken by the governing boards under this section may be appealed to the supreme court under RSA 541. However, no sanction imposed by the governing board shall be stayed during appeal.

VIII. No civil action shall be maintained against the board of directors or any member of the governing boards or its agents or employees with regard to any action or activity taken in the performance of any duty or authority established by this chapter. No civil action shall be maintained against any organization or its members or against any other person for or by reason of any good faith statement, report, communication, or testimony to the governing board or determination by the governing board in relation to proceeding under this chapter.

IX. Allegations of professional misconduct or other violations of this chapter enforceable by the governing board shall be brought within 6 years from the time the governing board could reasonably have discovered the act, omission or failure complained of, except that conduct which resulted in a criminal conviction or in a disciplinary action by a relevant licensing authority in another jurisdiction may be considered by the governing board without time limitation in making licensing or disciplinary decisions if the conduct would otherwise be a ground for discipline under this chapter. The governing board may also consider licensee conduct without time limitation when the ultimate issue before the governing board involves a pattern of conduct or the cumulative effect of conduct which becomes apparent as a result of conduct which has occurred within the 6-year limitation period prescribed by this paragraph.

X. Upon receipt of an administratively final order from the licensing authority of another jurisdiction which imposes disciplinary sanctions against a licensee, or a person applying for such license, the governing board may issue an order directing the licensee or applicant to appear and show cause why similar disciplinary sanctions or, in the case of an applicant, license denial or restriction, should not be imposed in the state. In any such proceeding, the decision of the foreign licensing authority may not be collaterally attacked, but the licensee or applicant shall be given the opportunity to demonstrate why a lesser sanction should be imposed. The governing board may issue any disciplinary sanction or take any action with regard to a license application pursuant to this section otherwise permitted by this chapter, including sanctions or actions which are more stringent than those imposed by the foreign jurisdiction. The governing board may adopt summary procedures for handling proceedings brought under this chapter, but shall furnish the respondent at least 10 day's written notice and a reasonable opportunity to be heard. The governing board may require a licensee to suspend practice in this state as a condition of postponing a hearing date established for allegations brought under this section.

328-F:24 Investigations.

I. One member of a governing board and an employee of the administrative prosecutions unit may investigate possible misconduct by licensees and applicants for licensure, as well as the unauthorized practice of each licensed profession and other matters within the scope of this chapter. Investigations may be conducted formally, after issuance of a board order setting forth the general scope of the investigation, or informally, without such an order. In either case, board investigations and the information gathered in such investigations shall be exempt from the public disclosure provisions of RSA 91-A, except to the extent such information may later become the subject of a public disciplinary hearing. The office may disclose information acquired in an investigation to law enforcement or health licensing agencies in this state or other jurisdiction, or in response to specific statutory requirements or court orders.

II. The board of directors may retain expert witnesses or other qualified persons to assist with any investigation or adjudicatory proceeding. Members of the governing boards are not eligible for retention. The board of directors may also retain special legal counsel in instances when recommended by the attorney general. To the extent the board's existing appropriation does not include funds covering such expenditures, the board may request the governor and council to expend funds not otherwise appropriated on the condition that such funds be recovered in the board's next budget at the rate of 125 percent.

III. The form taken by an investigation is a matter reserved to the discretion of the governing boards. The governing boards may conduct investigations on an ex parte basis.

IV.(a) The governing boards may administer oaths or affirmations and preserve testimony. The governing boards, with the advice and consent of the

department of justice, may issue subpoenas for witnesses and for documents and things only in a formal investigation or an adjudicatory hearing, except that subpoenas for medical records and insurance billing records may be issued at any time.

(b) The office may serve a subpoena on any licensee of the governing boards by certified mail, but shall serve a subpoena on any other person in accordance with the procedures and fee schedules used in superior court.

(c) Persons licensed by the office shall not be entitled to a witness fee or mileage expenses for travel within the state which is necessary to respond to a subpoena issued by the board.

(d) Any governing board issued subpoena related to a hearing or investigation shall be valid if annotated "Fees Guaranteed by the New Hampshire office of allied health professionals".

(e) A minimum of 48 hours' notice shall be given for compliance with a subpoena issued under this chapter.

V. The governing boards may at any time, with the advice and consent of the department of justice, subpoena medical, clinical, pharmacy, billing or other records related to the diagnosis or treatment from its licensees, or other health care providers, educational institutions, health care facilities and health insurance and health maintenance organizations, and medical and hospital service corporations licensed or certified in this state to the extent that the records sought are relevant to matters within the office's regulatory authority. Such subpoenas shall be served by certified mail or by personal delivery to the address shown on the respondent's current license or certificate, and shall require no witness or other fee. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena duces tecum issued under this paragraph.

VI. All licensees shall have the duty to notify the office of their current business and residence addresses. A licensee shall receive adequate notice of any hearing or other action taken under this chapter if notice is mailed in a timely fashion to the most recent home or business address furnished to the governing board by the licensee.

VII. The governing boards may at any time require a licensee or license applicant to provide a detailed good faith written response to allegations of possible professional misconduct being investigated by the governing board. The board may also require the licensee, applicant, facility, institution, or agency to provide the governing board with complete copies of records concerning any patient whose treatment may be material to allegations of possible professional misconduct being investigated by the governing board. Licensees and applicants shall respond to either type of request within 15 days from the date of the request, or within such greater time

either type of request within 15 days from the date of the request, or within such greater time period as the governing board may specify.

VIII. Any person may file a written complaint with the governing board which charges that a licensee or license applicant has engaged in professional misconduct or should not be licensed. Such complaints shall be treated as petitions for the commencement of disciplinary proceedings, shall be investigated by the governing board, and shall be exempt from the time limitations of RSA 541-A:29. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the governing board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee, the governing board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute and the complainant is given the opportunity to comment on the terms of the proposed settlement.

328-F:25 Hearings.

I. Allegations of misconduct or lack of professional qualifications which are not settled informally shall be heard by the appropriate governing board. Such hearings shall be an open public hearing. Any member of the governing board, or other person qualified to act as a hearing officer and duly designated by the governing board, shall have the authority to preside at such a hearing and to issue oaths or affirmations to witnesses.

II. The governing board shall furnish the respondent and the complainant, if any, at least 15 days' written notice of the date, time and place of a hearing, except as otherwise provided in this chapter. Such notice shall include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or both. The complainant shall be provided with a reasonable opportunity to intervene as a party.

III. The governing boards may at any time dispose of allegations in a complaint, investigation, or disciplinary hearing by settlement, default, or consent order, by issuing an order of dismissal for failing to state a proper basis for adverse action or by summary judgment order based upon undisputed material facts. The governing board shall have discretion to decline or defer prosecution of a complaint which, after appropriate investigation, does not contain allegations of a substantial nature, and may reexamine the allegations in the complaint at any time within the limitations period of this chapter. In disciplinary and licensing proceedings, the governing board may hold prehearing conferences which shall be exempt from the provisions of RSA 91-A, but all final disciplinary actions, including those which occur without holding a public hearing, shall be publicly released at the time they are served upon the parties.

IV. Final disciplinary actions and final actions in other adjudicatory proceedings shall be reduced to writing and served upon the parties. Such decisions shall not be public until they are served upon the parties. However final disposition shall be effective and enforceable as determined by the governing board in accordance with RSA 541-A regardless of when such disposition became public.

V. The governing boards shall have no obligation or authority to appoint or provide an attorney to any person appearing at a board hearing or investigation.

328-F:26 Temporary Suspension Where Imminent Threat. In cases involving imminent danger to life or health, the governing boards may order suspension of a license pending hearing for a period of no more than 120 days. In such cases, the basis for the board's finding of imminent danger to life or health shall be reduced to writing and combined with a hearing notice which complies with this chapter. A licensee may be allowed additional time to prepare for a hearing, but any additional time for preparation shall result in an extension of license suspension commensurate with the additional time extended.

328-F:27 License Required; Exceptions.

I. Nothing in this chapter shall be construed to restrict persons licensed under any other law of this state from engaging in a profession or practice for which they are licensed.

II. No person, not licensed under this chapter, shall practice or hold oneself out as being able to practice any professions under this chapter without obtaining a license for such practice. Holding oneself out shall include the use of letters intended to designate an individual as a licensed allied health professional under this chapter.

III. This chapter shall not apply to visiting instructors licensed in another jurisdiction or holding valid credentials in another country whose activities are limited to providing instruction at a specific time and place.

328-F:28 Confidential Communications. The confidential relations and communications between a practitioner licensed under provisions of this chapter and the patient of such practitioner are placed on the same basis as those provided by law between attorney and client, and, except as otherwise provided by law, no such allied health practitioner shall be required to disclose such privileged communications. Confidential relations and communications between a patient and any person working under the supervision of a physician or surgeon that are customary and necessary for diagnosis and treatment are privileged to the same extent as though those relations or communications were with such supervising physician and surgeon. This section shall not apply to investigations and hearings conducted by the board of allied health practitioners, or any other statutory created health occupational licensing or certifying board conducting licensing, certifying, or disciplinary proceedings.

2 Salary Group; Position Added. Amend RSA 94:1-a, I by inserting in group K:

Executive director of the board of directors as defined in RSA 328-F:2, I.

3 Reference Changed. Amend RSA 189:14-e, II to read as follows:

II. Speech-language pathologists licensed pursuant to RSA 326-F *and* **328-F** shall automatically meet certification requirements under this section.

4 Reference Changed. Amend RSA 313-A:23, II(g) to read as follows:

(g) Persons [~~registered~~] **licensed** as physical therapists or physical therapist assistants under RSA 328-A *and* **328-F**.

5 Reference Added. Amend the introductory paragraph of RSA 326-C:1 to read as follows:

In this chapter *and* **RSA 328-F**, unless the context otherwise requires:

6 Definition Modified; Board. Amend RSA 326-C:1, II to read as follows:

II. "Board" means the [~~board of medicine established by RSA 329:2~~] **occupational therapy governing board established in RSA 328-F:3, I.**

7 Reference Added. Amend the introductory paragraph of RSA 326-C:3, I to read as follows:

I. No person, not licensed under this chapter *and* **RSA 328-F**, shall practice or hold oneself out as being able to practice occupational therapy without obtaining a license under this chapter *and* **RSA 328-F**. Holding oneself out shall include the use of letters intended to designate an individual as a licensed occupational therapist or occupational therapy assistant.

8 Reference Added. Amend RSA 326-C:3, II to read as follows:

II. The board shall license each applicant who satisfies the requirements of RSA 326-C:4. Upon payment of a license fee, the board shall issue to such person a certificate of licensure, which shall be prima facie evidence of the right to practice as an "occupational therapist registered" or "certified occupational therapy assistant." Licensed occupational therapists may use the letters "O.T.R." or "O.T.R./L." and occupational therapy assistants may use the letters "C.O.T.A." or "C.O.T.A./L." in connection with their names or places of business to denote their licensure under this chapter *and RSA 328-F*.

9 Reference Modified. Amend RSA 326-C:4, I to read as follows:

I. To apply for licensure as an occupational therapist or occupational therapy assistant, an applicant shall complete an application prescribed by the board *of directors, pursuant to RSA 328-F:13, II*, and pay the application fee established by the board *of directors under RSA 328-F:15*. The application shall not be complete until all information required by the board has been received.

10 Reference Removed. Amend RSA 326-C:4, II(c)-(e) to read as follows:

(c) Successfully complete the academic requirements of an educational program in occupational therapy recognized by the board [~~and the advisory committee~~].

(d) Successfully complete a period of supervised field work experience approved by the educational institution where the applicant met [~~his~~] academic requirements.

(1) For an occupational therapist a minimum of 6 months of supervised field work experience is required.

(2) For an occupational therapy assistant a minimum of 2 months of supervised field work experience is required.

(e) Pass to the satisfaction of the board a standardized national examination approved by the board [~~and the advisory committee~~].

11 Gender Neutral. Amend RSA 326-C:4, V to read as follows:

V. The board may, upon notice and opportunity for a hearing, deny an application or impose probationary conditions upon any applicant who fails to establish [~~his~~] *such applicant's* qualifications to the satisfaction of the board. Conditions imposed may include requiring continuing education or practice under supervision of a licensed occupational therapist.

12 Reference Removed. Amend RSA 326-C:6, II to read as follows:

II. The board[~~, after consultation with the advisory committee,~~] shall establish requirements for continuing professional education and other evidence of continued competency as a condition of license renewal, initial licensure, license reinstatement, or endorsement licensing.

13 Reference Removed. Amend RSA 326-C:8, IV to read as follows:

IV. Evidence of competency to practice as established by the board [~~and the advisory committee~~]. Evidence may include continuing education, passage of the standardized examination, practice under the supervision of another licensed occupational therapist, or other requirements deemed appropriate by the board.

14 Reference Removed. Amend the introductory paragraph of RSA 326-C:11 to read as follows:

The board shall adopt rules, pursuant to RSA 541-A[~~, after consultation with the advisory committee,~~] relative to:

15 Rulemaking Authority Modified. Amend RSA 326-C:11, I to read as follows:

I. The [~~form and~~] content of license applications required under RSA 326-C:3 and 326-C:4.

16 Reference Removed. Amend RSA 326-C:11, III to read as follows:

III. The conditions under which an applicant in another state may be issued a license [~~under RSA 326-C:4, III~~].

17 References Removed; References Added. Amend RSA 326-C:11, VI-VII to read as follows:

VI. Requirements for continuing professional education and competency [~~under RSA 326-C:6, H~~].

VII. Any other matter necessary for the administration of this chapter *and the board's duties and responsibilities under RSA 328-F*.

18 Reference Added. Amend the introductory paragraph of RSA 326-E:1 to read as follows:

As used in this chapter ***and RSA 328-F***:

19 Definition Modified; Board. Amend RSA 326-E:1, II to read as follows:

II. "Board" means the ~~[board of medicine]~~ ***governing board of respiratory care practitioners established under RSA 328-F:3, I.***

20 Reference Removed. Amend the introductory paragraph of RSA 326-E:3 to read as follows:

The board~~[, after consultation with the advisory committee,]~~ shall adopt rules, pursuant to RSA 541-A, relative to:

21 Rulemaking Authority Modified. Amend RSA 326-E:3, VII to read as follows:

IX. Any other matter which is consistent with the legislative intent of this chapter and which is necessary to the administration of this chapter ***and the board's duties and responsibilities under RSA 328-F.***

22 Rulemaking Authority Modified. Amend RSA 326-E:3, IX to read as follows:

II. The applicant, except as otherwise provided in this chapter ***or RSA 328-F***, shall be required to pass a standardized national examination.

23 Reference Added. Amend RSA 326-E:4, II to read as follows:

I. Examinations for licensure in respiratory care shall be in English, nationally standardized, and approved by the ~~[advisory committee and the]~~ board. They shall be conducted not fewer than 2 times a year and in such places as may be determined by the board.

24 Gender Neutral. Amend RSA 326-E:7, II to read as follows:

II. The licensee shall show his ***or her*** license when requested.

25 Reference Added. Amend the introductory paragraph of RSA 326-F:1 to read as follows:

In this chapter ***and RSA 328-F***:

26 Definition Modified; Board. Amend RSA 326-F:1, I to read as follows:

I. "Board" means the ***governing*** board of speech-language pathologists ***established in RSA 328-F:3, I.***

27 Reference Added. Amend RSA 326-F:1, V to read as follows:

V. "Speech-language pathology assistant" means any person who meets minimum qualifications established by the board which are less than those established by this chapter as necessary for licensing as a speech-language pathologist, and who does not act independently but works under the direction and supervision of a speech-language pathologist licensed under this chapter ***and RSA 328-F.***

28 Reference Added. Amend RSA 326-F:3-a to read as follows:

326-F:3-a Exemption from Licensure. ~~[Notwithstanding RSA 326-F:3,]~~ This chapter ***and RSA 328-F*** shall not apply to speech-language pathologists employed by public schools and certified under RSA 21-N:9, II(s).

29 Licensure Requirements Modified. Amend RSA 326-F:5, I(a) to read as follows:

(a) Make application to the board, upon a form prescribed by the board ***of directors, pursuant to RSA 328-F:13, II;*** and

30 Licensure Requirements Modified. Amend RSA 326-F:5, I(g)-(h) to read as follows:

(g) Demonstrate sufficient evidence of good professional character and reliability to satisfy the board that the applicant shall faithfully and conscientiously avoid professional misconduct and otherwise adhere to the requirements of this chapter, ***RSA 328-F***, and the board's rules.

(h) In cases of license renewal after a period of nonrenewal of less than 5 years, pay to the board a restoration fee consisting of the current renewal fee ~~[plus any late fee set by rules adopted by the board pursuant to RSA 541-A]~~ and submit such evidence of continued professional competence

and eligibility for licensure as the board may require.

31 Reference Added. Amend RSA 326-F:5, II to read as follows:

II. Any person who fails to renew any license within 5 years after the expiration date may not have the license renewed, and it may not be restored, reissued, or reinstated thereafter, although any such person may apply for and obtain a new license upon meeting the requirements of this chapter ***and RSA 328-F*** and paying to the board the appropriate fee.

32 Reference Added. Amend RSA 326-F:9, II(b) to read as follows:

(b) Meet the examination [~~requirement~~] ***requirements*** of RSA 326-F ***and 328-F***.

33 Reference Added; Reference Removed. Amend RSA 326-F:10, I to read as follows:

I. The purpose of a provisional license is to permit an individual to practice speech-language pathology while completing the postgraduate professional experience as required by this chapter. Any person holding a provisional license shall be authorized to practice speech-language pathology provided the person is working under the supervision of a person fully licensed by this state in accordance with this chapter ***and RSA 328-F***. A provisional license for a clinical fellowship year is limited to one year for a full-time employee and 3 years for part-time employees. A provisional license shall expire automatically as a matter of law on the date stated thereon by the board.

34 Reference Added; Reference Removed. Amend RSA 326-F:10, II(a) and (b) to read as follows:

(a) Except for the postgraduate professional experience, meets the academic, practicum, and examination requirements of this chapter ***and RSA 328-F***.

(b) Submits an application to the board, [~~upon a form prescribed by the board,~~] including a plan for the content of the postgraduate professional experience.

35 Reference Removed. Amend RSA 326-F:13, I to read as follows:

I. The [~~form and~~] content of license applications.

36 Rulemaking Authority Modified. Amend RSA 326-F:13, VIII to read as follows:

VIII. Any other matter necessary for the administration of this chapter ***and the board's duties and responsibilities under RSA 328-F***.

37 Reference Added. Amend the introductory paragraph of RSA 326-G:1 to read as follows:

In this chapter ***and RSA 328-F***:

38 Definition Modified; Board. Amend RSA 326-G:1, II to read as follows:

II. "Board" means the [~~board of medicine established in RSA 329:2~~] ***governing of athletic trainers established in RSA 328-F:3, I***.

39 Reference Added. Amend the introductory paragraph of RSA 326-G:2 to read as follows:

This chapter ***and RSA 328-F*** shall not apply to the following:

40 Gender Neutral. Amend RSA 326-G:2, I-II to read as follows:

I. Self-care by a patient, or gratuitous care by a friend or family member who does not represent himself ***or herself*** as an athletic trainer.

II. The activities of students of athletic training pursuing a degree or certificate in athletic training at an accredited or approved educational institution, if such activities and services constitute a part of a supervised course of study, and such person is designated by a title which clearly indicates [~~his~~] status as a student athletic trainer.

41 Rulemaking Authority Modified. Amend the introductory paragraph of RSA 326-G:7 to read as follows:

The board shall adopt rules,~~[after consultation with the advisory committee,]~~ pursuant to RSA 541-A, relative to:

42 Rulemaking Authority Modified. Amend RSA 326-G:7, II-III to read as follows:

II. The renewal, suspension, revocation, and reinstatement of ~~[certification]~~ **a license**.

III. Educational qualifications for ~~[certification]~~ **licensure**, including requirements for applicants currently ~~[certified]~~ **licensed** to practice athletic training in other states.

43 Rulemaking Authority Modified. Amend RSA 326-G:7, V-VI to read as follows:

V. Continuing education requirements ~~[of certified athletic trainers]~~.

VI. The conditions for ~~[certifying]~~ **licensing** out-of-state athletic trainers.

44 Rulemaking Authority Modified. Amend RSA 326-G:7, VIII to read as follows:

VIII. Other matters related to the administration of this chapter **and the board's duties and responsibilities under RSA 328-F**.

45 Certification Changed to Licensure. Amend the section heading and introductory paragraph of RSA 326-G:8 to read as follows:

326-G:8 Requirements for ~~[Certification]~~ **Licensure**. Applicants for ~~[certification]~~ **licensure** as athletic trainers under this chapter shall have:

46 Certification Changed to Licensure. Amend RSA 326-G:10 to read as follows:

326-G:10 Professional Identification. Any person ~~[certified]~~ **licensed** to practice as an athletic trainer in this state may use the title "New Hampshire ~~[Certified]~~ **Licensed** Athletic Trainer" and the abbreviation, ~~["NHCA-T"]~~ **"NHLAT"** to designate ~~[his]~~ **such person's** practice of athletic training and shall produce ~~[his certificate]~~ **such person's license** upon the request of the board.

47 Certification Changed to Licensure; Reference Added. Amend RSA 326-G:14 to read as follows:

326-G:14 Reinstatement. Any person whose ~~[certification]~~ **license** to practice athletic training under this chapter **and RSA 328-F** has been suspended by the board may apply to the board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a new certificate or modify the suspension or revocation of the certificate to practice as an athletic trainer.

48 Reference Added. Amend the introductory paragraph of RSA 328-A:1 to read as follows:

In this chapter **and RSA 328-F**:

49 Definition Modified; Board. Amend RSA 328-A:1, II to read as follows:

II. "Board" means the ~~[board of medicine]~~ **the physical therapy governing board established in RSA 328-F:3, I**.

50 Reference Added. Amend RSA 328-A:2, I to read as follows:

I. No individual shall practice or indicate ability to practice physical therapy or designate oneself or allow oneself to be designated as a physical therapist I, physical therapist II, or a physical therapist assistant in this state unless such individual is licensed in accordance with the provisions of this chapter **and RSA 328-F**.

51 License Requirements Modified. Amend the introductory paragraph of RSA 328-A:3 to read as follows:

Persons desiring licensure as a physical therapist or physical therapist assistant shall file a written application in a form specified by the board and pay an application fee **as established by the board of directors under RSA 328-F:15**. This application shall establish that the applicant:

52 Reference Removed. Amend RSA 328-A:5, II to read as follows:

II. The board, ~~[after consultation with the advisory committee,]~~ shall establish requirements for continuing professional education as a condition of license renewal, initial licensure, or license reinstatement. The minimum number of hours required per year shall be 20 for a physical therapist II, 15 for a physical therapist I, and 10 for a physical therapist assistant.

53 Reference Added. Amend RSA 328-A:10, I-II to read as follows:

- I. A physical therapist I licensed under this chapter *and RSA 328-F* shall not practice physical therapy without a written prescription or referral from a person licensed to practice medicine, dentistry, podiatry, chiropractic, or naturopathy, or from a person licensed as a physician assistant or advanced registered nurse practitioner.
- II. A person licensed under this chapter *and RSA 328-F* as a physical therapist assistant shall practice only under the direction and supervision of a licensed physical therapist.

54 Reference Added. Amend RSA 328-A:11, I to read as follows:

- I. A person licensed under this chapter *and RSA 328-F* as a physical therapist II may evaluate and develop a working diagnosis for treatment by physical therapy without a referral, but shall obtain consultation with a person licensed to practice medicine, dentistry, podiatry, chiropractic, or naturopathy, or with a person licensed as a physician assistant or advanced registered nurse practitioner in order to continue treatment beyond 75 consecutive days. This consultation can be made by telephone, fax, in writing or in person but does not necessitate a written referral. This consultation must be documented in the patient's medical record. For patients whose problem is outside the scope of physical therapy, or if at any time, a patient requires further medical evaluation or diagnostic testing, or if there is no documented improvement within 30 days of the initiation of treatment, the patient shall be appropriately referred to a physician, podiatrist, dentist, chiropractor, naturopath, physician assistant, or advanced registered nurse practitioner.

55 Rulemaking Authority Modified. Amend the introductory paragraph of RSA 328-A:14 to read as follows:

The board~~[, in cooperation with the physical therapy advisory committee,]~~ shall adopt rules, pursuant to RSA 541-A, relative to:

56 Rulemaking Authority Modified. Amend RSA 328-A:14, VII to read as follows:

- VII. Other matters ~~[within the scope]~~ *necessary for the proper administration* of this chapter *and the board's duties and responsibilities under RSA 328-F*.

57 Board of Medicine; Rulemaking Authority. Amend RSA 329:9, XIV to read as follows:

- XIV. The licensing of physician assistants ~~[and respiratory care practitioners]~~ as provided in RSA 328-D:2 ~~[and RSA 326-E, respectively]~~.

58 Administrative Rules Transition. Administrative rules adopted prior to the effective date of this act relative to the practices governed by this section shall remain in effect until amended, replaced, or repealed through adoption of rules by the board of directors as defined in RSA 328-F:2, I and the governing boards as defined in RSA 328-F:2, II.

59 Repeal. The following are repealed:

- I. RSA 326-C:1, I relative to the definition of the occupational therapy advisory committee.
- II. RSA 326-C:3, I(b), relative to occupational therapy licensure requirements.
- III. RSA 326-C:4, III, relative to conditions for occupational therapy licensure.
- IV. RSA 326-C:5, relative to temporary licensure of occupational therapists.
- V. RSA 326-C:6, I relative to license renewal for occupational therapists.
- VI. RSA 326-C:7, relative to sanctions against licensed occupational therapists.
- VII. RSA 326-C:9, relative to the board of medicine's duty to administer certain fees.
- VIII. RSA 326-C:10, relative to the board of medicine's duty to maintain records related to occupational therapists.
- IX. RSA 326-C:11, II, relative to the board of medicine's authority to establish certain fees.
- X. RSA 326-C:11, V, relative to the board of medicine's authority to adopt certain rules regarding hearings.
- XI. RSA 326-C:12, relative to the occupational therapy advisory committee.

- XII. RSA 326-C:13, relative to penalties for violation of certain laws governing occupational therapists.
- XIII. RSA 326-E:1, I, relative to the definition of the respiratory care advisory committee.
- XIV. RSA 326-E:2, relative to the respiratory care advisory committee.
- XV. RSA 326-E:3, I, relative to the board of medicine's rulemaking authority regarding license application.
- XVI. RSA 326-E:3, V, relative to the board of medicine's rulemaking authority regarding fees.
- XVII. RSA 326-E:3, VII, relative to the board of medicine's rulemaking authority regarding hearings.
- XVIII. RSA 326-E:6, relative to temporary permits for respiratory care practitioners.
- XIX. RSA 326-E:8, relative to the term of licenses for respiratory care practitioners.
- XX. RSA 326-E:9, relative to disciplinary matters and unprofessional conduct in the practice of respiratory care.
- XXI. RSA 326-E:10, relative to hearings and reinstatement of licenses with respect to suspension and revocation of licensure to practice respiratory care.
- XXII. RSA 326-E:11, relative to requiring that respiratory care practitioners be licensed and exemptions from such requirement.
- XXIII. RSA 326-E:12, relative to limitations on licensure for those persons licensed to practice in fields other than respiratory care.
- XXIV. RSA 326-E:13, relative to making certain practices related to respiratory care misdemeanors.
- XXV. RSA 326-F:2, relative to the board of speech-language pathology.
- XXVI. RSA 326-F:3, relative to the requirement that speech-language pathologists be licensed to practice.
- XXVII. RSA 326-F:4, II, relative to limitations on persons licensed to practice in fields other than speech-language pathology.
- XXVIII. RSA 326-F:6, relative to suspension or revocation of licenses to practice speech-language pathology.
- XXIX. RSA 326-F:8, relative to renewal of licenses to practice speech-language pathology.
- XXX. RSA 326-F:10, relative to provisional licenses to practice speech-language pathology.
- XXXI. RSA 326-F:12, relative to record-maintenance duties of the board of speech-language pathology.
- XXXII. RSA 326-F:13, relative to the rulemaking authority of the board of speech-language pathology.
- XXXIII. RSA 326-F:14, relative to the civil immunity of members of the board of speech-language pathology.
- XXXIV. RSA 326-F:15, relative to the investigatory powers of the board of speech-language pathology.
- XXXV. RSA 326-F:16, relative to the authority of the board of speech-language pathology to conduct hearings and issue decisions.
- XXXVI. RSA 326-F:17, relative to temporary, emergency suspension of licenses to practice speech-language pathology.
- XXXVII. RSA 326-F:18, relative to penalties for violations of certain laws governing the practice of speech-language pathology.
- XXXVIII. RSA 326-G:1, I, relative to the definition of the advisory committee on athletic trainers.
- XXXIX. RSA 326-G:3, relative to the practice of other professions by athletic trainers.
- XL. RSA 326-G:4, relative to the advisory committee on athletic trainers.
- XLI. RSA 326-G:5, relative to the duties of the advisory committee on athletic trainers.

XLII. RSA 326-G:6, relative to the civil immunity for members of the advisory committee on athletic trainers.

XLIII. RSA 326-G:7, I, relative to the board of medicine's authority to adopt certain rules regarding license application.

XLIV. RSA 326-G:7, IV, relative to the board of medicine's authority to adopt certain rules regarding fees.

XLV. RSA 326-G:9, relative to requirements for temporary certification as an athletic trainer.

XLVI. RSA 326-G:11, relative to expiration and renewal of certificates to practice as an athletic trainer.

XLVII. RSA 326-G:12, relative to suspension, revocation, or refusal to issue certification for athletic trainers.

XLVIII. RSA 326-G:13, relative to the board of medicine's authority to conduct hearings related to athletic trainers.

XLIX. RSA 326-G:15, making it a misdemeanor for a person to violate certain laws governing the practice of athletic training.

L. RSA 328-A:1, VII, relative to the definition of the physical therapy advisory committee.

LI. RSA 328-A:5, I, relative to renewal and expiration of licenses to practice physical therapy.

LII. RSA 328-A:6, relative to the board of medicine's authority to adopt certain administrative rules regarding fees.

LIII. RSA 328-A:7, relative to the board of medicine's duty to maintain certain records and to keep a register of all persons licensed to practice physical therapy.

LIV. RSA 328-A:8, relative to the physical therapy advisory committee.

LV. RSA 328-A:9, relative to the board of medicine's disciplinary authority over physical therapists.

LVI. RSA 328-A:13, relative to temporary licensure to practice physical therapy.

LVII. RSA 328-A:14, I, relative to the board of medicine's authority to adopt certain rules regarding the advisory committee.

LVIII. RSA 328-A:14, III, relative to the board of medicine's authority to adopt certain rules regarding fees.

LIX. RSA 329:9, X, relative to rulemaking authority of the board of medicine regarding occupational therapists.

LX. RSA 329:9, XI, relative to rulemaking by the board of medicine regarding physical therapists.

LXI. RSA 329:9, XII, relative to rulemaking by the board of medicine regarding athletic trainers.

60 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill replaces and modifies certain laws governing the practice of athletic training, occupational therapy, respiratory care, physical therapy, and speech-language pathology. The bill establishes governing boards for each of these areas of practice and a board of directors consisting of the chairpersons of each of the governing boards. It imposes certain duties and gives certain authority to the governing boards and the board of directors, respectively, for the purposes of regulating these professions.

The bill also gives the board of directors the authority to hire an unclassified executive director.

This bill also makes certain provisions of law gender neutral in accordance with RSA 17-A:6.

This bill is a request of the board of medicine.

1997-0422h

Amendment to HB 566-FN-A-LOCAL

Proposed by the Committee on Local and Regulated Revenues

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

AN ACT relative to the applicability of the property tax to electric plants and pipelines.

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

1 Property Taxation of Electric Generation Plant. Amend RSA 72:8 to read as follows:

72:8 Electric Plants and Pipe Lines. *All* Structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines [owned by a person or corporation operating as a public utility as defined in RSA 362:2 generating, producing, supplying and distributing electric power or light, or in transporting] ***employed in the generation, production, supply, distribution, transmission, or transportation of electric power or*** natural gas, crude petroleum and refined petroleum products or combinations thereof, shall be taxed as real estate in the town in which said property or any part of it is situated.

2 Applicability. Nothing in this act shall affect any agreement entered into under RSA 362A:6 between a qualifying facility and a city, town, or village district for payment in lieu of taxes which is in existence on April 1, 1997.

3 Repeal. RSA 362-A:6, relative to tax exemption for qualifying small power production facilities and qualifying cogeneration facilities, is repealed.

4 Effective Date. This act shall take effect April 1, 1997, and shall apply to all taxes assessed on and after April 1, 1997.

AMENDED ANALYSIS

This bill repeals the tax exemption for qualifying small power production facilities and qualifying cogeneration facilities for taxes otherwise applicable to public utilities.

The bill also subjects real property and fixtures, used in the generation, production, supply, distribution, transmission, or transportation of electric power, to the property tax whether or not such real property or fixtures is owned by a public utility.

1997-0405h

Amendment to HB 572-FN

Proposed by the Committee on Executive Departments and Administration

Amend the bill by replacing sections 10-11 with the following:

10 Apportionment Railroad Taxes. Amend the introductory paragraph of RSA 82:31 to read as follows:

The commissioner of revenue administration shall [~~seasonably~~] ***annually*** apportion all railroad taxes [~~received by him~~] ***paid*** in each ***fiscal*** year[; ~~and shall certify such apportionment to the state treasurer~~] for distribution in the following manner:

11 Railroad Corporation Director Returns and Railroad Tax Distribution. Amend RSA 82:32-33 to read as follows:

82:32 Directors' Return. The directors of each railroad corporation shall, on July 1 in the year 1942 and in every fifth year thereafter, make a return, under oath, to the commissioner of revenue administration showing the share of the capital of the corporation expended in each town for buildings and right of way[; ~~and the commissioner of revenue administration shall certify the apportionment for payment by the state treasurer based upon expenditures from such returns~~].

82:33 When Distributed. ***By July 30 each year,*** the [~~state treasurer~~] ***commissioner of revenue administration*** shall pay to each town its proportion of each railroad tax [~~whenever the same shall have been paid to him;~~] ***paid during the previous fiscal year*** to be appropriated as other town money.

1997-0491h

Amendment to HB 575

Proposed by the Committee on Environment and Agriculture

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

1 Findings. The general court finds that the promulgation of the environmental management standards by the International Standards Organization (ISO 14000) is important for success in international trade, and that authority for a New Hampshire entity, either public or private, to certify managerial practices of private companies relative to ISO 14000 standards will be important to New Hampshire's competitive position internationally.

2 New Paragraph; Duties of Commissioner; International Environmental Management Standards. Amend RSA 21-O:3 by inserting after paragraph IX the following new paragraph:

X.(a) Have the authority to:

(1) Accept the international environmental management standards developed by the International Standards Organization 14000 series (ISO 14000).

(2) Determine, at the commissioner's discretion, whether ISO 14000 certification of certain entities ensures adequate compliance with existing standards or requirements established by the department.

(3) Investigate the possibility of seeking certification of the department as an ISO 14000 registrar.

(4) Disseminate information on the availability and benefits of ISO 14000 certification.

(b) File reports of the department's activities and recommendations for legislative action pursuant to this paragraph with the house environment and agriculture committee before July 1, 1998, and before July 1, 1999.

3 Repeal. RSA 21-O:3, X, relative to international environmental management standards, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2000.

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

AMENDED ANALYSIS

This bill authorizes the commissioner of the department of environmental services to accept certain international environmental management standards developed by the International Standards Organization (ISO 14000), to disseminate information concerning ISO 14000 certification, and to investigate seeking certification of the department as an ISO 14000 registrar. The bill requires the commissioner to file reports with the house environment and agriculture committee.

1997-0194h

Amendment to HB 584

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

1 School Health Personnel. RSA 200:31 is repealed and reenacted to read as follows:

200:31 School Health Personnel. Any school board may employ or contract for their district a licensed practical nurse (LPN) or certified nursing assistant (CNA) who shall hold an unencumbered current license in New Hampshire, to work under the direct supervision of the school registered nurse in accordance with rules adopted under RSA 541-A, by the board of nursing, in the same building as the registered nurse (RN), who shall hold an unencumbered current license in New Hampshire.

2 Possession and Administration of Epinephrine. Amend RSA 318:42, VII-a to read as follows:

VII-a. The possession and administration, with written parental authorization, of flu vaccine, immunizations, and mantoux tests for the purpose of disease prevention and tuberculosis screening, and epinephrine for the emergency treatment of anaphylaxis by registered nurses employed or contracted by public school systems. ***The possession and administration, with written parental authorization, of epinephrine for the emergency treatment of anaphylaxis by licensed practical nurses employed or contracted by public school systems.***

3 New Paragraph; Rulemaking Authority; Board of Nursing. Amend RSA 326-B:4-a by inserting after paragraph XV the following new paragraph:

XVI. In consultation with the department of education, establish standards for currently licensed registered and practical nurses and certified nursing assistants' education and scope of practice in primary and secondary school settings.

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

AMENDED ANALYSIS

This bill allows licensed practical nurses to work in schools under the direct supervision of school registered nurses licensed in New Hampshire. It also allows licensed practical nurses to possess and dispense, with written parental authorization, epinephrine for treatment of anaphylaxis.

This bill is a request of the department of education.

1997-0327h

Amendment to HB 586

Proposed by the Committee on Transportation

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 1998.

1997-0415h

Amendment to HB 588-FN

Proposed by the Committee on Executive Departments and Administration

Amend RSA 332-E:6, II and III as inserted by section 5 of the bill by replacing them with the following:

II. Renewal, when appropriate, shall be on a biennial basis.

III. Certificates shall be renewed every 2 years unless revoked for cause, replaced by one of the higher grade, or invalidated.

1997-0541h

Amendment to HB 589-FN

Proposed by the Committee on Transportation

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

AN ACT removing a common carrier exemption.

Amend the bill by replacing section 1 with the following:

1 Motor Carrier Exemptions. Amend RSA 376:3 to read as follows:

376:3 Exemptions. There shall be exempt from the provisions of this chapter (1) motor vehicles while employed solely in transporting school children and teachers to or from the school for which such arrangements are within the supervision or control of the local or appropriate state school board authorities; or (2) taxicabs, ~~[and other motor vehicles having a manufacturer's rated seating capacity of not more than 7 persons,]~~ unless, after investigation, the department shall be of the opinion that the service provided is in competition with the schedules of a common carrier by highway or railroad; or (3) motor vehicles owned or operated by hotels which are used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations; or (4) motor vehicles while engaged exclusively in work for any branch of the government of the United States or for any department of this state, or for any county, city, town or village; or (5) motor vehicles while engaged exclusively in the delivery of the United States mail; or (6) vans engaged in vanpooling not less than 8 people and not more than 15 people to and from work on a nonprofit basis and in which the operating costs and a reasonable vehicle depreciation cost for such vehicle are paid principally by those people utilizing such arrangement.

AMENDED ANALYSIS

This bill removes the exemption from motor carriers of passengers laws for motor vehicles with a seating capacity of not more than 7 persons.

1997-0443h

Amendment to HB 592-FN-A-LOCAL

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

AN ACT establishing an advisory council on brain and spinal cord injuries.

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

1 Statement of Purpose. The general court desires to prevent significant injuries resulting from alcohol and speed-related motor vehicle collisions, violent acts, and other causes that result in brain and spinal cord injuries. It is also the intent of the general court to provide effective care, rehabilitation, and family support for New Hampshire citizens who are seriously injured and who have inadequate resources to meet their long-term needs. Therefore, the general court hereby establishes the New Hampshire brain and spinal cord injury advisory council.

2 New Chapter; New Hampshire Brain and Spinal Cord Injury Advisory Council. Amend RSA by inserting after chapter 137-J the following new chapter:

CHAPTER 137-K

NEW HAMPSHIRE BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL

137-K:1 Purpose. The purpose of this chapter is to support injury prevention efforts and to help meet the needs of individuals who have sustained brain and spinal cord injuries, who would otherwise be dependent on the public for their care and rehabilitation.

137-K:2 Advisory Council.

I. There is established the New Hampshire brain and spinal cord injury advisory council in the department of health and human services. The advisory council shall consist of the following members:

- (a) Three members nominated by the New Hampshire Brain Injury Association, appointed by the governor and who are the survivor, parent, spouse, or guardian of a person who is afflicted with a brain or spinal cord injury.
- (b) Two members appointed by the governor who represent the professional community working in brain and spinal cord injury in treatment, rehabilitation, and community-based programs.
- (c) One senate member or designee, appointed by the senate president.
- (d) One house member, appointed by the speaker of the house of representatives.
- (e) Two members appointed by the New Hampshire Brain Injury Association.
- (f) One member representing the bureau of vocational rehabilitation, appointed by the commissioner of education.
- (g) One member representing the Injury Prevention Center at Dartmouth Medical School, appointed by the department head responsible for the program.

II. The following members shall serve 3-year terms, provided that the initial terms of the members appointed under paragraph I shall be as follows: One member in subparagraphs I(a) and (b) and one member in subparagraph (e) shall serve for one year; one member in subparagraph I(a), one member in subparagraph I(b), and one member in subparagraph I(e) shall serve for 2 years; and one member in subparagraph I(a) and the member in subparagraph I(g) shall serve for 3 years. The remaining members shall serve terms coterminous with their terms of office. The members shall be appointed within 30 days of the effective date of this section. In the event of death or resignation of any members of the advisory council, a successor shall be appointed by the person or entity that made the original appointment, and the successor appointed to the vacancy shall serve for the remainder of the unexpired term. The members of the advisory council shall serve without compensation, however the legislative members shall

receive mileage at the legislative rate for each day of actual attendance at called meetings.

III. The council shall elect a chairperson and vice-chairperson from among its membership at its first meeting which shall be held not later than 45 days after the effective date of this section.

IV. The advisory council shall:

(a) Meet at least quarterly to identify unmet needs which should be considered for support.

(b) Investigate the needs of citizens with brain and spinal cord injuries, identifying the gaps in services to these citizens, and issue an annual report to the governor, the speaker of the house, the senate president, and the commissioner of health and human services by November 1 of each year.

(c) Recommend to the commissioner priorities and criteria for disbursement of any moneys received under paragraph V.

(d) Hold at least 2 public hearings annually, in different regions of the state, to generate input from the public on unmet needs.

(e) Consider the feasibility of establishing a brain and spinal cord injury trust fund.

V. The advisory council is authorized to solicit and receive any gifts, grants or donations made for the purposes of this chapter and the commissioner may disburse and administer the same for the purposes consistent with this chapter.

137-K:3 Rulemaking. The commissioner of health and human services shall, after consultation with the advisory council established in RSA 137-K:2, adopt rules under RSA 541-A relative to:

I. Direct assistance, service coordination, family support activities for individuals with serious brain or spinal cord injuries and their families and injury prevention activities which may be supported by any grants received under this chapter.

II. Eligibility criteria for direct assistance and family support services.

III. Procedures for disbursements of grants.

IV. Eligibility criteria and service requirements for care and rehabilitation services for individuals with serious brain and spinal cord injuries provided by the department through existing programs.

V. Any other matter necessary for the administration of this chapter.

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

1997-0410h

Amendment to HB 596-FN

Proposed by the Committee on Election Law

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

AN ACT repealing certain laws relative to bribery or intimidation of voters.

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

1 Repeal. The following are repealed:

I. RSA 666:9, relative to examination on complaint of candidates accused of violating the law against bribery.

II. RSA 666:10, relative to procedure in the enforcement of election laws.

III. RSA 666:11, relative to the county attorney's duty to prosecute for bribery or intimidation of voters.

2 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill removes certain laws relative to bribery or intimidation of voters which are duplicate of laws relative to the powers of the attorney general and county attorneys.

1997-0640h

Amendment to HB 599-FN

Proposed by the Majority of the Committee on Commerce

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

1 New Paragraphs; Definitions Added. Amend RSA 78:1 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Licensee" means the person in whose name the license is issued.

XIX. "Sampler" means any person who distributes free tobacco products to consumers for promotional purposes.

XX. "Vending machine" means any self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco, cigarettes, or any other tobacco product.

2 Vending Machines; Fees Increased. Amend RSA 78:2, I and I-a to read as follows:

I. Each manufacturer, wholesaler, sub-jobber, vending machine operator ~~and~~, retailer, **and sampler** shall secure a license from the commissioner before engaging in the business of selling **or distributing** tobacco products in this state or continuing to engage in such business. Each wholesale, sub-job and retail outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person. Each tobacco products vending machine to be operated in this state shall be licensed by the commissioner and shall be appropriately identified as being licensed. The commissioner shall adopt rules pursuant to RSA 541-A relative to the licensing and identification of each tobacco products vending machine, and the information required in an application for a license. The commissioner shall issue a license upon application stating such information necessary to identify the outlet and the character of business transacted. The fees for licenses shall be: \$100 for a manufacturer's license; \$250 for a wholesaler's license; \$150 for a sub-jobber's license; \$70 for a vending machine operator's license; ~~and \$10~~ **\$50** for a retailer's license; **\$50 for a sampler's license; and \$50 for each vending machine location**, for the purpose of helping to pay the cost of administering this chapter. Each license shall be prominently displayed on the premises described in it. Any person who shall sell, offer for sale or possess with intent to sell any tobacco products without such license as provided in this section shall be subject to the penalty provisions of RSA 21-J:39.

I-a. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this section **and enforcement actions taken pursuant to this chapter and RSA 126-I** shall be public ~~record~~ **records**.

3 New Paragraph; Sign. Amend RSA 78:2 by inserting after paragraph I-a the following new paragraph:

I-b. The commissioner, when issuing or renewing a retailer's license under RSA 78:2, shall furnish a sign which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco products to persons under age 18 and the purchase, possession, or use of tobacco products by persons under age 18. Warning: violators of these provisions may be subject to a fine." The sign shall be posted at any location where tobacco products are sold or distributed. The commissioner shall adopt rules, under RSA 541-A, relative to placement of these warning signs in areas where tobacco products are sold or distributed.

4 Renewal. Amend RSA 78:4 to read as follows:

78:4 Term of License; Renewals. Licenses issued under RSA 78:2 shall expire on June 30 in each even-numbered year, unless sooner revoked or unless the business in respect to which the license was issued should change ownership. Licenses may be renewed upon signed application as provided in RSA 78:2 and upon paying the prescribed fee, **provided that a license shall not be renewed if there are unpaid fees, fines, or penalties resulting from violations of this chapter or RSA 126-I attributable to the license or the licensee.**

5 Suspension and Revocation of License. Amend RSA 78:6 to read as follows:

78:6 **Suspension and** Revocation of License by Commissioner. The commissioner may adopt rules pursuant to RSA 541-A relative to accomplishing the purpose of RSA 78. The commissioner may **suspend or** revoke any license issued under RSA 78:2 for failure to comply with the provisions of this chapter and with any rules which the commissioner may adopt. **The commissioner shall suspend or revoke any license issued under RSA 78:2 if ordered to do so pursuant to RSA 126-I.**

6 Sampler Added. Amend RSA 78:12 to read as follows:

78:12 Affixing Stamps. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form for records of all tobacco products manufactured, produced, purchased, and sold. Each manufacturer, wholesaler, sub-jobber, vending machine operator and retailer shall keep complete and accurate records of all such tobacco products. Such records shall be safely preserved for 3 years in such manner as to insure permanency and accessibility for inspection by the commissioner and ~~his~~ **the commissioner's** authorized agents. The commissioner and ~~his~~ **the** authorized agents may examine the books, papers and records of any manufacturer, wholesaler, sub-jobber, vending machine operator or retailer doing business in this state, for the purpose of determining whether the tax imposed by this chapter has been fully paid, and they may investigate and examine the stock of tobacco products in or upon any premises where such tobacco products are possessed, stored or sold, for the purpose of determining whether the provisions of this chapter are being obeyed. ***Each sampler shall keep complete and accurate records of tobacco products distributed free to consumers in New Hampshire for promotional purposes. The commissioner and the commissioner's authorized agents may examine such records.***

7 Vending Machines. RSA 78:12-d is repealed and reenacted to read as follows:

78:12-d Vending Machines. No person shall sell a tobacco product by use of a vending machine, or install or maintain a tobacco vending machine with the intent of making sales, except as provided in the following paragraphs:

I. Vending machines are permitted if they are equipped with a lock-out device which prevents the machine from being operated until the person responsible for monitoring sales from the machine disables the lock. The locking device must be of a design which prevents it from being left in an unlocked condition, and which will allow only a single sale when activated. Locking devices are not required on machines located in areas where minors are prohibited by law.

II. Vending machines are allowed only in establishments where an employee or agent of the business will be present to monitor the machine when the establishment is open for business.

III. Any vending machine permissible under paragraphs I and II shall be located such that it is well within the premises and close enough to the person controlling the machine that such person can determine the age of any person requesting permission to use the machine.

IV. No sales of tobacco are permitted from a vending machine which also offers for sale any non-tobacco product.

V. Vending machine operators shall supply the commissioner with a list specifying the location of each licensed machine.

VI. Tobacco vending machines shall be posted with a sign informing customers of current state law regarding tobacco sales to minors. Tobacco vendors who sell tobacco products from a vending machine shall maintain a sign at the location where the device which operates the locking device is located which informs the clerk that it is illegal to sell tobacco products to minors.

VII. Violations of this section shall be civil infractions punishable by administrative action by the commissioner against the licensee. Fines for violations of paragraphs I-V shall be no more than \$100 for a first offense, no more than \$200 for a second offense, and no more than \$300 for a third or subsequent offense within any 2-year period. Fines for violations of paragraph VI shall be punishable by a fine of no more than \$50.

8 New Chapter; Youth Access to and Use of Tobacco Products. Amend RSA by inserting after chapter 126-H the following new chapter:

CHAPTER 126-I

YOUTH ACCESS TO AND USE OF TOBACCO PRODUCTS

126-I:1 Purpose. The purpose of this chapter is to protect the children of New Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco products by ensuring that tobacco products will not be supplied to minors.

126-I:2 Definitions. In this chapter:

I. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and wrapped in any material except tobacco.

II. "Commission" means the liquor commission.

III. "Licensee" means the person in whose name a license issued pursuant to RSA 78:2 was granted.

IV. "Manufacturer" means any person engaged in the business of importing, exporting, producing, or manufacturing tobacco products who sells the product only to licensed wholesalers.

V. "Minor" means a person under the age of 18.

VI. "Person" means any individual, firm, fiduciary partnership, corporation, trust, or association, however formed.

VII. "Public educational facility" means any enclosed place or portion of such place, which is supported by public funds and which is used for the instruction of students enrolled in preschool programs and in grades kindergarten through 12. This definition shall include all administrative buildings and offices and areas within facilities supportive of instruction and subject to educational administration including, but not limited to, lounge areas, passageways, rest rooms, laboratories, study areas, cafeterias, gymnasiums, libraries, maintenance rooms, and storage areas.

VIII. "Retailer" means any person who sells tobacco products to consumers.

IX. "Sampler" means any person who distributes free tobacco products to consumers for promotional purposes.

X. "Sub-jobber" means any person doing business in this state who buys stamped tobacco products from a licensed wholesaler and who sells all the subjobber's tobacco products to other licensed sub-jobbers, and retailers.

XI. "Tobacco product" means any product containing tobacco including, but not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless tobacco, and smokeless cigarettes.

XII. "Vending machine" means any self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco, cigarettes or any other tobacco product.

XIII. "Vending machine operator" means any person operating one or more tobacco product vending machines on property or premises other than the operator's own.

XIV. "Wholesaler" means any person doing business in this state who shall purchase all the wholesaler's unstamped tobacco products directly from a licensed manufacturer and who shall sell all of the wholesaler's products to licensed wholesalers, sub-jobbers, vending machine operators, retailers, samplers and those persons exempted from the tobacco tax under RSA 78:7-b.

126-I:3 Proof of Age of Purchaser.

I. For the purposes of this chapter, any person responsible for monitoring sales from a tobacco vending machine or any person making the sale of tobacco products, which vending machine or other sale is to be made to any person who does not appear to be at least 27 years of age, shall require the purchaser to furnish any of the following documentation that such person is 18 years of age or over:

(a) A motor vehicle driver's license issued by the state of New Hampshire, or a valid driver's license issued by another state, or province of Canada, which bears the date of birth, name, address and picture of the individual.

(b) An identification card issued by the director of motor vehicles under the provisions of RSA 260:21, or any picture identification card issued by another state which bears the date of birth, name and address of the individual.

(c) An armed services identification card.

(d) A valid passport from a country with whom the United States maintains diplomatic relations.

II. Photographic identification presented under this section shall be consistent with the appearance of the person, and shall be correct and free of alteration, erasure, blemish, or other impairment.

III. The establishment of all of the following facts by a person responsible for monitoring sales from vending machine or a person or sampler making a sale or distribution of tobacco products to a person under 18 years of age shall constitute prima facie evidence of innocence and a defense to any prosecution for such sale:

(a) That the person falsely represented in writing and supported by some official documents that the person was 18 years of age or older;

(b) That the appearance of the person was such that an ordinary and prudent person would believe such person to be at least 18 years of age or older; and

(c) That the sale was made in good faith relying on such written representation and appearance in the reasonable belief that the person was actually 18 years of age or over.

126-I:4 Sale and Distribution of Tobacco Products to Minors Prohibited.

I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or furnished tobacco products to a minor. The prohibition established by this paragraph shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, subjobber, vending machine operator, sampler, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

II. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition, for the fourth and subsequent offenses, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer where the offense occurred shall be suspended for a period not to exceed the term of such license or shall be revoked as provided in RSA 78:6.

III. In addition to the civil penalty described in paragraph II, a person who violates this section shall be guilty of a violation for a first offense and a misdemeanor for each subsequent offense.

126-I:5 Distribution of Free Samples.

I. No person may distribute or offer to distribute samples of tobacco products in a public place. This prohibition shall not apply to sampling:

(a) In an area to which minors are denied access.

(b) In a store to which a retailer's license has been issued.

(c) At factory sites, construction sites, conventions, trade shows, fairs, or motorsport facilities in areas to which minors are denied access.

II. The commission shall adopt rules pursuant to RSA 541-A concerning the distribution of free samples of tobacco products to prevent their distribution to minors.

III. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition, for the fourth and subsequent offenses the sampler's license shall be suspended for a period not to exceed the term of such license or shall be revoked, as provided in RSA 78:6.

126-I:6 Possession and Use of Tobacco Products by Minors.

I. No person under 18 years of age shall purchase, attempt to purchase, possess, or use any tobacco product.

II. The prohibition on possession of tobacco products shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, sampler, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

III. A minor shall not misrepresent his or her age for the purpose of purchasing tobacco products.

IV. Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older who violates this section shall not be considered a delinquent or a child in need of services.

V. Any minor who violates this section shall be guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be required to complete up to 20 hours of community service for each offense, or both. Where available, punishment may also include participation in an education program.

126-I:7 Use of Tobacco Products on Public Educational Facility Grounds Prohibited.

I. No person shall use any tobacco product in any public school facility or on the grounds of any public educational facility.

II. Any person who violates this section shall be guilty of a violation and, notwithstanding RSA 651:2, shall be punished by a fine not to exceed \$100 for each offense.

126-I:8 Special Provisions.

I. No person shall sell, give, or furnish tobacco products to a minor who has a note from an adult requesting such sale, gift, or delivery.

II. All tobacco products shall be sold in their original packaging bearing the Surgeon General's warning.

III. The sale of single cigarettes is prohibited.

IV. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition for the fourth and subsequent offenses, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer where the offense occurred shall be suspended for a period not to exceed the term of such license or shall be revoked, as provided in RSA 78:6.

V. In addition to the civil penalty described in paragraph II, a person who violates this section shall be guilty of a violation for the first offense and a misdemeanor for each subsequent offense.

126-I:9 Enforcement Authority. The commission shall have the primary responsibility for enforcing this chapter. Local, county, and state law enforcement officers shall also have jurisdiction to enforce this chapter. Such authority may be delegated to agents working under their authority.

126-I:10 Rulemaking. The commission shall adopt rules, pursuant to RSA 541A, relative to the hearings and appeals process and relative to the proper administration of this chapter.

126-I:11 Fines.

I. All fines imposed by any court and collected for the violation of the provisions of this chapter shall be paid to the state, county, or town, the officials of which instituted the prosecution.

II. All fines imposed by the commission shall be deposited into the general fund.

126-I:12 Penalties.

I. Violations of this chapter may be prosecuted by local, county, or state law enforcement officials.

II. The commission may issue administrative warnings and assess fines and may order the commissioner of revenue administration to suspend or revoke a license issued pursuant to RSA 78 for a specified period of time for violations of this chapter.

III. On or before April 1 of each even-numbered year, the commission shall provide the department of revenue administration with a list of the names and addresses of all persons against whom fines and penalties were assessed pursuant to this chapter and who have not paid said fines and penalties in full by the date of the list. The commission shall update the information provided to the department of revenue administration prior to June 30 of each even numbered year and thereafter as requested by the commission.

126-I:13 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

126-I:14 Preemption. Nothing in this chapter shall be construed to restrict the power of any county, city, town, village, or other subdivision of the state to adopt local laws, ordinances, and regulations that are more stringent than this chapter and RSA 78.

9 Repeal. The following are repealed:

I. RSA 78:12-b, relative to prohibition of the sale and distribution of tobacco products to persons under 18 years of age.

II. RSA 78:12-c, relative to possession of tobacco by persons under 18 years of age and misrepresentation of age for the purpose of procuring tobacco products.

10 Effective Date. This act shall take effect January 1, 1998.

1997-0641h

Amendment to HB 599-FN

Proposed by the Minority of the Committee on Commerce

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

1 Vending Machine Operators Deleted. Amend RSA 78:1, V to read as follows:

V. "Wholesaler" means any person doing business in this state who shall purchase all ~~[of his]~~ unstamped tobacco products directly from a licensed manufacturer, and who shall sell all ~~[of his]~~ **the wholesaler's** products to licensed wholesalers, sub-jobbers, ~~[vending machine operators,]~~ retailers, and those persons exempted from the tobacco tax under RSA 78:7-b.

2 Vending Machine Operators Deleted. Amend RSA 78:1, VII to read as follows:

VII. "Sub-jobber" means any person doing business in this state who buys stamped tobacco products from a licensed wholesaler and who sells all ~~[of his]~~ **the subjobber's** tobacco products to other licensed sub-jobbers~~[-, vending machine operators,]~~ and retailers.

3 Vending Machines Deleted. Amend RSA 78:1, XI to read as follows:

XI. "Retailer" means any person who sells tobacco products to consumers~~[-, and any vending machine in which tobacco products are sold]~~.

4 New Paragraphs; Definitions Added. Amend RSA 78:1 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Licensee" means the person in whose name the license is issued.

XIX. "Sampler" means any person who distributes free tobacco products to consumers for promotional purposes.

5 Vending Machines Deleted; Fees Increased. Amend RSA 78:2, I and I-a to read as follows:

I. Each manufacturer, wholesaler, sub-jobber, ~~[vending machine operator and]~~ retailer, **and sampler** shall secure a license from the commissioner before engaging in the business of selling **or distributing** tobacco products in this state or continuing to engage in such business. Each wholesale, sub-job and retail outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person. ~~[Each tobacco products vending machine to be operated in this state shall be licensed by the commissioner and shall be appropriately identified as being licensed. The commissioner shall adopt rules pursuant to RSA 541-A relative to the licensing and identification of each tobacco products vending machine, and the information required in an application for a license.]~~ The commissioner shall issue a license upon application stating such information necessary to identify the outlet and the character of business transacted. The fees for licenses shall be: \$100 for a manufacturer's license; \$250 for a wholesaler's license; \$150 for a sub-jobber's license; ~~[\$70 for a vending machine operator's license; and \$10]~~ **\$50** for a retailer's license; **and \$50 for a sampler's license**, for the purpose of helping to pay the cost of administering this chapter. Each license shall be prominently displayed on the premises described in it. Any person who shall sell, offer for sale or possess with intent to sell any tobacco products without such license as provided in this section shall be subject to the penalty provisions of RSA 21-J:39.

I-a. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this section **and enforcement actions taken pursuant to this chapter and RSA 126-I** shall be public ~~[record]~~ **records**.

6 New Paragraph; Sign. Amend RSA 78:2 by inserting after paragraph I-a the following new paragraph:

I-b. The commissioner, when issuing or renewing a retailer's license under RSA 78:2, shall furnish a sign which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco products to persons under age 18 and the purchase, possession, or use of tobacco products by persons under age 18. Warning: violators of these provisions may be subject to a fine." The sign shall be posted at any location where tobacco products are sold or distributed. The commissioner shall adopt rules, under RSA 541-A, relative to placement of these warning signs in areas where tobacco products are sold or distributed.

7 Renewal. Amend RSA 78:4 to read as follows:

78:4 Term of License; Renewals. Licenses issued under RSA 78:2 shall expire on June 30 in each even-numbered year, unless sooner revoked or unless the business in respect to which the license was issued should change ownership. Licenses may be renewed upon signed application as provided in RSA 78:2 and upon paying the prescribed fee, **provided that a license shall not be renewed if there are unpaid fees, fines, or penalties resulting from violations of this chapter or RSA 126-I attributable to the license or the licensee.**

8 Suspension and Revocation of License. Amend RSA 78:6 to read as follows:

78:6 **Suspension and** Revocation of License by Commissioner. The commissioner may adopt rules pursuant to RSA 541-A relative to

accomplishing the purpose of RSA 78. The commissioner may *suspend or* revoke any license issued under RSA 78:2 for failure to comply with the provisions of this chapter and with any rules which the commissioner may adopt. ***The commissioner shall suspend or revoke any license issued under RSA 78:2 if ordered to do so pursuant to RSA 126-I.***

9 New Section; Sale of Tobacco Products. Amend RSA 78 by inserting after section 12-d the following new section:

78:12-e Vending Machines Prohibited. No person shall sell a tobacco product by use of a vending machine, or install, maintain, or operate a vending machine with the intent of making such sales. In this section "vending machine" means any self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses a product.

10 Vending Machine Operator Deleted. Amend RSA 78:14 to read as follows:

78:14 Unstamped Tobacco Products. No sub-jobber~~[-vending-machine-operator]~~ or retailer, and no other person who is not licensed under the provisions of this chapter, shall sell, offer for sale, display for sale, ship, store, import, transport, carry or possess with or without intent to sell, any tobacco products not properly stamped under RSA 78:12 or 78:13, except as provided in RSA 78:12, II. This section shall not prevent any unlicensed person able to purchase unstamped tobacco products by statute from possessing such products for ~~[his]~~ ***such person's*** own use or consumption. The provisions of this section shall not apply to common carriers transporting unstamped tobacco products. Any person who violates the provisions of this section shall be guilty of a felony.

11 Vending Machine Operators Deleted. Amend RSA 78:14a to read as follows:

78:14-a Possession of Tobacco Products of Foreign States. Licensed wholesalers~~[-]~~ ***and*** sub-jobbers ~~[and vending-machine-operators]~~ may possess tobacco products bearing a foreign state's tax stamp or indicia with an intent to sell such products only if the licensee is currently and legitimately doing business in that state.

12 Vending Machines Deleted. Amend RSA 78:12 to read as follows:

78:12 Affixing Stamps. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form for records of all tobacco products manufactured, produced, purchased, and sold. Each manufacturer, wholesaler, sub-jobber, ~~[vending-machine-operator]~~ and retailer shall keep complete and accurate records of all such tobacco products. Such records shall be safely preserved for 3 years in such manner as to insure permanency and accessibility for inspection by the commissioner and ~~[his]~~ ***the commissioner's*** authorized agents. The commissioner and ~~[his]~~ ***the*** authorized agents may examine the books, papers and records of any manufacturer, wholesaler, sub-jobber, ~~[vending-machine-operator]~~ or retailer doing business in this state, for the purpose of determining whether the tax imposed by this chapter has been fully paid, and they may investigate and examine the stock of tobacco products in or upon any premises where such tobacco products are possessed, stored or sold, for the purpose of determining whether the provisions of this chapter are being obeyed. ***Each sampler shall keep complete and accurate records of tobacco products distributed free to consumers in New Hampshire for promotional purposes. The commissioner and the commissioner's authorized agents may examine such records.***

13 New Chapter; Youth Access to and Use of Tobacco Products. Amend RSA by inserting after chapter 126-H the following new chapter:

CHAPTER 126-I

YOUTH ACCESS TO AND USE OF TOBACCO PRODUCTS

126-I:1 Purpose. The purpose of this chapter is to protect the children of New Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco products by ensuring that tobacco products will not be supplied to minors.

126-I:2 Definitions. In this chapter:

- I. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and wrapped in any material except tobacco.
- II. "Commission" means the liquor commission.
- III. "Licensee" means the person in whose name a license issued pursuant to RSA 78:2 was granted.
- IV. "Manufacturer" means any person engaged in the business of importing, exporting, producing, or manufacturing tobacco products who sells the product only to licensed wholesalers.
- V. "Minor" means a person under the age of 18.

VI. "Person" means any individual, firm, fiduciary partnership, corporation, trust, or association, however formed.

VII. "Public educational facility" means any enclosed place or portion of such place, which is supported by public funds and which is used for the instruction of students enrolled in preschool programs and in grades kindergarten through 12. This definition shall include all administrative buildings and offices and areas within facilities supportive of instruction and subject to educational administration including, but not limited to, lounge areas, passageways, rest rooms, laboratories, study areas, cafeterias, gymnasiums, libraries, maintenance rooms, and storage areas.

VIII. "Retailer" means any person who sells tobacco products to consumers.

IX. "Sampler" means any person who distributes free tobacco products to consumers for promotional purposes.

X. "Sub-jobber" means any person doing business in this state who buys stamped tobacco products from a licensed wholesaler and who sells all the subjobber's tobacco products to other licensed sub-jobbers, and retailers.

XI. "Tobacco product" means any product containing tobacco including, but not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless tobacco, and smokeless cigarettes.

XII. "Wholesaler" means any person doing business in this state who shall purchase all the wholesaler's unstamped tobacco products directly from a licensed manufacturer and who shall sell all of the wholesaler's products to licensed wholesalers, sub-jobbers, retailers, sampler's and those persons exempted from the tobacco tax under RSA 78:7-b.

126-I:3 Proof of Age of Purchaser.

I. For the purposes of this chapter, any person making the sale of tobacco products to any person who does not appear to be at least 27 years of age shall require the purchaser to furnish any of the following documentation that such person is 18 years of age or over:

(a) A motor vehicle driver's license issued by the state of New Hampshire, or a valid driver's license issued by another state, or province of Canada, which bears the date of birth, name, address and picture of the individual.

(b) An identification card issued by the director of motor vehicles under the provisions of RSA 260:21, or any picture identification card issued by another state which bears the date of birth, name and address of the individual.

(c) An armed services identification card.

(d) A valid passport from a country with whom the United States maintains diplomatic relations.

II. Photographic identification presented under this section shall be consistent with the appearance of the person, and shall be correct and free of alteration, erasure, blemish, or other impairment.

III. The establishment of all of the following facts by a person or sampler making a sale or distribution of tobacco products to a person under 18 years of age shall constitute prima facie evidence of innocence and a defense to any prosecution for such sale:

(a) That the person falsely represented in writing and supported by some official documents that the person was 18 years of age or older;

(b) That the appearance of the person was such that an ordinary and prudent person would believe such person to be at least 18 years of age or older; and

(c) That the sale was made in good faith relying on such written representation and appearance in the reasonable belief that the person was actually 18 years of age or over.

126-I:4 Sale and Distribution of Tobacco Products to Minors Prohibited.

I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or furnished tobacco products to a minor. The prohibition established by this paragraph shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, subjobber, sampler, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

II. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition, for the fourth and subsequent offenses, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, or retailer where the offense occurred shall be suspended for a period not to exceed the term of such license or shall be revoked as provided in RSA 78:6.

III. In addition to the civil penalty described in paragraph II, a person who violates this section shall be guilty of a violation for a first offense and a misdemeanor for each subsequent offense.

126-I:5 Distribution of Free Samples.

I. No person may distribute or offer to distribute samples of tobacco products in a public place. This prohibition shall not apply to sampling:

(a) In an area to which minors are denied access.

(b) In a store to which a retailer's license has been issued.

(c) At factory sites, construction sites, conventions, trade shows, fairs, or motorsport facilities in areas to which minors are denied access.

II. The commission shall adopt rules pursuant to RSA 541-A concerning the distribution of free samples of tobacco products to prevent their distribution to minors.

III. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition, for the fourth and subsequent offenses the sampler's license shall be suspended for a period not to exceed the term of such license or shall be revoked, as provided in RSA 78:6.

126-I:6 Possession and Use of Tobacco Products by Minors.

I. No person under 18 years of age shall purchase, attempt to purchase, possess, or use any tobacco product.

II. The prohibition on possession of tobacco products shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, sampler, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

III. A minor shall not misrepresent his or her age for the purpose of purchasing tobacco products.

IV. Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older who violates this section shall not be considered a delinquent or a child in need of services.

V. Any minor who violates this section shall be guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be required to complete up to 20 hours of community service for each offense, or both. Where available, punishment may also include participation in an education program.

126-I:7 Use of Tobacco Products on Public Educational Facility Grounds Prohibited.

I. No person shall use any tobacco product in any public school facility or on the grounds of any public educational facility.

II. Any person who violates this section shall be guilty of a violation and, notwithstanding RSA 651:2, shall be punished by a fine not to exceed \$100 for each offense.

126-I:8 Special Provisions.

I. No person shall sell, give, or furnish tobacco products to a minor who has a note from an adult requesting such sale, gift, or delivery.

II. All tobacco products shall be sold in their original packaging bearing the Surgeon General's warning.

III. The sale of single cigarettes is prohibited.

IV. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee. The fines for violations of this section shall not exceed \$250 for the first offense, \$500 for the second offense, and \$750 for the third and all subsequent offenses. In addition for the fourth and subsequent offenses, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, or retailer where the offense occurred shall be suspended for a period not to exceed the term of such license or shall be revoked, as provided in RSA 78:6.

V. In addition to the civil penalty described in paragraph II, a person who violates this section shall be guilty of a violation for the first offense and a misdemeanor for each subsequent offense.

126-I:9 Enforcement Authority. The commission shall have the primary responsibility for enforcing this chapter. Local, county, and state law enforcement officers shall also have jurisdiction to enforce this chapter. Such authority may be delegated to agents working under their authority.

126-I:10 Rulemaking. The commission shall adopt rules, pursuant to RSA 541A, relative to the hearings and appeals process and relative to the proper administration of this chapter.

126-I:11 Fines.

I. All fines imposed by any court and collected for the violation of the provisions of this chapter shall be paid to the state, county, or town, the officials of which instituted the prosecution.

II. All fines imposed by the commission shall be deposited into the general fund.

126-I:12 Penalties.

I. Violations of this chapter may be prosecuted by local, county, or state law enforcement officials.

II. The commission may issue administrative warnings and assess fines and may order the commissioner of revenue administration to suspend or revoke a license issued pursuant to RSA 78 for a specified period of time for violations of this chapter.

III. On or before April 1 of each even-numbered year, the commission shall provide the department of revenue administration with a list of the names and addresses of all persons against whom fines and penalties were assessed pursuant to this chapter and who have not paid said fines and penalties in full by the date of the list. The commission shall update the information provided to the department of revenue administration prior to June 30 of each even numbered year and thereafter as requested by the commission.

126-I:13 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

126-I:14 Preemption. Nothing in this chapter shall be construed to restrict the power of any county, city, town, village, or other subdivision of the state to adopt local laws, ordinances, and regulations that are more stringent than this chapter and RSA 78.

14 Reference to Tobacco Vending Machines Deleted. Amend RSA 186-B:10, IV to read as follows:

IV. "Vending facility" means a vending machine, cafeteria, snack bar, cart service, shelter, counter or any other facility for the vending of newspapers, periodicals, confections, ~~[tobacco products,]~~ foods or beverages, or any combination of them, whether dispensed automatically or manually, and which are prepared on or off the property.

15 Repeal. The following are repealed:

I. RSA 78:1, IX, relative to a definition of vending machine operator.

II. RSA 78:1, X, relative to a definition of licensed vending machine operator.

III. RSA 78:2, II and III relative to vending machines.

IV. RSA 78:3, relative to tampering with seals on vending machines.

V. RSA 78:12-b, relative to prohibition of the sale and distribution of tobacco products to persons under 18 years of age.

VI. RSA 78:12-c, relative to possession of tobacco by persons under 18 years of age and misrepresentation of age for the purpose of procuring tobacco products.

VII. RSA 78:12-d, relative to vending machines.

16 Effective Date. This act shall take effect January 1, 1998.

1997-0622h

Amendment to HB 606-FN-LOCAL

Proposed by the Committee on Judiciary and Family Law

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

1 Applicability; Purpose. RSA 169-D:1, I and II are repealed and reenacted to read as follows:

I. To recognize that certain behaviors occurring within a family or school environment indicate that a child is experiencing serious difficulties and is in need of services and corrective action in order to protect the child from the irreversibility of certain choices, and to protect the integrity of the family and the authority it must maintain in order to fulfill its responsibility to raise the next generation. To further provide the child with the treatment, care, guidance, counseling, discipline, supervision, and rehabilitation necessary to assist the child in becoming a responsible and productive member of society;

II. To recognize that we must no longer bring the weight of family problems down on the child alone but that parents must be made aware of their contribution to the problem, must account for their role in the solution to the problem, and must accept the responsibility to participate in any program of care ordered by the court in order to assure that the outcome may have a good probability of success, while, at the same time, supporting families in their mission to teach values to youth and to exercise reasonable control of their children.

2 Applicability; Purpose. RSA 169-D:1, V is repealed and reenacted to read as follows:

V. To achieve the foregoing purposes and policies by providing each child coming within the provisions of this chapter with a program of care, treatment, guidance, counseling, discipline, supervision, and rehabilitative resources which the child needs.

3 New Paragraph; "Diversion" Defined. Amend RSA 169-D:2 by inserting after paragraph IV the following new paragraph:

IV-a. "Diversion" means a decision made by a person with authority which results in specific official action of the legal system not being taken or being postponed in regards to a juvenile and, in lieu of such inaction or postponement, providing an individually designed program for delivery of services for the juvenile by a specific provider or a plan to assist the juvenile in finding a remedy for his or her inappropriate behavior. The goal of diversion is to prevent further involvement of the juvenile in the formal legal system. Diversion of a juvenile may take place either at pre-filing as an alternative to the filing of a petition, or at any time after the filing of the petition.

4 "Child in Need of Services" Defined. RSA 169-D:2, IV(c) is repealed and reenacted to read as follows:

(c) A child who has committed an offense which if committed by an adult would be a violation under the criminal code of this state, or who has violated an ordinance or by-law of a city or a town, or a child under 16 who has committed an offense which if committed by a person 16 years of age or older would be a violation under the motor vehicle code of this state; and

5 Definition; Services. Amend RSA 169-D:2, II to read as follows:

II. "Services" means care, guidance, counseling, discipline, supervision, treatment and rehabilitation or any combination thereof. ***"Services" also includes, but is not limited to, diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, constructive academic exercises, constructive recreational activities, general counseling, and counseling during a crisis situation.***

6 New Sections; Filing of Petitions; Filing by Parents, School Officials, Health Care Providers, Mental Health Practitioners, and Guardians Ad Litem; Filing by Law Enforcement Agency. Amend RSA 169-D by inserting after section 4-a the following new sections:

169-D:4-b Petition Filed by Parent, School Official, Health Care Provider, Mental Health Practitioner, or Guardian Ad Litem.

I. A petition alleging a child is in need of services may be filed by a parent, legal guardian or custodian, school official, health care provider, mental health practitioner, or guardian ad litem at the court in the judicial district in which the child is found or resides. The petition shall be in writing and verified under oath.

II. To be legally sufficient, the petition shall set forth with particularity, but not be limited to, the date, time, manner, and place of the conduct alleged, and shall state the statutory provision alleged to have been violated.

III. If the parents of a child are filing the petition, they shall include information which shows that the child and family have sought to resolve the expressed problem through available community alternatives, that the problem still remains, and that court intervention is needed.

IV. No acts which qualify as delinquent acts as described in RSA 169-B:2,IV shall be included in any petition filed under this chapter.

V. Except as provided in paragraph VI, when a school official is filing the petition, information shall be included which shows that the legally liable

school district has sought to resolve the expressed problem through available educational approaches; that the school district has sought to engage the parents or guardian in solving the problem, but they have been unwilling or unable to do so; that the problem remains; and that court intervention is needed.

VI. When a school official is filing a petition involving a child determined to be educationally disabled pursuant to RSA 186-C, the official shall include information which demonstrates that the legally liable school district:

(a) Has determined that the child is educationally disabled; and

(b) Has reviewed for appropriateness the child's current individualized education program (I.E.P.) and placement, and has made modifications where appropriate.

VII. After a legally sufficient petition has been filed, the court shall, unless the case is referred to diversion or a consent order is entered and approved, schedule an initial appearance, to be held within 30 calendar days of filing, and issue a summons including a copy of the petition, to be served personally upon the person having custody or control of the child or with whom the child may be, requiring that person to appear with the child on the specified date and time. If personal service is not possible, service shall occur at the usual place of abode of the person having custody or control of the child or with whom the child may be. If the person so notified is not the parent or guardian of the child, a parent or guardian shall be notified by first class mail, with proof of mailing, provided the parent or guardian and their residence are known, or if there is neither parent nor guardian whose residence is known, some relative, if any, if their residence is known.

VIII. If the child or the parent or guardian is not a resident of this state, or if the court determines it would be more efficient, service may be made by first class mail, with proof of mailing.

IX. A copy of the petition shall be attached to each summons or incorporated in such summons.

X. The summons shall state as follows: "Parents and other individuals chargeable by law for the child's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements. RSA 186-C, regarding children with educational disabilities, grants children certain rights to special education and related services at public expense and gives their parents the right to appeal school district decisions regarding services to be provided."

169-D:4-c Petition Filed by Law Enforcement Agency.

I. A law enforcement agency may file a petition alleging a child is in need of services 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.

II. The petitioning law enforcement officer, including a juvenile service officer, may issue a summons in hand to the child and to the child's parent, guardian or such other person having custody and control of the child or with whom the child may be living. If personal service is not possible, service shall occur at the usual place of abode of the person having custody or control of the child or with whom the child may be living. If the person summoned is not the parent or guardian of the child, the parent or guardian shall be notified by the law enforcement agency as soon as practicable provided the parent or guardian and their residence are known or if neither the parent nor guardian or their residence is known, some adult relative, if any, whose residence is known. If the person notified is not the parent or guardian of the child, a parent or guardian shall be notified by certified mail, provided the parent or guardian and their residence are known, or if there is neither parent nor guardian whose residence is known, some relative, if any, if their residence is known.

III. The summons shall contain:

(a) The title and statutory citation invoking the process for children in need of services.

(b) A statement as follows: "Parents and other individuals chargeable by law for the child's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements. RSA 186-C, regarding children with educational disabilities, grants children certain rights to special education and related services from school districts at public expense and gives their parents the right to appeal school district decisions regarding programs to be provided."

(c) Brief instructions regarding court procedure as approved by the administrative judge of the district court.

IV. The petitioning law enforcement agency shall file a copy of the summons, along with a legally-sufficient petition, with the court no later than 5 business days after the issuance of the summons.

V. To be legally sufficient, the petition shall set forth with particularity, but not be limited to, the date, time, manner, and place of the conduct alleged, shall state the statutory provision alleged to have been violated, and shall be entitled, "In the interest of, a child."

VI. After a legally sufficient petition has been filed, the court shall, unless the case is referred to diversion or a consent order is entered and approved, schedule an initial appearance to be held not later than 30 calendar days after the filing of the petition. Notice shall include a copy of the legally sufficient petition and a scheduling order, and shall be made by regular mail directed to the parent or guardian or person having custody or control of the minor.

7 Notice of Petition to Department. RSA 169-D:5-a is repealed and reenacted to read as follows:

169-D:5-a Notice of Petition to Department of Health and Human Services. The court shall serve the department of health and human services with a copy of any petition filed under RSA 169-D:4-b and 4-c, and the department shall have legal standing at and receive notice of all proceedings under this chapter from the time of such service.

8 Warrant for Failure to Appear. RSA 169-D:7, II is repealed and reenacted to read as follows:

II. If the child, parent, guardian, or other person ordered to appear, fails to appear for any scheduled hearing, a bench warrant may be issued for the child's appearance or for the appearance of anyone having custody or control of the child, or for both. Additionally, the court may proceed against the child or anyone having custody or control of the child for their failure to appear, as authorized by RSA 263:56-a.

9 Diversion Substituted for Release Without Court Referral. RSA 169-D:9 is repealed and reenacted to read as follows:

169-D:9 Diversion.

I. At any time before or during a proceeding brought pursuant to this chapter, a child and the child's family may be referred to a court-approved diversion program or other community resource. Referral may be made by a law enforcement agency or juvenile service officer with the consent of the law enforcement agency prior to or after filing a petition with the court, upon the court's own motion, or at the request of any party with the approval of the court. The administrative judge of the district court shall have authority to approve diversion procedures for use by the courts in all juvenile matters throughout the state.

II. Referral after filing is appropriate if:

(a) The facts bring the case within the jurisdiction of the court.

(b) Referral of the case is in the best interest of the public and the minor.

(c) The minor and parent, guardian, or other custodian consent with the knowledge that consent is not obligatory.

III. Referral after filing shall stay the proceedings for a period not to exceed 3 months from the date of referral, unless extended by the court for an additional period not to exceed 3 months and does not authorize the detention of the child and the court may, on its own motion or that of any party, designate or utilize a multi-disciplinary team to consider the facts and circumstances of the case, the needs of the child and family and available services and resources.

IV. During the period of referral, the court may require further conditions of conduct on the part of the child and the child's parents.

10 Initial Appearance. RSA 169-D:11 is repealed and reenacted to read as follows:

169-D:11 Initial Appearance.

I. Unless the matter is referred to diversion pursuant to RSA 169-D:9 or continued for good cause, an initial appearance shall be held within 30 calendar days of the filing of a legally sufficient petition.

II.(a) At the initial appearance, the court shall:

(1) Advise the child in writing and orally of any formal charges.

(2) Appoint counsel pursuant to RSA 169-D:12.

(3) Establish any conditions for release.

(4) Set a hearing date.

(b) However, no plea shall be taken until the child has had the opportunity to consult with counsel or until a waiver is filed pursuant to RSA 169-

D:12.

III. After hearing, the court may, with the consent of the child, dispose of the petition by ordering the child to participate in an approved court diversion program.

11 Release Pending Adjudicatory Hearing. RSA 169-D:13 is repealed and reenacted to read as follows:

169-D:13 Release Pending Adjudicatory Hearing.

I. Following the initial appearance, a child alleged to be in need of services may be ordered by the court subject to such conditions as the court may order, to be:

(a) Retained in the custody of a parent, guardian, or custodian.

(b) Released in the supervision and care of a relative.

(c) Placed in a foster home, as defined in RSA 169-C:3, XIII, which is specifically licensed to accept children in need of services with expenses chargeable as provided in RSA 169-D:29.

(d) Placed with a friend.

(e) Placed in a group home, crisis home or shelter care facility licensed pursuant to RSA 170E with expenses charged according to RSA 169-D:29.

II. The adjudicatory hearing shall be held within 30 calendar days of the initial appearance unless continued for good cause. No adjudicatory hearing for a child placed outside the child's home may be continued more than once for good cause or for a period longer than 14 days, except by agreement of all the parties.

III. All orders issued pursuant to this section shall set forth the findings, as to the form of release or any conditions, in writing and shall state any custody provisions under paragraph I.

12 Adjudicatory Hearing. Amend RSA 169-D:14, III to read as follows:

III. If the court finds the child is in need of services, it shall, unless a report done on the same child less than 3 months previously is on file, order the department of health and human services or other appropriate agency to make an investigation and written report consisting of, but not limited to, the home conditions, school record and the mental, physical and social history of the child. Evaluations performed at the Philbrook center may occur only upon receiving prior approval for such evaluation from the commissioner of the department of health and human services or designee. When ordered by the court, such investigation shall include a physical ~~[and]~~ **examination**, mental ~~[examination]~~ **health evaluation, or substance abuse evaluation** of the child, parents, guardian, or person having custody. The court shall inform the parents, guardian or person having custody and child of their right to object to the physical examination ~~[or]~~, mental health evaluation, **or substance abuse evaluation**. Objections shall be submitted in writing to the court having jurisdiction within 5 days after notification of the time and place of the examination or evaluation. The court may excuse the child, parents, guardian, or person having custody upon good cause shown. No disposition order shall be made by the court without first reviewing the investigation report, if ordered.

13 Dispositional Hearing. Amend RSA 169-D:14, V to read as follows:

V. The court shall hold a final dispositional hearing within 30 days of the adjudicatory hearing ***unless continued for good cause. No dispositional hearing for a child placed outside the child's home may be continued more than once for good cause or for a period longer than 21 days, except by agreement of all the parties.***

14 New Subparagraph; Dispositional Hearing May Include Certain After-School or Evening Programs. Amend RSA 169-D:17, I by inserting after subparagraph (d) the following new subparagraph:

(e) Requiring any child to attend structured after-school or evening programs which address some of their compliance issues, as well as supervise the child during the time of the day in which they most value their freedom and the time which is most often used to perform unruly acts.

15 Application for Review. RSA 169-G:2, I is repealed and reenacted to read as follows:

I. The department of health and human services or department of youth development services may file with the clerk of the district court, where the dispositional order was issued, an application for review of the order by the review panel. The application shall be filed within 7 days after the date of the dispositional order, but not after such date, except for good cause shown. The filing of an application for review shall stay the implementation

of the dispositional order.

16 Repeal. The following are repealed:

I. RSA 169-D:5, relative to the filing of petitions for children in need of services.

II. RSA 169-D:6, relative to the issuance of summons and notice in cases involving children in need of services.

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

1997-0638h

Amendment to HB 609-FN-LOCAL

Proposed by the Minority of the Committee on Judiciary and Family Law

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

1 Purpose. The purpose of this act is to enact the Uniform Interstate Family Support Act (UIFSA) and to improve procedures and processes related to the establishment of paternity and the establishment and enforcement of child support obligations as an integral part of achieving welfare reform by increasing child support collections, thereby increasing the income available to households with children, and enabling families to become self sufficient and leave public assistance. There shall be in effect safeguards, applicable to all confidential information handled by the department, that are designed to protect the privacy rights of the parties against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support.

2 Affidavits of Paternity; Procedure. RSA 126:6-a, II-a is repealed and reenacted to read as follows:

II-a. When an affidavit of paternity is executed in a hospital or birthing center, or before a midwife, the following procedure shall apply:

(a) A hospital, birthing center, or midwife shall provide to an unmarried mother of a live child born in a hospital, birthing center, or other location, an affidavit of paternity that can be completed by the child's mother and father to acknowledge paternity of a child, which affidavit shall be notarized by the hospital or birthing center staff if the birth occurs in a hospital or birthing center. Before a mother and a putative father can sign an affidavit of paternity, they shall be given oral and written notice of the legal consequences of signing the affidavit, including the resulting rights and responsibilities and the alternatives to acknowledging paternity by affidavit. If one parent is a minor, notice shall include any rights afforded by minority status.

(b) When a mother and father sign an affidavit of paternity, a hospital, birthing center, or midwife shall:

(1) Complete the affidavit of paternity and forward the record to the bureau of vital records and health statistics; and

(2) File a copy of the affidavit of paternity with the department of health and human services, office of child support enforcement services, at the address indicated on the affidavit of paternity.

(c) For each affidavit of paternity signed and filed in accordance with this paragraph, the department of health and human services shall reimburse the hospital, birthing center, or midwife in an amount authorized by federal law.

(d) The department of health and human services shall develop and distribute to a hospital, birthing center, or midwife free of charge the affidavit of paternity forms, information on the purpose and completion of the form, information on the rights and responsibilities of the parents, and assistance and training to staff assigned responsibility for providing the information.

3 New Paragraphs; Procedures for Affidavits of Paternity. Amend RSA 126:6-a by inserting after paragraph II-a the following new paragraphs:

II-b. When an affidavit of paternity is executed and filed with the clerk of the town where the birth occurs, the following procedures shall apply:

(a) In those instances where an affidavit of paternity is completed by the parents of the child and filed directly with the clerk of the town where the birth occurs, the clerk of the town shall forward a copy of the affidavit of paternity to the department of health and human services, office of child support, enforcement services at the address indicated on the affidavit of paternity and shall forward the electronic record to the bureau of vital records and health statistics. Before a mother and a putative father may sign an affidavit of paternity, they shall be given oral and written notice of the legal consequences of signing the affidavit, including the resulting rights and responsibilities and the alternatives to acknowledging paternity by affidavit. If one parent is a minor, notice shall include any rights afforded by minority status.

(b) The department of health and human services shall develop and distribute to a clerk of the town free of charge the affidavit of paternity forms, information on the purpose and completion of the form, information on the rights and responsibilities of the parents, and assistance and training to staff assigned responsibility for providing the information.

II-c. The bureau of vital records and health statistics shall link an electronic record of an affidavit of paternity with the original birth record of the child.

II-d. An affidavit of paternity signed pursuant to this section shall be considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of:

(1) Sixty days; or

(2) The date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party.

II-e. Written notice of rescission shall be sent to the clerk of the town in which the birth occurred, with a copy to the office of child support enforcement services at the address indicated on the affidavit, no later than 60 days after the affidavit is signed. After expiration of the rescission period, the signed affidavit of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment shall not be suspended during the challenge, except for good cause shown.

II-f. When an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, and the acknowledgment has not been rescinded pursuant to this section, any further modification of the birth certificate regarding the paternity of the child shall require an order from a court of competent jurisdiction.

4 New Paragraph; Rulemaking Authority of Commissioner. Amend RSA 126:6-a by inserting after paragraph V the following new paragraph:

VI. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to implementing the commissioner's duties under this section.

5 New Paragraph; Disclosure of Information From Vital Records. Amend RSA 126:14 by inserting after paragraph VI the following new paragraph:

VII. Disclosure of voluntary acknowledgments and adjudication of paternity by judicial or administrative processes shall be released for the purposes of the state case registry pursuant to RSA 161-B:7.

6 Repository for Information; State Case Registry. RSA 161-B:7, I is repealed and reenacted to read as follows:

I. The department is authorized and directed to establish a central unit to serve as a repository of information, to answer inquiries concerning absent parents and other persons legally responsible for support, to coordinate and supervise departmental activities in relation to such persons, and to establish a state case registry which shall contain records with respect to each case in which services are being provided by the department, and in each case in which any support order is established or modified in the state on or after October 1, 1998. The records in the state case registry shall:

(a) Contain standardized data for both parents such as names, social security numbers, and other uniform identification numbers, and with respect to those in which a support order has been established and in which the department is providing services, shall also contain the following:

(1) The amount of weekly (or other periodic) support ordered, and other amounts, including arrearages, interest or late payment penalties, and fees due or overdue under the order.

(2) Any amount described in subparagraph (a)(1) that has been collected.

(3) The distribution of such collected amounts.

(4) The birth date of any child for whom the order requires the provision of support.

(5) The amount of any lien imposed with respect to the order pursuant to RSA 161C:10 or 458:17, VII-a.

(b) With respect to those cases in which the department is providing services, be promptly established, maintained, and regularly updated on the basis of:

(1) Information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support.

(2) Information obtained from federal, state, or local sources of information.

(3) Information on support collections and distributions.

7 Statutory References Revised. Amend RSA 161-B:7, III to read as follows:

III. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the commissioner and the attorney general and their authorized designees, attorneys employed by the office of child support, attorneys responsible for the administration of RSA [546] **546-B**, the client or the client's authorized representative, and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by federal law or the rules of the department. Such records and information shall be available and used only for purposes directly connected with establishment, enforcement, or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the department that is prohibited from release by federal law, state statute, state case law, or by contract or agreement between the department and another entity if such contract or agreement prohibits release of such information.

8 Revocation and Denial of Licenses. Amend RSA 161-B:11, I to read as follows:

I. The department shall be authorized to certify that an obligor is not in compliance with a legal order of support, ***or that any party has failed, after receiving notice, to comply with subpoenas or orders relating to paternity or child support proceedings***, to any licensing board for the purpose of suspending, revoking, or denying the issuance or renewal of any appropriate license or licenses held by the obligor ***or party***.

9 New Paragraph; Recording Social Security Numbers. Amend RSA 161-B:11 by inserting after paragraph VI the following new paragraph:

VI-a. The social security number of any applicant for a professional license, commercial driver's license, occupational license, or marriage license shall be recorded on the application, provided that if the use of a number other than the social security number is allowed, the applicant shall be so advised. Any application required by this section to contain a social security number shall be confidential and not subject to the right to know law. The use of such number shall be limited to proceedings or actions to establish paternity or to establish or enforce support and shall only be provided to or entered in any out-of-state or federal data base for those cases for which the department is providing services.

10 New Paragraph; "Account" Defined. Amend RSA 161-C:2 by inserting after paragraph I the following new paragraph:

I-a. "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account.

11 New Paragraph; "Financial Institution" Defined. Amend RSA 161C:2 by inserting after paragraph VI-a the following new paragraph:

VI-b. "Financial institution" means:

(a) A depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act at 12 U.S.C. 1813(c).

(b) An institution-affiliated party, as defined in section 3(u) of such act at 12 U.S.C. 1813(u).

(c) Any federal credit union or state credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such act at 12 U.S.C. 1786(r).

(d) Any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity.

12 Access to Information Contained in Certain Records. RSA 161-C:3-a, I-III are repealed and reenacted to read as follows:

I. Notwithstanding the provisions of RSA 359-C or any other law to the contrary, the commissioner is hereby authorized to request, on an individually-named basis, and receive, on the same basis, from any bank, trust company, savings and loan association, credit union, or other financial institution doing business in this state information with respect to the transactions with any institution and the assets of any delinquent obligor or individual against whom the department is seeking to establish or enforce an obligation of support. The institution shall furnish the information within 15 days of the department's request. After such time, an institution which fails to comply with these provisions shall be liable for an administrative fine of \$50 per day.

II. The commissioner is hereby authorized to request and receive from any former or current employer, including for-profit, nonprofit, and governmental employers, information necessary to the establishment or enforcement of child support orders, including, but not limited to, the dates of employment, number of hours worked, rate of pay, date of birth, available health insurance, current address, payroll deductions, and social security number of any delinquent obligor or individual against whom the department is seeking to establish or enforce an obligation of support.

The institution shall furnish the information within 15 days of the department's request. After such time, an employer who fails to comply with these provisions shall be liable for an administrative fine of \$50 per day.

III. The department and any financial institution or employer who discloses financial or employment records under this section shall not be subject to civil liability or criminal prosecution which is based upon its disclosure under this section, or for any other action taken in good faith to comply with the requirements of this section. A financial institution shall not be liable under federal or state law to any person for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the department.

13 Statutory Reference Revised. Amend RSA 161-C:3-a, IV to read as follows:

IV. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the commissioner and the attorney general and their authorized designees, attorneys employed by the office of child support, attorneys responsible for the administration of RSA [546] **546-B**, the client or the client's authorized representative and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by the rules of the department. Such records and information shall be available and used only for purposes directly connected with establishment, enforcement or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the department that is prohibited from release by federal law, state statute, state case law, or by contract or agreement between the department and another entity if such contract or agreement prohibits release of such information.

14 New Paragraphs; Access to Information. Amend RSA 161-C:3-a by inserting after paragraph V the following new paragraphs:

VI. The department is authorized to obtain access to certain records held by public utilities and cable television companies with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, pursuant to an administrative subpoena issued by the commissioner.

VII. The department is authorized to enter into agreements with financial institutions doing business in the state:

(a) To develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each obligor who maintains an account at the financial institution and who owes past-due support, as identified by the state by name and social security number or other taxpayer identification number.

(b) In response to a notice of lien or levy, to encumber or surrender, as the case may be, assets held by such institution on behalf of any obligor who is subject to a child support lien pursuant to RSA 161-C.

15 Subpoenas. RSA 161-C:3-c is repealed and reenacted to read as follows:

161-C:3-c Power to Subpoena Financial and Other Records. Pursuant to the department's responsibilities, the commissioner shall have the power to subpoena any financial or other information needed to establish, modify, or enforce a support order. Any person who owes or is owed a duty of support who fails to comply with the requirements of this section may be subject to license revocation under RSA 161-B:11 and shall be guilty of a misdemeanor.

16 Assertion of Lien; Accrual of Support. RSA 161-C:10, I is repealed and reenacted to read as follows:

I. Twenty-one days after service of notice of debt under RSA 161-C:7, or service of the decision under RSA 161-C:9, the amount stated in the notice of debt or in the decision shall be a lien against all property of the responsible parent and shall incorporate any unpaid child support which may accrue in the future. This lien shall be separate and apart from and in addition to any other lien created by or provided for in this chapter.

17 New Sections; Denial of Passports; Hiring Reports. Amend RSA 161-C by inserting after section 26-a the following new sections:

161-C:26-b Denial of Passports.

I. The department is authorized to certify to the United States Secretary of Health and Human Services, pursuant to section 652(k) of the Social Security Act, that an obligor owes child support arrearages in an amount exceeding \$5,000.

II. The obligor shall be given prior notice of the determination and of the consequences and an opportunity to contest the determination.

161-C:26-c Hiring Reports. The department shall be authorized to receive from the state directory of new hires maintained by the department of employment security pursuant to RSA 282A:117-a, I, reports made by an employing unit of the hire, rehire, or contracting of services of any

named individual whom the department seeks to locate for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

18 Standing of Putative Fathers. RSA 168-A:2, I is repealed and reenacted to read as follows:

I. Paternity shall be established upon the filing of:

(a) A petition to the superior court by the mother, putative father, child, or public authority chargeable by law with the support of the child and the granting of such petition by the court; or

(b) An affidavit of paternity with the clerk of the town where the birth of the child occurred pursuant to RSA 126:6-a, I(b) or II. The affidavit of paternity shall have the legal effect of establishing paternity without requiring further action pursuant to this chapter, unless rescinded pursuant to RSA 126:6-a, II-d.

19 New Paragraphs; Paternity Records; Admissibility of Certain Expenses. Amend RSA 168A:2 by inserting after paragraph IV the following new paragraphs:

V. Upon determining paternity, the court shall provide a copy of the order to the bureau of vital records and health statistics, except that the office of child support enforcement services shall provide the copy to the bureau of vital records and health statistics in cases initiated by the department.

VI. Copies of bills for pregnancy, childbirth, and genetic paternity testing shall be admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of costs incurred for such services or for genetic paternity testing.

20 Remedies. RSA 168-A:4, I is repealed and reenacted to read as follows:

I. The superior court has jurisdiction of a proceeding under this chapter and all remedies for the enforcement of judgments for expenses of pregnancy and confinement for a mother or for education or necessary support of children apply including, but not limited to, the provisions of RSA 161-B, 161-C, and 458.

21 Remedies. RSA 168-A:4, III is repealed and reenacted to read as follows:

III. Upon the prayer of the petitioner the court shall schedule an immediate hearing, as in the cases of prayers for temporary relief in divorce and legal separation proceedings, on the issue of whether, and how much, the alleged father of the child in question shall be required to post in advance as security for the payment of maternity and other expenses for which he may ultimately be held liable under this chapter. The court has continuing jurisdiction to modify or revoke a judgment for future education and necessary support. All remedies under the Uniform Interstate Family Support Act and all remedies included but not limited to the provisions contained in RSA 161-B, 161-C and 458 are available for enforcement of duties of support under this chapter.

22 No Right to Jury Trial. RSA 168-A:5 is repealed and reenacted to read as follows:

168-A:5 Time of Trial; No Right To Jury Trial.

I. If the issue of paternity is raised in a proceeding commenced during the pregnancy of the mother, the trial shall not, without the consent of the alleged father, be held until after the birth or miscarriage but during such delay testimony may be perpetuated according to the laws of this state.

II. No right to a jury trial exists in a proceeding to establish paternity.

23 Statutory Reference Revised. Amend RSA 170-A:2 to read as follows:

170-A:2 Financial Responsibility. Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V ~~thereof~~ **of the compact** in the first instance. However, in the event of partial or complete default of performance ~~thereunder~~ **under the compact**, the provisions of RSA ~~[546, as amended by 1959, 271:1 and]~~ RSA 546-A ~~[as inserted by 1955, 206:1]~~ **and RSA 546-B** shall apply.

24 Statutory Reference Revised. Amend the introductory paragraph of RSA 173-B:11-a, II to read as follows:

II. The superior court, in any action determining the obligation of the obligor to support the obligee or the parties' minor children, including but not limited to actions for divorce, pursuant to RSA 458; custody, pursuant to RSA 458; paternity, pursuant to RSA 168-A; child support, pursuant to RSA 161-B, RSA 161-C and RSA 458; reimbursement of public assistance, pursuant to RSA 161C; and the uniform ~~reciprocal enforcement of~~ **interstate family** support act, pursuant to RSA ~~[546]~~ **546-B**; shall take judicial notice of any support obligation established pursuant to RSA 173-

B:4, I(b)(4), upon the filing of a certified copy of the district court order in the superior court by:

25 New Section; Reports to Department of Employment Security; Newly Hired, Rehired, or Contracted Service Employees. Amend RSA 282-A by inserting after section 117 the following new section:

282-A:117-a Employment Reports to Department of Employment Security; State Directory of New Hires.

I. The commissioner shall, pursuant to an agreement with the department of health and human services which shall include payment of costs of administration, maintain a state directory of new hires. Any employing unit shall report to the department for entry into the directory:

(a) The hiring of an individual who earns wages or any other form of compensation in this state;

(b) The rehiring of such individual who was permanently laid off or otherwise terminated from employment; and

(c) The contracting for services, other than casual labor, in this state with an individual, in accordance with the rules adopted by the commissioner, when reimbursement for such services is anticipated to exceed \$2,500.

II. An employing unit with employees in 2 or more states, which transmits reports magnetically or electronically, may comply with this section by designating one of the states as the state to which the reports will be transmitted. Such an employing unit shall notify the United States Secretary of the Department of Health and Human Services in writing as to which state is so designated.

III. An employing unit required to report under paragraph I shall mail or transmit a copy of the individual's W-4 form to the department or send all information required in paragraph V in a format acceptable to the department by electronic or magnetic tape or by any other means mutually agreed upon.

IV. The employing unit shall submit to the department a report of an individual's hire, rehire, or contract for services within 20 days of such action or, in the case of magnetic or electronic reports, by 2 monthly transmissions not less than 12 days nor more than 16 days apart. The report shall contain:

(a) The individual's complete name, address, and social security number.

(b) The employing unit's name, address, and federal and state identification number.

V.(a) Information reported under paragraphs III and IV shall be entered by the department in the state directory of new hires within 5 business days of receipt.

(b) The department shall report to the National Directory of New Hires only those named individuals for whom the department of health and human services is providing services.

VI. The department and the department of health and human services shall conduct automated comparisons of the social security numbers reported by employing units pursuant to paragraphs III and IV and the social security numbers appearing in the records of the state case registry of child support cases pursuant to RSA 161-B:7, I. When such comparison reveals a match with respect to the social security number of an individual required to provide support under a support order, the department shall provide the department of health and human services with the name, address, and social security number of the individual to whom the social security number is assigned, and the employing unit's name, address, and federal and state identification number.

VII. The department of health and human services shall be authorized to use the information transmitted to it by the department to establish paternity and establish, modify, and enforce child support obligations against a named individual and may disclose such information about such named individual to any agency under contract with the department of health and human services to carry out such purposes.

VIII. State agencies responsible for administering any program specified in 42 U.S.C. 1320b-7(b) shall have access to information reported by employers pursuant to this section pertaining to named individuals for purposes of verifying eligibility for the program.

IX. State agencies operating workers' compensation programs shall have access to information reported by employers pursuant to this section for the purposes of administering such programs.

X. Any individual earning wages in this state, hired or rehired by an employing unit, or entering into a contract for services with an employing unit, shall be deemed to consent to the release to, and the disclosure by, the department of the information consistent with the provisions of this section.

XI. This section does not apply to an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of

such agency has determined that reporting pursuant to this section with respect to the employee could endanger the employee's safety or compromise an ongoing investigation or intelligence mission.

XII. The commissioner and the commissioner of health and human services may adopt such rules as may be necessary for the efficient administration of this section pursuant to RSA 541A.

26 New Paragraph; Support and Custody of Children. Amend RSA 458:17 by inserting after paragraph VII the following new paragraph:

VII-a. Liens shall arise by operation of law against real and personal property for child support arrearages owed by an obligor who resides or owns property in the state and shall incorporate any unpaid child support which may accrue in the future. Full faith and credit shall be given to such liens arising in another state when the state agency, party, or other entity seeking to perfect the lien complies with the procedural rules relating to recording or serving liens. Notwithstanding any law to the contrary, such rules may not require judicial notice prior to perfecting the lien.

27 Department of Health and Human Services as Responsible Agency. RSA 458-B:3, III is repealed and reenacted to as follows:

III. Collection and disbursement of all support orders initially issued in the state on or after January 1, 1994, which are not being enforced by the department, shall be enforced through the state disbursement unit where the obligor is subject to income withholding pursuant to 458-B, whether or not the obligee has applied for IV-D services. In such cases, the department's role is limited to monitoring, collecting, and disbursing moneys under this section.

28 Reference to Wages Changed to Income. Amend the introductory paragraph of RSA 458B:5, I to read as follows:

I. When support is payable through the department if ~~[wages are]~~ **income is** not subject to immediate assignment under this chapter, including cases subject to a finding of good cause or to a written agreement, before notice of the ~~[wage]~~ **income** assignment may be given to an employer by the department, the obligor shall be given at least 15 days' prior notice of the commencement of ~~[wage]~~ **income** withholding procedures under this chapter. The notice to the obligor shall include:

29 Reference to Wages Changed to Income. Amend RSA 458-B:5, II to read as follows:

II. For orders issued or modified on or after October 1, 1985, when support is not payable through the department and ~~[wages are]~~ **income is** not subject to immediate assignment under this chapter, including cases subject to a finding of good cause or to a written agreement, before an individual or a legal representative seeks to establish ~~[a wage]~~ **an income** assignment payable directly to an obligee, notice must be given to the obligor at least 15 days prior to commencement of ~~[wage]~~ **income** assignment procedures under this chapter. The notice to the obligor shall include the notice provisions under subparagraphs (a), (b), and (c) of paragraph I and a notice of the period within which the obligor must give written notice to the obligee in order to contest the assignment.

30 Genetic Tests to Determine Paternity. RSA 522:1 is repealed and reenacted to read as follows:

522:1 Authority for Test.

I. In a civil action in which paternity is a contested and relevant issue, the mother, child and putative father shall submit to blood, tissue typing and/or genetic marker tests which may include, but are not limited to, tests of red cell antigens, serum proteins and deoxyribonucleic acid (DNA) analysis. The genetic samples collected shall be subject to safeguarding and confidentiality procedures and used exclusively for purposes of paternity testing. Testing shall be ordered as follows:

(a) The court may order genetic paternity testing upon the motion of any party or upon its own initiative. If the court determines that a motion for testing is made for the purpose of delay, the court may deny the motion. The court may order payment of costs related to testing. If any party refuses to submit to such tests, the court may resolve the question of paternity against such party.

(b) The department of health and human services (the department) may order genetic paternity testing upon agreement of the parties or upon the request of any party, if the request is supported by a sworn statement alleging paternity and setting forth facts which reasonably establish the requisite sexual contact; or denying paternity and setting forth facts which reasonably establish a lack of the requisite sexual contact. The state shall pay the costs related to such testing, subject to recoupment from the father if paternity is established.

II. For genetic paternity testing pursuant to RSA 522:1, I(b) the following administrative procedures apply:

(a) The department shall serve the parties with notice and order for genetic paternity testing. Unless the order is contested by any party, the order is effective as to the party served, upon the expiration of 11 days after service. Service of the notice and order shall be by certified mail or other method as provided by law and shall include:

- (1) The names and dates of birth of the individuals to be tested pursuant to the order;
 - (2) A statement explaining the rights and responsibilities associated with paternity establishment;
 - (3) A copy of the order including an appointment with the date, time and place for collecting the genetic samples;
 - (4) A statement of the administrative and judicial procedures available to contest the order.
- (b) Any party may request a supervisory review of the order. The request must be in writing and received by the department within 10 days of the date that the party received service of the notice and order. Issues that may be considered on review are limited to mistake of fact. Within 10 days of the review, the person conducting the review shall issue a written decision and forward it to the parties.
- (c) Within 10 days of the written decision pursuant to the supervisory review, any party may request an administrative hearing. The hearing shall be conducted by a hearings officer according to the rules for fair hearings adopted by the commissioner pursuant to RSA 541-A. Issues that may be considered at the administrative hearing are limited to mistake of fact. Within 10 days of the administrative hearing, the person conducting the hearing shall issue a written decision and forward it to the parties.
- (d) Within 10 days of the written decision of the hearings officer, any party may appeal to the superior court. Such appeal shall be restricted to a review of the record. Upon review the court may request the submission of additional evidence and order a hearing.
- (e) Nothing in this section shall preclude any party from filing a petition to determine paternity directly with the court and seeking a judicial determination.

31 New Chapter; Uniform Interstate Family Support Act (UIFSA). Amend RSA by inserting after chapter 546-A the following new chapter:

CHAPTER 546-B

UNIFORM INTERSTATE FAMILY SUPPORT ACT

Article 1

General Provisions

546-B:1 Definitions. In this chapter:

- I. "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent or another obligee.
- II. "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.
- III. "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.
- IV. "Home state" means the state in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of the filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month or other period.
- V. "Income" includes earnings or other periodic entitlements to money from any source and/or any other property subject to withholding for support under the law of this state.
- VI. "Income-withholding order" means an order or other legal process or a notice pursuant to RSA 458-B:6 directed to an obligor's employer, as defined by RSA 458-B:1, V, to withhold support from the income of the obligor.
- VII. "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.
- VIII. "Initiating tribunal" means the authorized tribunal in an initiating state.
- IX. "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

X. "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

XI. "Law" includes decisional and statutory law and rules and regulations having the force of law.

XII. "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(c) An individual seeking a judgment determining parentage of the individual's child.

XIII. "Obligor" means an individual, or the estate of a decedent:

(a) Who owes or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order.

XIV. "Register" means to file a support order or judgment determining parentage in the office of the clerk of the appropriate superior court or other authorized tribunal.

XV. "Registering tribunal" means a tribunal in which a support order is registered.

XVI. "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

XVII. "Responding tribunal" means the authorized tribunal in a responding state.

XVIII. "Spousal support order" means a support order for a spouse or former spouse of the obligor.

XIX. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

(a) An Indian tribe; and

(b) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

XX. "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; and

(d) To locate obligors or their assets.

XXI. "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

XXII. "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

XXIII. "Tribunal of this state" means the superior court, the department of health and human services, or a combination.

546-B:2 Remedies Cumulative. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

Article 2

Jurisdiction

Part A. Extended Personal Jurisdiction

546-B:3 Bases for Jurisdiction Over Nonresident. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

I. The individual is personally served with notice within this state.

II. The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

III. The individual resided with the child in this state.

IV. The individual resided in this state and provided prenatal expenses or support for the child.

V. The child resides in this state as a result of the acts or directives of the individual.

VI. The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.

VII. The individual asserted parentage in the putative father registry maintained in this state by the department of health and human services.

VIII. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

546-B:4 Procedure When Exercising Jurisdiction Over Nonresident. A tribunal of this state exercising personal jurisdiction over a nonresident under RSA 546-B:3 may apply RSA 546-B:27 relative to special rules of evidence and procedure, to receive evidence from another state, and RSA 546-B:29, relative to assistance with discovery, to obtain discovery through a tribunal of another state. In all other respects, Articles 3 through 7, RSA 546-B:12 - 53, do not apply, and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

Part B. Proceedings Involving 2 or More States

546-B:5 Initiating and Responding Tribunal of This State. Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

546-B:6 Simultaneous Proceedings in Another State.

I. A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state; and

(c) If relevant, this state is the home state of the child.

II. A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(a) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state is the home state of the child.

546-B:7 Continuing, Exclusive Jurisdiction.

I. A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

II. A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

III. If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(a) Enforce the order that was modified as to amounts accruing before the modification;

(b) Enforce nonmodifiable aspects of that order; and

(c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

IV. A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

V. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

VI. A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

546-B:8 Enforcement and Modification of Support Order by Tribunal Having Continuing Jurisdiction.

I. A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

II. A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply RSA 546-B:27, relative to special rules of evidence and procedure, to receive evidence from another state and RSA 546-B:29, assistance with discovery, to obtain discovery through a tribunal of another state.

III. A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

Part C. Reconciliation of Multiple Orders

546-B:9 Recognition of Controlling Child Support Order.

I. If a proceeding is brought under this chapter, and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

II. If a proceeding is brought under this chapter, and 2 or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized;

(b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized; or

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and must be so recognized.

III. If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be so recognized under paragraph II. The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

IV. The tribunal that issued the controlling order recognized under paragraph I, II, or III is the tribunal that has continuing, exclusive jurisdiction under RSA 546-B:7.

V. A tribunal of this state which determines by order the identity of the controlling order under subparagraph II(a) or (b), or which issue a new controlling order under subparagraph II(c) shall include in that order the basis upon which the tribunal made its determination.

VI. Within 30 days after issuance of the order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

546-B:10 Multiple Child Support Orders for 2 or More Obligees. In responding to multiple registrations or petitions for enforcement of 2 or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

546-B:11 Credit for Payments. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

Article 3

Civil Provisions of General Application

546-B:12 Proceedings Under This Chapter.

I. Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

II. This chapter provides for the following proceedings:

(a) Establishment of an order for spousal support or child support pursuant to Article 4, RSA 546-B:31;

(b) Enforcement of a support order and income-withholding order of another state without registration pursuant to Article 5, RSA 546-B:32-33;

(c) Registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6, RSA 546-B:39-45;

(d) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to Article 2, Part B, RSA 546-B:5-8;

(e) Registration of an order for child support of another state for modification pursuant to Article 6, RSA 546-B:39-45;

(f) Determination of parentage pursuant to Article 7, RSA 546-B:53; and

(g) Assertion of jurisdiction over nonresidents pursuant to Article 2, Part A, RSA 546-B:3-4.

III. An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

546-B:13 Action by Minor Parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on

behalf of or for the benefit of the minor's child.

546-B:14 Application of Law of This State. Except as otherwise provided by this chapter, a responding tribunal of this state:

I. Shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

II. Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

546-B:15 Duties of Initiating Tribunal.

I. Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward 3 copies of the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

II. If a responding state has not enacted this chapter or a law or procedure substantially similar to this chapter, a tribunal of this state may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

546-B:16 Duties and Powers of Responding Tribunal.

I. When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to RSA 546-B:12, III, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

II. A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a capias for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the capias in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorney's fees and other fees and costs; or

(l) Grant any other available remedy.

III. A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

IV. A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with

provisions for visitation.

V. If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

546-B:17 Inappropriate Tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

546-B:18 Duties of Support Enforcement Agency.

I. A support enforcement agency of this state shall, upon request, provide services to a petitioner in a proceeding under this chapter insofar as is consistent with its responsibilities under Title IV-D of the Social Security Act, as amended.

II. A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) Within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

III. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

546-B:19 Duty of Attorney General. If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

546-B:20 Private Counsel. An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

546-B:21 Duties of State Information Agency.

I. The state central registry is the state information agency under this chapter.

II. The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of tribunals and support enforcement agencies of other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

546-B:22 Pleadings and Accompanying Documents.

I. A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter shall verify the petition. Unless otherwise ordered under RSA 546B:23, relative to nondisclosure of information in exceptional circumstances, the petition or accompanying documents shall provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition shall be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

II. The petition shall specify the relief sought. The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

546-B:23 Nondisclosure of Information in Exceptional Circumstances. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

546-B:24 Costs and Fees.

I. The petitioner may not be required to pay a filing fee or other costs.

II. If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

III. The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6, RSA 546-B:39-52, relative to enforcement and modification of support order after registration, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

546-B:25 Limited Immunity of Petitioner.

I. Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

II. A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

III. The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

546-B:26 Nonparentage as Defense. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

546-B:27 Special Rules of Evidence and Procedure.

I. The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

II. A verified petition, affidavit, and/or other document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

III. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

IV. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

V. Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

VI. In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

VII. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

VIII. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

IX. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

546-B:28 Communications Between Tribunals. A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

546-B:29 Assistance With Discovery. A tribunal of this state may:

I. Request a tribunal of another state to assist in obtaining discovery.

II. Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

546-B:30 Receipt and Disbursement of Payments. A support enforcement agency or other tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

Article 4

Establishment of Support Order

546-B:31 Petition to Establish Support Order.

I. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(a) The individual seeking the order resides in another state; or

(b) The support enforcement agency seeking the order is located in another state.

II. The tribunal may issue a temporary child support order if:

(a) The respondent has signed a verified statement acknowledging parentage;

(b) The respondent has been determined by or pursuant to law to be the parent; or

(c) There is other clear and convincing evidence that the respondent is the child's parent.

III. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to RSA 546-B:16, relative to duties and powers of responding tribunal.

Article 5

Enforcement of Order of

Another State Without Registration

546-B:32 Employer's Receipt of Income-Withholding Order of Another State. An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer, under RSA 458-B, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

546-B:33 Employer's Compliance with Income-Withholding Order of Another State.

- I. Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.
- II. The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.
- III. Except as otherwise provided by paragraph IV and RSA 546-B:34, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:
 - (a) The duration and the amount of periodic payments of current child support, stated as a sum certain;
 - (b) The person or agency designated to receive payments and the address to which the payments are to be forwarded;
 - (c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
 - (d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
 - (e) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.
- IV. The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:
 - (a) The employer's fee for processing an income-withholding order;
 - (b) The maximum amount permitted to be withheld from the obligor's income;
 - (c) The time periods within which the employer must implement the withholding order and forward the child support payment.

546-B:34 Compliance with Multiple Income-Withholding Orders. If the obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

546-B:35 Immunity from Civil Liability. An employer who complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding child support from the obligor's income.

546-B:36 Penalties for Noncompliance. An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

546-B:37 Contest by Obligor.

- I. An obligor may contest the validity of enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. RSA 546-B:42, relative to choice of law applies to the contest.
- II. The obligor shall give notice of the contest to:
 - (a) A support enforcement agency providing services to the obligee;
 - (b) Each employer which has directly received an income-withholding order; and
 - (c) The person or agency designated to receive payments in the income-withholding order; or if no person or agency is designated, to the obligee.

546-B:38 Administrative Enforcement of Orders.

- I. A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.
- II. Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate,

use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

Article 6

Enforcement and Modification of

Support Order After Registration

Part A. Registration and Enforcement of Support Order

546-B:39 Registration of Order for Enforcement. A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

546-B:40 Procedure to Register Order for Enforcement.

I. A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

- (a) A letter of transmittal to the tribunal requesting registration and enforcement;
- (b) Two copies, including one certified copy, of all orders to be registered, including any modification of an order;
- (c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (d) The name of the obligor and, if known:
 - (1) The obligor's address and social security number;
 - (2) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (3) A description and the location of property of the obligor in this state not exempt from execution; and
- (e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

II. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

III. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

546-B:41 Effect of Registration for Enforcement.

I. A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

II. A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

III. Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

546-B:42 Choice of Law.

I. The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

II. In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

Part B. Contest of Validity or Enforcement

546-B:43 Notice of Registration of Order.

I. When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

II. The notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages, and precludes further contest of that order with respect to any matter that could have been asserted; and

(d) Of the amount of any alleged arrearages.

III. Upon registration of an income-withholding order for enforcement, the registering tribunal or, if applicable, the support enforcement agency, shall notify the obligor's employer pursuant to RSA 458-B.

546-B:44 Procedure to Contest Validity or Enforcement of Registered Order.

I. A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RSA 546-B:45, relative to contest of registration or enforcement.

II. If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

III. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

546-B:45 Contest of Registration or Enforcement.

I. A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made; or

(g) The statute of limitation under RSA 546-B:42, relative to choice of law, precludes enforcement of some or all of the arrearages.

II. If a party presents evidence establishing a full or partial defense under paragraph I, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

III. If the contesting party does not establish a defense under paragraph I to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

546-B:46 Confirmed Order. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Part C. Registration and Modification

of Child Support Order

546-B:47 Procedure to Register Child Support Order of Another State for Modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Part A of this article, RSA 546B:39-42, if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

546-B:48 Effect of Registration for Modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of RSA 546-B:49, relative to modification of child support order of another state, have been met.

546-B:49 Modification of Child Support Order of Another State.

I. After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(a) The following requirements are met:

(1) The child, the individual obligee, and the obligor do not reside in the issuing state;

(2) A petitioner who is a nonresident of this state seeks modification; and

(3) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal, and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

II. Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

III. A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under RSA 546-B:9 establishes the aspects of the support order which are nonmodifiable.

IV. On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

546-B:50 Recognition of Order Modified in Another State. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

I. Enforce the order that was modified only as to amounts accruing before the modification.

II. Enforce only nonmodifiable aspects of that order.

III. Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification.

IV. Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

546-B:51 Jurisdiction to Modify Child Support Order of Another State When Individual Parties Reside in This State.

I. If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction

to enforce and to modify the issuing state's child support order in a proceeding to register that order.

II. A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7 and 8 do not apply.

546-B:52 Notice to Issuing Tribunal of Modification. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Article 7

Determination of Parentage

546-B:53 Proceeding to Determine Parentage.

I. A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

II. In a proceeding to determine parentage, a responding tribunal of this state shall apply the procedural and substantive law of this state, and the rules of this state on choice of law.

Article 8

Interstate Rendition

546-B:54 Grounds for Rendition.

I. For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

II. The governor of this state may:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(b) On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

III. A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state.

546-B:55 Conditions of Rendition.

I. Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously, the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

II. If, under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

III. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

Article 9

Miscellaneous Provisions

546-B:56 Uniformity of Application and Construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

546-B:57 Rulemaking Authority. The commissioner of the department of health and human services may adopt rules, pursuant to RSA 541-A, which are deemed necessary for the efficient administration of the duties with which the department is charged under Title IV-D of the Social Security Act, as amended, to provide interstate child support services, provided that such rules shall not be inconsistent with the provisions of this chapter.

546-B:58 Short Title. This chapter may be cited as the Uniform Interstate Family Support Act.

546-B:59 Severability Clause. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

546-B:60 Savings Clause. This chapter replaces former RSA 546, except that former RSA 546 shall be taken and treated as remaining in full force and effect for the purpose of sustaining any pending action or proceeding. Any judgment for support obtained under former RSA 546, or otherwise, shall be subject to enforcement under this chapter.

32 Reference Changes. Amend the following RSA provisions by replacing "wage" "a wage" or "wages" with "income" or "an income": the chapter heading of RSA 458-B; 458-B:1, V; 458-B:1, IX; the section heading of RSA 458-B:2; 458-B:2, I; 458-B:2, III and IV; 458-B:3, II; 458-B:3, VII; 458-B:4, III; 458-B:5, III; 458-B:6, VI; 458-B:6, XI; 458-B:7, II; 458-B:8; 458-B:9; the section heading of 458-B:10.

33 Repeal. The following are repealed:

- I. RSA 161-B:5-a, relative to the formula for distribution of child support.
- II. RSA 458-B:3, V, relative to an obligee receiving direct payment from obligor's employer.
- III. RSA 546, relative to the Uniform Reciprocal Enforcement of Support Act.

34 Effective Date.

- I. Section 25 and paragraph I of section 33 of this act shall take effect October 1, 1997.
- II. Section 31 and paragraph III of section 33 of this act shall take effect January 1, 1998.
- III. Sections 6 and 27 of this act shall take effect October 1, 1998.
- IV. The remainder of this act shall take effect 60 days after its passage.

1997-0517h

Amendment to HB 616-FN

Proposed by the Committee on Judiciary and Family Law

Amend the bill by deleting section 5 and renumbering the original sections 6-9 to read as 5-8, respectively.

Amend RSA 500-A:7-a as inserted by section 5 of the bill by replacing it with the following:

500-A:7-a Qualifications for Jurors.

- I. A juror shall be 18 years of age or older on or before the first day of reporting for jury duty.
- II. A juror shall be a citizen of the United States and a resident of the county of jury service.

- III. A juror shall have the ability to read, speak, and understand the English language.
- IV. A juror shall not be subject to any physical or mental disability which would bar effective jury service.

AMENDED ANALYSIS

This bill changes the method for compiling the master jury list. The voter lists and the driver's license list will be blended annually into a master jury list by the administrative office of the courts.

This bill repeals most jury exemptions.

This bill also authorizes the chief justice of the superior court to designate one county for a "one day, one trial" pilot program, which will guarantee that each juror is required to report for jury duty on only one day and to sit on the trial of only one case.

March 6, 1997

1997-0348h

Amendment to HB 636-LOCAL

Proposed by the Committee on Local and Regulated Revenues

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

AN ACT relative to facilitating the transfer of contaminated property acquired by a municipality to a buyer eligible to participate in the brownfields program.

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

1 New Section; Abatement for Brownfields Property. Amend RSA 76 by inserting after section 19 the following new section:

76:19-a Abatement for Brownfields Property.

I. Upon application of a person who qualifies as eligible to participate in the brownfields program established under RSA 147-F, the governing body of the municipality may make an abatement of prior years' taxes and accrued interest to the applicant as it shall deem just and equitable.

II. Notwithstanding RSA 76:16, I, an application pursuant to paragraph I may be made at any time during the year.

III. Nothing in this section shall affect the authority of the governing body of a municipality to grant an abatement pursuant to any other provision of law.

2 Municipal Eligibility for Participation in Brownfields Program. Amend RSA 147-F:4, I(b) to read as follows:

(b) The person, **including a municipality**, is a current owner of eligible property whose liability under RSA 147-B is based solely on the person's status as owner and who did not cause or contribute to the contamination at the property.

3 New Paragraph; Sale by Municipality to an Eligible Purchaser. Amend RSA 147-F:5 by inserting after paragraph III the following new paragraph:

III-a. A municipality that acquires an environmentally contaminated property by tax deed in order to convey the property to an eligible person in the brownfields program shall be entitled to the liability protection provided in RSA 147-F:7.

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

AMENDED ANALYSIS

This bill clarifies a municipality's ability to acquire environmentally contaminated property, without liability for the contamination, in order to convey the property to an eligible person in the brownfields program and allows municipalities to grant tax abatements to facilitate the transfer of the property.

1997-0529h

Amendment to HB 638-FN

Proposed by the Committee on Environment and Agriculture

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1 and 2 to read as 2 and 3, respectively:

1 Septage and Sludge Permit System; Fee for Random Testing Program Added. Amend RSA 485-A:4, XVI-a to read as follows:

XVI-a. To regulate the removal, transportation, and disposal of septage and sludge through administration of a permit system. As a condition of any permit issued under this chapter, the department may require payment of a reasonable fee, established by rules adopted under RSA 485A:6, X-a. *A portion of the fee, as determined in rules adopted by the commissioner, shall be used for the purposes of the random testing and inspection program established in paragraph XVI-b. The remainder of the* funds collected under this paragraph shall be deposited with the treasurer as unrestricted revenue.

AMENDED ANALYSIS

This bill requires the commissioner of the department of environmental services to implement a program of random on-site inspection of sludge or biosolid samples before any land application by persons obtaining a permit for land application of sludge or biosolids. This bill also allows for a portion of the septage and sludge permit fee to be used for purposes of the program.

1997-0552h

Amendment to HB 646-FN-A

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend the bill by replacing section 2 with the following:

2 Appropriation. The sum of \$500,000 for the fiscal year ending June 30, 1998 and the sum of \$500,000 for the fiscal year ending June 30, 1999 are hereby appropriated to the department of health and human services for the purposes of providing public assistance for child day care to at least those families whose gross monthly income is 190 percent or less of the federal poverty guidelines and who meet all other eligibility requirements. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

1997-0399h

Amendment to HB 648-LOCAL

Proposed by the Committee on Local and Regulated Revenues

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

AN ACT establishing a local option fee for local or regional transportation improvements.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Local Option Fee for Transportation Improvements. Amend RSA 261:153 by inserting after paragraph V the following new paragraph:

VI.(a) Beginning on July 1, 1997, in addition to the motor vehicle registration fees collected under paragraphs I and V, the legislative body of a municipality may vote to collect an additional fee for the purpose of supporting a municipal and transportation improvement fund, which shall be a capital reserve fund established for this purpose and governed by the provisions of RSA 34 and RSA 35 for cities and towns, respectively. Of the amount collected, up to 10 percent, but not more than \$0.50 of each fee paid, may be retained by the local official designated by the municipal government or by the town or city clerk for administrative costs. The remaining amount shall be deposited into the municipal transportation improvement fund established to allow a community to fund, wholly or in part, improvements in the local or regional transportation system including roads, bridges, bicycle and pedestrian facilities, parking and intermodal facilities and public transportation. The funds may be used for engineering, right-of-way acquisition, and construction costs of transportation facilities, and for operating and capital costs of public transportation only. The funds may be used as matching funds for state or federal funds allocated for local or regional transportation improvements. Such funds shall be appropriated by the legislative body of the municipality for the purposes provided in this paragraph only and shall not be used to offset any other non-transportation appropriations made by the municipality.

(b) The maximum fee charged under this paragraph shall be \$5. The municipality shall establish the required fee, up to the maximum amount allowable, based on anticipated funding needs for transportation improvements. The additional fee shall be collected from all vehicles, both passenger and commercial, with the exception of all terrain vehicles as defined in RSA 215-A:1, I-b and antique motor vehicles or motorcycles, as defined in RSA 259:4.

(c) Any town or city may adopt the provisions of subparagraphs (a) and (b) for an optional additional motor vehicle registration fee to fund municipal transportation improvements in the following manner:

(1) In a town, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39:3, and shall be voted on by ballot. In a city, the legislative body may consider and act upon the question in accordance with their normal procedures for passage of resolutions, ordinances, and other legislation. The legislative body of a city may vote to place the question on the official ballot for any regular municipal election, or in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

(2) The selectmen or city council shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(3) A town or city may choose to restrict the use of the municipal transportation improvement fund to one or more of the transportation system modes provided for in paragraph VI(a). Any such restriction shall be so stated in the wording of the question.

(d) If a majority of those voting on the question vote "Yes," the additional motor vehicle registration fee shall apply within the town or city on the date set by the selectmen or the city council.

(e)(1) A town or city may consider rescinding its action in the manner described in subparagraph (c). The wording of the question shall be the same as that was adopted by the town or city, except the word "adopt" shall be changed to "rescind."

(2) If a majority of those voting on the question vote "Yes," following the action taken to rescind, the additional motor vehicle registration fee shall not apply within the town or city.

2 Establishment of Reserves Authorized; Transportation Improvements; Cities. Amend RSA 34:1 to read as follows:

34:1 Establishment of Reserves Authorized. Any city may raise and appropriate money as provided by RSA 34:2 for the establishment of a capital reserve fund for the financing of all or part of the cost of ~~[(a)]~~:

I. The construction, reconstruction, or acquisition of a specific capital improvement, or the acquisition of a specific item or of specific items of equipment~~[-or (b)]~~;

II. The construction, reconstruction, or acquisition of a type of capital improvement or the acquisition of a type of equipment~~[-or (c)]~~;

III. A reappraisal by appraisers of the department of revenue administration or such other appraisers, appraisal firms or corporations approved by the commissioner of revenue administration, of the real estate in such city for tax assessment purposes~~[-or (d)]~~;

IV. The acquisition of land~~[-or (e)]~~;

V. The acquisition of a tax map of such city~~[-]~~; ***or***

VI. Municipal and regional transportation improvement projects including engineering, right-of-way acquisition and construction costs of transportation facilities, and for operating and capital costs for public transportation.

3 Establishment of Reserves Authorized; Transportation Improvements; Towns. Amend RSA 35:1, V, to read as follows:

V. Extraordinary legal fees and expenses related to present or foreseeable litigation involving the town or its officers and employees~~[-]~~; ***or***

VI. Municipal and regional transportation improvement projects including engineering, right-of-way acquisition and construction costs of transportation facilities, and for operating and capital costs for public transportation.

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

AMENDED ANALYSIS

This bill allows municipalities to implement a local option fee to fund a capital reserve fund to be used for transportation improvements at the local or regional level.

1997-0441h

Amendment to HB 667

Proposed by the Committee on Labor, Industrial and Rehabilitative Services

Amend the bill by replacing section 2 with the following:

2 Contributions Received After Computation Date. Amend RSA 282-A:86 to read as follows:

282-A:86 Computation Date. The computation date shall be January 31. The total for all past years of all benefits charged as of the computation date against an employer's separate account shall be subtracted from the total of all contributions paid on an employer's own behalf and credited as of the computation date to ~~his~~ **the employer's** separate account for all past years. ***Delinquent contributions received after January 31, 1997, shall be credited to the employer's separate account on the next computation or recomputation date.*** If benefits so charged exceed contributions so credited, the excess shall be computed as a percent of the employer's average annual payroll which percent shall determine ~~his~~ **the** contribution rate as provided in RSA 82A:87, II. If contributions so credited exceed benefits so charged, the excess shall be computed as a percent of the employer's average annual payroll which percent shall determine ~~his~~ **the** contribution rate as provided in RSA 282-A:87, I.

Amend RSA 282-A:166, I(c) as inserted by section 4 of the bill by replacing it with the following:

~~HH:]~~ **(c)** Who fails or refuses to make any such contribution or other payment having in ~~his~~ possession or control funds to do so allowing said funds to be expended for any other purpose except ***payment to trade creditors or*** payment of wages to employees other than corporate officers or relatives ***other than for necessities***; or

1997-0579h

Amendment to HB 671-A

Proposed by the Committee on Wildlife and Marine Resources

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

(b) Five members of the house of representatives, appointed by the speaker of the house, one of whom shall be from the house finance committee and 2 of whom shall be from the wildlife and marine resources committee.

Amend the bill by replacing all after section 5 with the following:

6 Appropriation. The sum of \$10,000 is hereby appropriated to the committee established under section 1 of this act for the fiscal year ending June 30, 1998, for the purposes of the committee. This appropriation shall be a charge on the fish and game fund.

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

1997-0496h

Amendment to HB 677-FN

Proposed by the Committee on Resources, Recreation and Development

Amend the bill by replacing section 1 with the following:

1 Wetlands Excavating and Dredging Permit Fee Increased for Minor and Major Projects. Amend RSA 482-A:3, I to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be \$50 for minimum impact projects. Fees for minor and major projects shall be assessed based on the area of dredge ~~or~~, fill, ***or construction*** proposed and the number of boat

slips requested. The rates shall be \$100 per boat slip and [~~\$0.025 per square foot~~] ***\$0.05 per square foot for minor projects and \$0.075 per square foot for major projects.*** At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed \$10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

1997-0472h

Amendment to HB 686-FN-A

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

1 Statement of Intent. The purpose of this act is to establish the child day care revolving loan fund to be used to provide low interest loans for child day care providers to establish child day care programs and facilities which will improve the quality, availability, and safety of licensed and legally-operating child day care homes and centers, and to assist providers to comply with the federal Americans With Disabilities Act.

2 New Section; Child Day Care Revolving Loan Fund Established. Amend RSA 170-E by inserting after 5-a the following new section:

170-E:5-b Child Day Care Revolving Loan Fund.

- I. There is established the child day care revolving loan fund to provide low interest loans for child care providers. The primary purposes of these low interest loans include:
- (a) To construct wheelchair and handicap access ramps, van conversions, and bathroom renovations to accommodate children with disabilities.
 - (b) To pay for expansion or construction costs to serve more children under the state voucher program for low income families to meet the expected increase of families receiving Aid to Families With Dependent Children entering the work force.
 - (c) To renovate or upgrade current facilities to maintain or exceed code requirements.
 - (d) To renovate or expand facilities to serve infants and toddlers.
 - (e) To allow after-school programs to expand to expand and purchase start-up supplies, including storage, for school-age children.
 - (f) To enable day care providers to secure a more stable environment and continuity of services through ownership or extended lease arrangements.
 - (g) To allow providers to access advance payments to pay staff during the start-up of state reimbursed child care programs.
 - (h) To allow the purchase or lease of vans to transport children.
- II. Criteria for consideration of loan applicants shall include the provider's commitment to enroll low-income children, Title XX children, and children with disabilities, or legally-operating provider who provide services to these populations. In addition, applicants shall:
- (a) Be fiscally sound as shown in a financial statement.
 - (b) Meet state and local operating and zoning regulations, including public health, fire, and safety requirements, or present a local exemption from regulations.
 - (c) Demonstrate a commitment to providing quality day care through one or more of the following:
 - (1) Local resource and referral relationship.
 - (2) Family day care support group participation.

(3) Enrollment in the United States Department of Agriculture food program.

(4) Documentation of training in the Child Care Basics program.

(d) Agree to accept children with disabilities, and those children eligible for state-subsidized care shall receive priority and shall be placed at the top of a waiting list.

(e) Address a geographic or community need for projected day care services.

III.(a) The department of health and human services shall, after consultation with the state child care advisory committee established in RSA 126A:17, be authorized to adopt rules pursuant to RSA 541-A, relative to the implementation and administration of the child day care revolving loan program under this act.

(b) The department shall also notify providers of the availability of the loans and shall provide guidelines for loan application. Notification shall be made publicly, as well as through child care associations and the child care resource and referral network of New Hampshire.

IV. Loan recipients shall repay any loan funded pursuant to this section on such terms and conditions as are recommended by the department of health and human services. The term of the loan shall be no less than 5 and no longer than 20 years and shall, to the extent possible and consistent with this section, be determined so as to match the useful life of the improvements funded by the loan. The terms and conditions shall be contained in the binding agreement between the state and the child day care provider and may include provisions for a lien on the property, and shall be sufficient to fully reimburse the state for the principal and interest payments on that portion of the bonds used to fund the loan. The department of health and human services shall administer the funds utilizing current personnel.

3 Appropriation. The sum of \$1,200,000 is hereby appropriated, in addition to any other sums appropriated, to the department of health and human services, to be deposited in the child day care revolving loan fund, established in RSA 170E:5b for the fiscal year ending June 30, 1998, for the purposes outlined in this act. This appropriation shall be nonlapsing.

4 Bonds Authorized. To provide for the appropriation made in section 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding \$1,200,000 for such purposes and may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A.

5 Effective Date. This act shall take effect July 1, 1997.

1997-0448h

Amendment to HB 687

Proposed by the Committee on Resources, Recreation and Development

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

1 Commission Established. There is established a commission to develop plans for the establishment of a state or private park recognizing Alan B. Shepard at the site of the Shepard homestead in the town of Derry.

2 Membership and Compensation.

I. The 7 members of the commission 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.

(c) The director of the division for parks and recreation, department of resources and economic development.

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

3 Duties. The commission shall:

I. Develop plans for the establishment of a state or private park recognizing Alan B. Shepard at the site of the Shepard homestead in the town of Derry which may include any plans resulting from legislation enacted in 1973, 591, and shall negotiate the terms and conditions under which a park

or museum or both will be established.

II. Be responsible for recommending legislation and funding requirements as it deems necessary.

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

5 Repeal. Sections 1-4, relative to the Alan B. Shepard park commission, are repealed.

6 Effective Date.

I. Section 5 of this act shall take effect July 1, 2000.

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

AMENDED ANALYSIS

This bill establishes a commission to develop plans for a state or private park at the Shepard homestead lands in the town of Derry.

1997-0537h

Amendment to HB 688-FN-A

Proposed by the Committee on Judiciary and Family Law

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

AN ACT establishing a committee to study all investigations of the late John C. Fairbanks and other members of the legal profession.

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

1 Committee on Investigations of the Late John C. Fairbanks and Others.

I. There is established a committee which shall study, but shall not be limited to the study of, any and all investigations of the late John C. Fairbanks, Attorney Charles E. Chretien, and the late William M. Hibbard. The committee shall consist of 7 members of the house judiciary and family law committee, appointed by the speaker of the house.

II. The committee shall consider the scope and quality of all investigations conducted by any federal, state, or local agency, court, or judicial conduct committee.

III. The committee shall have the same investigatory powers as the general court. The committee may take evidence under oath, issue subpoenas for records, and compel testimony.

2 Meetings; Mileage. The first-named member shall call the first meeting of the committee within 30 days of the effective date of this section. The committee shall elect a chairperson at its first meeting. Committee members shall receive mileage at the legislative rate.

3 Report. The committee shall submit a report of its findings and any recommendations for legislation to the speaker of the house, the senate president, the governor, the house clerk, the senate clerk, and the state library on or before January 1, 1998.

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

AMENDED ANALYSIS

This bill establishes a house committee to study all investigations of the late John C. Fairbanks, attorney Charles E. Chretien, and the late William M. Hibbard.

1997-0439h

Amendment to HB 690

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend RSA 126-I:3, I(l) as inserted by section 2 of the bill by replacing it with the following:

(l) A representative of the New Hampshire Association of Residential Care Homes, appointed by such association.

Amend the bill by replacing section 3 with the following:

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

1997-0504h

Amendment to HB 698

Proposed by the Committee on Resources, Recreation and Development

Amend the bill by deleting section 5 and renumbering the original sections 6-10 to read as 5-9, respectively.

AMENDED ANALYSIS

This bill:

- (a) Allows the oil fund disbursement board to request the attorney general to issue subpoenas and request information.
- (b) Provides for eligibility for reimbursement from the oil discharge and disposal cleanup fund, the fuel oil discharge cleanup fund, and the motor oil discharge cleanup fund in a transfer of ownership.
- (c) Provides that the board shall assume an owner's right to recover for cleanup and certain other costs, to the extent they were paid for from the fund.
- (d) Adds criminal penalties.

1997-0558h

Amendment to HB 700-FN-LOCAL

Proposed by the Committee on Education

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

AN ACT relative to the renovation of regional vocational education centers and making an appropriation therefor.

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

2 Appropriation Increased; Renovation Added. Amend RSA 188-E:10 to read as follows:

188-E:10 [~~Construction~~] Appropriation **for Construction and Renovation**. The treasurer of the state of New Hampshire is hereby authorized to make available to the department of education for purposes of constructing **and renovating** regional vocational education centers an amount not to exceed [~~\$85,000,000~~] **\$109,000,000**. This appropriation shall be nonlapsing. Authorization for expenditures of such funds shall be made by the department of education to the treasurer in accordance with this chapter. The treasurer is authorized to issue bonds in accordance with the provisions of RSA 6-A for the purpose of funding this appropriation .

AMENDED ANALYSIS

This bill authorizes grants for the renovation of regional vocational centers, as well as for the construction of such centers.

The bill also appropriates an additional \$24,000,000 for construction and renovation of regional vocational centers.

1997-0457h

Amendment to HB 704

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-6 to read as 2-7, respectively:

1 Definition Clarified. Amend RSA 143:9 to read as follows:

143:9 Beverages and Beverage Concentrates. The term "beverage" as used in this subdivision shall include all still and carbonated drinks; fruit juices and all beverages compounded therefrom; all bottled waters, whether for medicinal or table use; and all packaged liquids intended for use in the manner of drink. Milk and unmixed products thereof, and fruit juices and waters retailed exclusively by the producer or manufacturer direct, are not included. *The term "beverage" as used in this subdivision, shall not apply to a beverage as defined in RSA 175:1, VIII.* The term "beverage concentrate" as used in this subdivision shall include all concentrated fruit juices, fruit-flavored and other syrups, and compounds and mixtures in concentrated form, put up in packages for retail sale and which are intended as a basis for the preparation of a beverage. Flavoring extracts for general culinary use are not included.

1997-0417h

Amendment to HB 714

Proposed by the Committee on Finance

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

AN ACT deleting certain duties of the secretary of state relative to the state treasurer's insurance bond and accounts of bonds issued by the state treasurer.

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

1 Bonds Not Kept in Office of Secretary of State. Amend RSA 6:3 to read as follows:

6:3 Bond. Before entering upon the duties of ~~[his]~~ *the* office, ~~[he]~~ *the state treasurer* shall give bond in the sum of \$200,000, with sufficient sureties, to be approved by the governor and council, conditioned for the faithful discharge of the duties of ~~[his]~~ *the* office *of state treasurer*, including ~~[his]~~ duties as custodian of trust funds of state institutions and of the several funds of the state employees' retirement, teachers' retirement, policemen's retirement, firemen's retirement systems and the New Hampshire Retirement System. ~~[Said bond shall be deposited and safely kept in the office of the secretary.]~~ Upon the failure of the legislature to elect a state treasurer on the first Wednesday of December of the biennium, the state treasurer previously elected shall give a new bond in the sum of \$200,000 with sureties, to be approved by the governor and council, which bond shall be conditioned upon the satisfactory discharge of the duties of said office until a successor is elected~~[, and shall be deposited and safely kept in the office of the secretary of state].~~

2 Repeal. RSA 6-A:3, relative to accounts of state bonds kept by the secretary of state, is repealed.

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

AMENDED ANALYSIS

This bill revises and repeals provisions requiring the state treasurer's insurance bond to be kept by the secretary of state and requiring the secretary of state to keep accounts of state bonds.

1997-0454h

Amendment to HB 718

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend the bill by replacing section 1 with the following:

1 Practice of Medicine; Use of Laser for Surgery Added. Amend RSA 329:1 to read as follows:

329:1 Practice. Any person shall be regarded as practicing medicine under the meaning of this chapter who shall diagnose, ~~[operate on],~~ *treat,*

perform surgery, or prescribe [for or otherwise treat any] any treatment of medicine for any disease or human ailment[~~whether physical or mental~~]. "Surgery" means any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered, except for those procedures otherwise specifically authorized for dentists licensed under RSA 317A and podiatrists licensed under RSA 315.

1997-0546h

Amendment to HB 731-FN-A-LOCAL

Proposed by the Majority of the Committee on Environment and Agriculture

Amend RSA 72-B:3 as inserted by section 2 of the bill by replacing it with the following:

72-B:3 Release from Taxes. The following excavations of earth shall not require filing an intent to excavate, or be subject to the taxes imposed by this chapter:

I. Any excavation of earth from a parcel of land that is put back on the parcel, or other parcel that is contiguous and in common ownership, in the construction, reclamation, reconstruction, or alteration of such parcel of land.

II. Excavation by the federal government, state government, cities, towns, school districts, and other political subdivisions which remove earth for their own use, on lands under their ownership and within their own jurisdiction.

III. Excavation of earth that is used exclusively for the agricultural or forest management of the owner.

Amend RSA 72-B:13 as inserted by section 2 of the bill by replacing it with the following:

72-B:13 Appeal and Abatement. An owner may, within 90 days of notice of the excavation tax, appeal to the assessing officials in writing for an abatement from the original assessment, but no owner shall be entitled to an abatement unless such owner has complied with the provisions of RSA 72-B:8 and 72-B:9. If the assessing officials neglect or refuse to abate, an owner may, at the owner's election within 6 months of notice of such tax and not afterwards, petition the superior court of the county where the operation took place, or the appeals board as provided for in RSA 72B:14. The petition to the appeals board shall be filed with the commissioner.

Amend RSA 72-B:17, I as inserted by section 2 of the bill by replacing it with the following:

I. The department shall administer and enforce this chapter, be responsible for educating municipal officials regarding the chapter, and have enforcement authority in regard to the proper filing of the permit to excavate form under RSA 72-B:8, authority to check on the volumes turned in on the report of excavated materials form under RSA 72-B:9, the authority to issue cease and desist orders, the authority to monitor the operational and reclamation standards contained in RSA 155-E:4-a, 5 and 5-a, and the authority to rescind the certificate issued pursuant to RSA 72-B:8 of any excavation in violation of such standards. The department shall otherwise assist the towns, cities and unorganized places in the enforcement of this chapter. It is the intent of this section to authorize the commissioner and the commissioner's agents to have enforcement authority and the right to stop any operation in violation of RSA 72-B and to report the same to local authorities. Any person failing to comply with a cease and desist order issued under this section shall be guilty of a misdemeanor.

1997-0578h

Amendment to HB 737-FN-LOCAL

Proposed by the Committee on Executive Departments and Administration

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

AN ACT establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation.

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

1 Purpose. The amount of earnable compensation, as defined for the purposes of the New Hampshire retirement system, used in the calculation of a member's average final compensation is unclear and subject to varying interpretations. It is the purpose of this act to establish a committee to clearly define earnable compensation for the purpose of determining retirement system benefits.

2 Committee Established. There is established a committee to study the New Hampshire retirement system relative to redefining earnable

compensation.

3 Membership; Compensation; Chairperson.

I. The committee shall consist of 10 members, as follows:

(a) Five members of the house of representatives, 3 of whom shall be from the house executive departments and administration committee, appointed by the speaker of the house.

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

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

III. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member.

4 Duties and Report. The committee shall:

I. Study the components of the definition of earnable compensation as outlined in RSA 100A:1, XVII.

II. Study the issues of compensation in general and income averaging for final compensation purposes, relative to the New Hampshire retirement system.

III. Have full power and authority to require from the several departments, agencies, and officials of the state such information and assistance as it deems necessary.

IV. Report its findings and any recommendations for proposed legislation as may be necessary for the 1998 session of the general court concerning the New Hampshire retirement system to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

5 Cost of Actuarial Studies. The cost of any actuarial studies required by the committee established in this act shall be a charge upon the funds of the New Hampshire retirement system.

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

AMENDED ANALYSIS

This bill establishes a committee to study the New Hampshire retirement system relative to redefining earnable compensation.

1997-0511h

Amendment to HB 744-FN

Proposed by the Committee on Resources, Recreation and Development

Amend the bill by replacing section 1 with the following:

1 Water Samples; Injunctive Relief; Youth Camp or Public Swimming Pool. Amend RSA 485A:26 and 27 to read as follows:

485-A:26 Swimming Pools and Bathing Places. No person shall install, operate or maintain an artificial swimming pool or bathing place open to and used by the public, or as a part of a business venture, unless the construction, design and physical specifications of such pool or bathing place shall have received prior approval by the department. A fee of \$100 shall be paid to the department upon submission of such plans for review. Fees collected under this section shall be deposited with the state treasurer as unrestricted revenue. The commissioner shall adopt rules relative to safety standards to protect persons using said facilities. Nothing in this section shall be deemed to affect the powers of local health officers or the department of health and human services, with respect to nuisances. ***The department may take samples of the water of any such facility for analysis to determine compliance with water quality requirements. The costs of such sampling and analysis shall be paid by the owner or operator of such facility consistent with the fee structure established in RSA 131:3-a.***

485-A:27 Injunction. Any person operating or maintaining [~~such~~] a ***youth camp or public*** swimming pool or bathing place without the same having been approved by the department may be enjoined [~~in term time or vacation,~~] by the superior court or any justice of the court upon petition brought

by the attorney general.

Amend the bill by replacing all after section 2 with the following:

3 New Paragraph; Local River Management Advisory Committees; Government Instrumentality Status. Amend RSA 483:8-a by inserting after paragraph IV the following new paragraph:

V. In order to establish the tax exempt status of local river management advisory committees established under this section, such advisory committees are deemed to be governmental instrumentalities having a distinct legal existence separate from the state and shall not be considered as departments of state government. The exercise by a local river management advisory committee of any authority granted by this section shall be deemed to be the performance of public and essential governmental functions not otherwise fulfilled by state government.

4 Effective Date.

I. Section 3 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill:

(a) Authorizes the department of environmental services to take water samples of public swimming pools to determine compliance with water quality requirements.

(b) Authorizes the attorney general to enjoin any youth camp, public swimming pool, or spa operating without approval of the department of environmental services.

(c) Authorizes administrative fines for violations of safety regulations regarding water pollution and waste disposal.

(d) Declares that local river management advisory boards are separate governmental instrumentalities from the state.

This bill is a request of the department of environmental services.

1997-0377h

Amendment to HB 746-FN

Proposed by the Committee on Finance

Amend the bill by replacing sections 2 and 3 with the following:

2 Costs and Expenses of Litigation Paid From the Insurer's Estate. Amend RSA 402-C:6 to read as follows:

402-C:6 Costs and Expenses of Litigation. In any proceeding under this chapter, the court may award such costs and other expenses of litigation as justice requires, without regard to the limitations otherwise prescribed by law. If costs and expenses are taxed against the commissioner, they shall be paid ~~[from the fund created by RSA 402:56-a]~~ **pursuant to RSA 402-C:44, I.**

3 Costs for Special Reports Paid From the Insurer's Estate. Amend RSA 402-C:9, II to read as follows:

II. Special Reports.

(a) Causes of Delinquency. The commissioner shall include in ~~[his]~~ **the** annual report, not later than the second annual report following the initiation of any formal proceedings under this chapter, a detailed analysis of the basic causes and the contributing factors making the initiation of formal proceedings necessary, and shall make recommendations for remedial legislation. For this purpose the commissioner may appoint a special assistant qualified in insurance, finance and accounting to conduct the study and prepare the analysis, and may determine ~~[his]~~ **the special assistant's** compensation, which shall be paid ~~[from the fund created under RSA 402:56-a]~~ **pursuant to RSA 402-C:44, I.**

(b) Final Study. The commissioner shall include in ~~[his]~~ **the** annual report, not later than the second annual report following discharge of the receiver, a detailed study of the delinquency proceeding for each insurer subjected to a formal proceeding, with an analysis of the problems faced

and their solutions. [He] *The commissioner* shall also suggest alternative solutions, as well as other material of interest, for the purpose of assisting and guiding liquidators or rehabilitators in the future. For this purpose the commissioner may appoint a special assistant qualified to conduct the study and prepare the analysis, and may determine [his] *the special assistant's* compensation, which shall be paid [from the fund created under RSA 402:56-a] *pursuant to RSA 402-C:44, I.*

1997-0531h

Amendment to HB 756-FN

Proposed by the Committee on Executive Departments and Administration

Amend the bill by deleting RSA 330-A:34 as inserted by section one of the bill and renumbering the original RSA 330-A:35-37 to read as RSA 330-A:34-36.

Amend RSA 330-A:34, VI-VIII as inserted by section 1 of the bill by replacing them with the following:

- VI. The imposition of administrative fines authorized under RSA 330-A:36, III(c).
- VII. Providing notice by appropriate publication to persons subject to this subdivision of the enactment of this subdivision.

1997-0518h

Amendment to HB 760-FN

Proposed by the Committee on Transportation

Amend the introductory paragraph of RSA 215-A:23, V(b) as inserted by section 5 of the bill by replacing it with the following:

(b) ~~[Forty-five percent of]~~ *From* the balance, after the deduction authorized in subparagraph (a), *\$6.30 of each resident fee or \$8.10 of each nonresident fee* shall be appropriated to the department of resources and economic development for administration of the bureau for the following:

Amend the introductory paragraph of RSA 215-A:23, V(c) as inserted by section 5 of the bill by replacing it with the following:

(c) ~~[Fifty-five percent of]~~ *From* the balance, after the deduction authorized in subparagraph (a), *\$9.70 of each resident fee or \$11.90 of each nonresident fee* shall be appropriated to the fish and game department for the following:

Amend the bill by deleting sections 2-4 and renumbering the original sections 5-8 to read as 2-5, respectively.

AMENDED ANALYSIS

This bill:

- (a) Increases the registration fees for certain off highway recreational vehicles.
- (b) Prescribes the distribution of OHRV registration fees.
- (c) Amends the definition of antique snow traveling vehicle.
- (d) Increases the minimum amount of damage to property in an OHRV accident before requiring reporting of the accident.
- (e) Changes racing meet permits to event permits.

This bill is a request of the department of fish and game.

1997-0455h

Amendment to HB 765-FN

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend RSA 126-I:3, I as inserted by section 2 of the bill by replacing it with the following:

I. There is established an osteoporosis advisory council. The advisory council shall consist of the following members: the commissioner of health and human services, or designee; one member of the house of representatives, appointed by the speaker of the house; one member of the senate, appointed by the senate president; and 11 members appointed by the governor, one representing a women's health organization, 6 health care providers representing the following professions: radiology, orthopedics, nursing, physical therapy, naturopathic medicine, and nutrition; a person with osteoporosis; a public health educator; a social worker; and an expert in bone and osteoporosis research, prevention, and treatment. The term of office for the 11 members appointed by the governor shall be 3 years and until a successor is appointed, provided that for initial appointments 3 members shall serve a 1-year term, 4 members shall serve a 2-year term, and 4 members shall serve a 3-year term. The terms of the remaining members shall be coterminous with their terms in office. Vacancies shall be filled in the same manner and for the unexpired terms. Members of the council shall serve without compensation, however the legislative members shall receive mileage at the legislative rate. The advisory council shall assist in the development and implementation of the program established under this chapter. The advisory council may make recommendations relating to the adoption of rules and necessary legislation.

1997-0499h

Amendment to HB 771-FN-LOCAL

Proposed by the Committee on Environment and Agriculture

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

AN ACT relative to hazardous waste operator permit application costs, adding an exemption to the hazardous waste cleanup fund fee, increasing grant awards made pursuant to the used oil collection center program, and relative to the automotive oil fee.

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

1 Hazardous Waste Operator Permits; State Costs Exceeding Permit Fee. Amend RSA 147A:4, II to read as follows:

II. A permit application fee not to exceed \$5,000 shall accompany each permit, permit modification, and permit renewal application. The amount of the fee shall reflect the relative effort necessary for review of the application. Permit application fees shall be used by the department for review of applications. In addition to the application fee, the applicant shall be responsible for all reasonable hearing costs incurred by the department. State costs which exceed the ~~[\$5,000]~~ permit application fee shall be charged monthly to the applicant at an hourly rate which includes, but is not limited to, staff salaries and benefit costs, current operating expenses, legal costs and travel. The hourly rate shall also be used to calculate any department costs associated with implementing and enforcing the terms and conditions of a permit issued by the department. Permit fees received by the department under this section shall be placed in the hazardous waste cleanup fund as established under RSA 147-B:3, shall be accounted for separately and shall be used in processing applications and enforcing and implementing conditions of a permit.

2 New Paragraph; Exemption From Fees Added. Amend RSA 147-B:9 by inserting after paragraph III the following new paragraph:

IV. Wastes resulting from the remediation of environmentally contaminated properties by persons who meet one of the following eligibility criteria:

- (a) The person is not liable under RSA 147-B for any release or threatened release of a contaminant or contaminants at the property and is either:
 - (1) A prospective purchaser of environmentally contaminated property, or
 - (2) A person who holds a mortgage interest or other security interest in environmentally contaminated property, including a municipality with respect to property on which there are overdue real estate taxes due to the municipality.
- (b) The person is a current owner of environmentally contaminated property, whose liability under RSA 147-B is based solely on the person's status as owner, who did not generate the hazardous waste which constitutes the contamination on the property, and who has not operated, managed, or controlled, either directly or indirectly, the hazardous waste facility on the property.

3 Collection Center Grants. Amend RSA 147-B:13, I(a) to read as follows:

(a) Award grants *of up to \$2,500* to a political ~~[subdivisions]~~ *subdivision* of the state to pay ~~[no more than \$1,500 of]~~ *for* the cost of establishing or improving used oil collection centers at public facilities such as fire stations, police barracks, highway departments, county garages, solid waste facilities or other suitable public locations; and provide technical assistance to persons who organize such programs. ~~[If the cost of establishing or improving any such used oil collection center is \$1,500 or less, the department shall award a grant for the entire cost.]~~ In providing funding under this subparagraph, priority shall be given to *reimburse political subdivisions that have established a collection center under this program followed*

*by political subdivisions without public collection centers followed by political subdivisions that have inadequate collection centers. **Political subdivisions that use the same center may combine their awards, but in no case shall the amount awarded to a collection center exceed \$5,000.***

4 Automotive Oil Fee Changed in 1998. Amend RSA 147-B:12, I to read as follows:

I. A fee of [~~\$-.01~~] **\$.02** per gallon of automotive oil shall be assessed at the time of import to this state. Persons licensed under RSA 146-A:11-b, II shall be liable for payment of this additional fee which shall be collected and enforced by the department of safety in the manner described in RSA 146-A:11-b. The department may waive all or any portion of penalties or interest for good cause. All fee revenues shall be deposited in the hazardous waste cleanup fund in accordance with RSA 147-B:6, I-d.

5 Position Authorized; Reference Deleted. Amend 1994, 364:12 to read as follows:

364:12 Positions Authorized; Motor Vehicle Prohibition. The department of environmental services may use revenues collected under RSA 147-B:12 to employ a waste management specialist III. The department may also use such revenues [~~until June 30, 1998,~~] to employ a waste management specialist II. The revenues shall not be used to purchase any motor vehicles.

6 Effective Date.

I. Section 4 of this act shall take effect July 1, 1998 at 12:01 a.m..

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

AMENDED ANALYSIS

This bill:

- (a) Clarifies the costs charged to an applicant for a hazardous waste operator permit.
- (b) Exempts certain wastes resulting from remediation of contaminated property from the hazardous waste cleanup fund fee.
- (c) Increases the grant awards available to municipalities in the used oil collection center program.
- (d) Amends the automotive oil fee in 1998 and provides for continuation of a position funded by the fee.

This bill is a request of the department of environmental services.

1997-0453h

Amendment to HB 781-FN

Proposed by the Committee on Local and Regulated Revenues

Amend the bill by replacing section 4 with the following:

4 New Section; Distributors and Manufacturers of Bingo Supplies and Equipment. Amend RSA 287-E by inserting after section 8 the following new section:

287-E:8-a Distributors and Manufacturers of Bingo Supplies and Equipment. The commission shall license distributors and manufacturers of bingo paper supplies, electronic bingo player systems, and lucky 7 vending machines sold, leased, or rented in this state. A distributor with a current New Hampshire license for distribution of lucky 7 tickets shall be authorized to distribute bingo paper supplies and electronic bingo player systems and lucky 7 vending machines, and shall not be required to file for licensing under this section. All bingo paper supplies, electronic bingo player systems, and lucky 7 vending machines shall be purchased, leased, or rented from a licensed distributor and manufactured by a licensed manufacturer. A license shall be issued to a distributor or manufacturer under the following conditions, provided that the commission may, by rule, establish additional qualifications for licenses:

I. The applicant for a distributor's license shall pay to the commission an annual license or license renewal fee of \$10,000. Such fee shall authorize the distribution of bingo paper supplies, electronic bingo player systems, and lucky 7 vending machines within the state of New Hampshire and the warehousing of bingo paper supplies, electronic bingo player systems, and lucky 7 vending machines for subsequent sale out of state. A distributor with a current New Hampshire license for distribution of lucky 7 tickets shall not be required to pay the additional licensing fee under this section.

II. The applicant shall certify that neither the applicant nor any partner, officer, or director has been convicted of a felony, which has not been annulled by any court, within 10 years from the date of application.

III. Each licensee shall post a bond in the amount of \$50,000, conditioned upon the licensee's compliance with the rules of the commission. A distributor with a current New Hampshire license for distribution of lucky 7 tickets shall not be required to post the additional bond under this section.

IV. An applicant for a license as a distributor shall be a resident of this state whose principal place of business is within this state, and shall have been a resident of this state for at least 2 years immediately prior to the date of application.

V.(a) The commission shall issue a special license to manufacturers of bingo paper supplies, electronic bingo player systems, and lucky 7 vending machines leased, rented, or sold in the state.

(b) the fee for such special license shall be \$5,000 per year or for any part of a year.

1997-0535h

Amendment to HB 785-FN

Proposed by the Committee on Executive Departments and Administration

Amend RSA 330-C:3, XVII as inserted by section 1 of the bill by replacing it with the following:

XVII. "Practice of substance abuse counseling" is the rendering or offering to render professional service for any documented fee or other consideration to individuals, families, or groups. Those professional services include the application of the specific knowledge, skills, counseling theory, and application of techniques to assess, diagnose, define goals, and develop a treatment plan of action aimed toward prevention, education, or treatment in the recovery process of substance abuse within the continuum of care service network. The practice further includes but is not limited to networking and making referrals to medical, social services, mental health services, psychiatric, or legal resources when so indicated.

Amend RSA 330-C:4, III as inserted by section 1 of the bill by replacing it with the following:

III. A person who violates the provisions of this section shall be guilty of a misdemeanor, and each violation shall be deemed a separate offense. The board may enforce the provisions of paragraph II by seeking injunctive relief from the superior court.

Amend RSA 330-C:6, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The term of office shall be 3 years. Any person appointed to fill a vacancy shall fill the unexpired term of office. Upon expiration of the term of office, a member shall continue to serve until a successor has been appointed and qualified. No person shall be appointed for more than 2 consecutive 3-year terms.

Amend RSA 330-C:7-14 as inserted by section 1 of the bill by replacing them with the following:

330-C:7 Administrative Attachment. The board shall be an administratively attached agency under RSA 21-G:10 to the office of the commissioner of the department of health and human services.

330-C:8 Rulemaking; Powers and Duties of the Board.

I. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Qualifications of alcohol and drug abuse counselors including, but not limited to:

(1) Education and training.

(2) Experience required.

(3) Required knowledge of alcohol and drug abuse counseling.

(4) Adherence to ethical standards.

(5) Continuing education and renewal.

(6) Test requirements.

(b) Qualifications of clinical supervisors including, but not limited to:

(1) Education and training.

(2) Experience required.

(3) Licenses required.

(4) Required knowledge of clinical supervision.

(5) Continuing education and renewal.

(6) Testing requirements.

(c) The imposition of administrative fines authorized under RSA 330C:13, III(h);

II. The board shall establish peer advisory committees to carry out the testing requirements of this chapter in accordance with rules adopted pursuant to RSA 541-A.

III. The board shall be responsible for all disciplinary procedures under this chapter in accordance with rules adopted pursuant to RSA 541-A.

IV. The board shall adopt rules pursuant to RSA 541-A for any other matters as may be necessary for the administration of this chapter, including but not limited to:

(a) The criteria and process for recognizing educational institutions.

(b) Fees, renewal fees, late renewal fees and any other additional application requirements for licenses.

(c) Adjudicative procedures for all hearings conducted by the board.

330-C:9 Licenses.

I. The board shall issue a clinical supervisor license or an alcohol and drug counselor license, whichever is appropriate, to an applicant who files an application, pays the required fee, and meets the qualifications established under RSA 330-C:8.

II. An applicant shall prove to the board's satisfaction all of the following:

(a) For licensure as an alcohol/drug counselor (LADC):

(1) 6,000 hours of supervised alcohol and drug abuse work experience.

(2) 270 hours of training and education.

(3) 300 hours of supervised practical training, which may be included as part of the requirements under subparagraph (a)(1).

(4) Passing of written ICRC test.

(5) Passing of oral ICRC test.

(6) Passing of ICRC written test for clinical supervisors.

(b) For licensure as a clinical supervisor (LCS):

(1) Licensure as an alcohol and drug counselor.

(2) 10,000 hours experience as an AODA counselor.

(3) 4,000 hours of experience as a clinical supervisor in alcohol and drug abuse specialty, which may be included in the experience as part of the

requirements under subparagraph (b)(2).

(4) Minimum 200 hours of face-to-face clinical supervision.

(5) 30 hours of training in clinical supervision covering assessment, evaluation, counselor development, management, administration, and professional responsibility.

(6) Passing of International ICRC written test for clinical supervisors.

(c) United States citizenship or status as a legal resident alien.

(d) Absence of a sanction from the National Association of Alcohol and Drug Abuse Counselors, or from a state agency for a violation of a code of ethics, or other related state board sanctions which shall be waived by the board upon presentation of satisfactory evidence that such sanction does not impair the availability of the person to conduct with safety to the public the practice authorized by this chapter. The applicant shall bear the burden of proving that the sanction does not impair the applicant's ability to conduct with safety to the public the practices authorized by this chapter.

(e) That the applicant has not been convicted of a felony in any jurisdiction. A person may be licensed in spite of a felony conviction if the board, upon presentation of satisfactory evidence, finds that such conviction does not impair the ability of the person to conduct with safety to the public the practice authorized by this chapter. The applicant shall bear the burden of proving that the conviction does not impair the applicant's ability to conduct with safety to the public the practices authorized by this chapter.

(f) That the applicant has not been declared mentally incompetent by any court, and, if so, that there has been a subsequent court determination that the applicant is competent.

(g) Freedom from use of any controlled substance or any alcoholic beverages to the extent that the use impairs the ability of the applicant to conduct with safety to the public the practices authorized by this chapter. The applicant shall bear the burden of proving that the applicant is free from use of any controlled substance or any alcoholic beverage which impairs the applicant's ability to conduct with safety to the public the practices authorized by this chapter.

III. The board shall license any applicant who is similarly licensed in another state, provided the other state's licensing requirements are substantially equivalent to or greater than those of this state.

330-C:10 Fees and Renewals.

I. Licenses shall be renewed every 24 months after initial licensure upon payment of a fee.

II. Licensees shall have a grace period of 30 days after the expiration of their licenses in which to renew retroactively if they otherwise are entitled to have their licenses renewed and pay to the board the renewal fee and any late fee set by the board under rules adopted pursuant to RSA 541-A.

III. A suspended license shall be subject to expiration and may be renewed as provided in this chapter, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order under which the license was suspended.

IV. A license revoked on disciplinary grounds shall be subject to expiration as provided in this chapter, and it may not be renewed. If such license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee that shall equal the renewal fee in effect on the last regular renewal date immediately preceding the date of reinstatement, plus any late fee set by the board.

V. Any person who fails to renew a license issued under this chapter by the end of the 30day grace period as provided in paragraph II may have such license reinstated as long as the person:

(a) Submits an application for reinstatement to the board within 5 years after the expiration date of the license; and

(b) Meets the requirements established by the board as conditions for license renewal.

330-C:11 Continuing Education.

I. As a prerequisite to renewal of licensure, a licensee shall present satisfactory evidence to the board of having met the continuing education requirements of this chapter.

II. The continuing education requirement for renewal of licensure shall be:

(a) For alcohol/drug counselor (ADC), 48 hours of approved continuing education of training in the 24 months subsequent to the date of licensure and later re-licensure.

(b) For clinical supervisor (CS), 6 hours of training on clinical supervisor which may be incorporated into the hours needed for ADC re-licensing.

330-C:12 Confidentiality. No licensee under this chapter or an employee of a licensee shall disclose any information which was acquired from clients or persons consulting with the licensee or employee of the licensee in the course of rendering professional services unless otherwise required by law.

330-C:13 Disciplinary Action; Criminal Penalty.

I. Misconduct sufficient to support disciplinary proceedings under this section includes:

(a) Violating any provision of this chapter or any substantive rule adopted under this chapter or order issued by the board.

(b) Engaging in the practice of chemical dependency counseling or supervision in a manner harmful or dangerous to the client or public.

(c) The practice of fraud or deceit in procuring or attempting to obtain a license under this chapter.

(d) Failing to obtain the continuing education credits necessary for renewal of license.

(e) Engaging in sexual relations, soliciting sexual relations, or committing an act of sexual abuse or sexual misconduct with a current client or with a person who was a client within the past 6 years.

(f) Failing to remain free from the use of any controlled substance or any alcoholic beverage to the extent that the use impairs the ability of the applicant to conduct with safety to the public the practices authorized by this chapter.

(g) Conviction of a felony which has not been waived by the board.

(h) Having a disciplinary action pending or having a license in another state or territory of the United States under revocation, suspension, or probation.

(i) Failing to maintain confidentiality pursuant to RSA 330-C:12.

(j) Engaging in false or misleading advertising.

(k) Having a mental disability which significantly impairs professional ability or judgment and which is independently verified to the board.

(l) Violating any of the provisions of this chapter.

II. All complaints relative to a licensee's business or professional practice shall be submitted to the board. Each complaint received shall be recorded by the board and contain the following information:

(a) Licensee's name.

(b) Name of the complaining party.

(c) Date of complaint.

(d) Brief statement of complaint.

III. The board, after notice and a public hearing, may take disciplinary action in any one or more of the following ways:

(a) Revocation of the license.

(b) Suspension of the license for any period of time.

(c) Censure of the licensee.

(d) Issuance of a letter of reprimands.

(e) Placement of a licensee on probationary status. The board may require the licensee to submit to any of the following:

(1) Regular reporting to the board concerning the matters which are the basis of the probation.

(2) Continuing professional education until a satisfactory degree of skill has been achieved in those areas which are the basis of probation.

(f) Refusal to renew a license.

(g) Revocation of probation which has been granted by the board and imposition of any other discipline provided in this section if the requirements of probation have not been fulfilled or have been violated.

(h) By assessing administrative fines in amounts established by the board which shall not exceed \$2,000 per offense, or in the case of a continuing offense, \$250 for each day the violation continues.

IV. The board may reinstate any licensee to good standing under this chapter if, after hearing, the board is satisfied that reinstatement of the licensee is in the public interest.

V. Upon the suspension or revocation of a license issued under this chapter, a licensee shall surrender the license to the board.

VI. The board may make available annually a list of the names and addresses of all persons licensed under this chapter, and of all persons who have been disciplined by the board within the preceding 12 months.

VII. Any person convicted of violating the provisions of this chapter shall be guilty of a class A misdemeanor.

330-C:14 Investigations.

I. The board may investigate possible misconduct by licensees and other matters within the scope of this chapter. Investigations may be conducted formally, after issuance of a board order setting forth the general scope of the investigation, or informally, without such an order. In either case, board investigations and the information gathered in such investigations shall be exempt from the public disclosure provisions of RSA 91-A, except to the extent such information may later become the subject of a public disciplinary hearing. The board may disclose information acquired in an investigation to law enforcement or health licensing agencies in this state or any other jurisdiction, or in response to specific statutory requirements or court orders.

II. The board may retain legal counsel, expert witnesses, special advisors, or other qualified persons to assist with any investigation or adjudicatory proceeding. To the extent the board's existing appropriation does not include funds covering such expenditures, the board may request the governor and council to expend funds not otherwise appropriated on the condition that such funds be recovered in the board's next budget at the rate of 125 percent.

III. The form taken by an investigation is a matter reserved to the discretion of the board. The board may conduct investigations on an ex parte basis.

IV.(a) The board may administer oaths or affirmations, preserve testimony and, after consultation with an attorney employed by the state of New Hampshire, may issue subpoenas for witnesses and for documents and things only in a formal investigation or an adjudicatory hearing, except that subpoenas for medical records and pharmacy records, as provided in paragraph V, may be issued at any time.

(b) The board may serve a subpoena on any licensee of the board by certified mail, but shall serve a subpoena on any other person in accordance with the procedures and fee schedules required in 42 C.F.R. 2.

(c) Persons licensed by the board shall not be entitled to a witness fee or mileage expenses for travel within the state, which are necessary to respond to a subpoena issued by the board.

(d) Any board-issued subpoena related to a board hearing or investigation shall be valid if annotated "Fees Guaranteed by the New Hampshire Board of Licensing for Alcohol and Drug Abuse Professionals".

(e) A minimum of 48 hours' notice shall be given for compliance with a subpoena issued under this chapter.

V. The board may at any time subpoena client records from its licensees, or other health care providers, or health care facilities licensed or certified in this state to the extent that the records sought are relevant to matters within the board's regulatory authority. Such subpoenas shall be served by

certified mail or by personal delivery to the address shown on the respondent's current license or certificate, and shall require no witness or other fee. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena duces tecum issued under this paragraph.

VI. All licensees shall have the duty to notify the board of their current business and residence addresses. A licensee shall receive adequate notice of any hearing or other action taken under this chapter if notice is mailed in a timely fashion to the most recent home or business address furnished to the board by the licensee.

VII. On its own motion or in response to a complaint received by the board, the board may informally mail a copy of a complaint to any licensee who is the subject of the complaint and require the licensee to provide a detailed and good faith written response to the allegations identified by the board. Complete copies of office records concerning any patient identified in the complaint shall be provided by the licensee. The licensee shall respond to such request within a reasonable time period of not less than 15 days, as the board may specify in its written request.

VIII. Any person may file a written complaint with the board which charges that a licensee has committed misconduct. The board may dismiss complaints when the undisputed allegations do not warrant disciplinary actions and may settle complaints informally with the consent of the licensee. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee, the board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute and the complainant is given an opportunity to comment upon the terms of the proposed settlement.

330-C:15 Hearings.

I. Any complaint not dismissed or settled informally shall be heard by the board. Such hearing shall be an open public hearing. Any member of the board shall have the authority to preside at such a hearing and to issue oaths or affirmations to witnesses.

II. The board shall furnish the respondent and the complainant, if any, at least 15 days' written notice of the date, time, and place of a hearing, except as otherwise provided in this chapter. Such notice shall include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or both. If a written complaint is involved, the notice shall provide the complainant with a reasonable opportunity to intervene as a party.

III. The board may, before or after the commencement of an adjudicatory hearing, dispose of disciplinary or certification allegations arising under this chapter by order of dismissal, settlement, default, consent order, or summary judgment order. In disciplinary hearings, the board may hold prehearing conferences which shall be exempt from the provisions of RSA 91-A, but all final disciplinary actions, including those which occur without holding a public hearing, shall be publicly released at the time they are served upon the parties.

IV. The respondent shall be heard in the respondent's defense either in person or by counsel and may produce witnesses and testify in the respondent's behalf. A stenographic record of the hearing shall be taken and preserved. The hearing may be adjourned from time to time.

V. Every final disciplinary action and other adjudicatory decisions made final by the board shall be reduced to writing and served upon the parties. Such decisions shall not be public until they are served upon the parties.

VI. The board shall have no obligation or authority to appoint or provide an attorney to any person appearing at a board hearing or investigation.

VII. Final certification and disciplinary actions of the board may be appealed to the supreme court under the procedures set forth in RSA 541. However, no sanction imposed by the board shall be stayed during appeal.

Amend the section heading of section 2 of the bill by replacing it with the following:

2 Initial Board Appointments; Meeting and Election of Chairperson.

1997-0479h

Amendment to HB 792-FN-LOCAL

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

AN ACT prohibiting trusts and other legal devices from being used to shelter wealth for the purposes of medicaid eligibility.

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

1 Eligibility for Assistance; Trust Void as Against Public Policy. RSA 167:4, II and III are repealed and reenacted to read as follows:

II.(a) It is hereby found and determined by the general court that the medicaid eligibility laws of this state are in need of amendment to assure that otherwise ineligible individuals are prevented from artificially impoverishing themselves to receive benefits to which they are not otherwise entitled and to facilitate recovery of improperly obtained benefits and to assure the fiscal integrity of the funds appropriated for medicaid.

(b) Notwithstanding any provision of law to the contrary, in this section:

(1) "Trust" means a trust, or *similar legal* device, established other than by will by an individual or an individual's spouse under which *the* individual or spouse may be a beneficiary of all or part *of the payments from the trust, and shall include trusts, conservatorships, and guardianships.*

(2) "Grantor" means the individual, institution, or entity that established, created, or funded the trust and shall also include fiduciaries and third parties.

(c) Notwithstanding any provision of law to the contrary, a provision in a trust, other than a testamentary trust, or any trust allowed under federal law, which limits the availability of, or provides directly or indirectly for the suspension, termination, or diversion of the principal, income or beneficial interest of either a public or medical assistance recipient or his or her spouse in the event that the recipient or spouse should apply for public assistance or medical assistance or require medical, hospital or nursing care or long-term custodial, nursing or medical care shall be void as against the public policy of the state of New Hampshire, without regard to the irrevocability of the trust or the purpose for which the trust was created, and without regard to whether the trust was created pursuant to court order.

(d) This paragraph is remedial in nature and is enacted to prevent individuals otherwise ineligible for medical assistance benefits from making themselves eligible *by creating trusts in order to preserve their assets.*

III. Paragraph II of this section shall not apply to any trust in existence on or before *November1, 1995.*

2 Repeal. The following are repealed:

I. 1995, 310:170, VIII, relative to the prospective repeal of RSA 167:4, II and III.

II. 1995, 310:203, VI, relative to the effective date of the prospective repeal of RSA 167:4, II and III.

3 Effective Date.

I. Section 2 of this act shall take effect June 29, 1997.

II. The remainder of this act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill repeals a prospective repeal of a provision of law prohibiting the use of trusts as a method of sheltering wealth for the purposes of medicaid eligibility and modifies such provision. The prospective repeal would have been effective June 30, 1997.

1997-0497h

Amendment to HR 17

Proposed by the Committee on Resources, Recreation and Development

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

Whereas, certain historical theaters in New Hampshire are of special cultural and artistic value; and

Whereas, these theaters are an irreplaceable part of New Hampshire's past; and

Whereas, the preservation of these theaters is a priority of the people of this state; and

Whereas, these theaters play a vital economic and cultural role in their respective communities and for the state as a whole; now, therefore, be it

Resolved by the House of Representatives:

That the state of New Hampshire, through the historical resources council in conjunction with the division of historical resources, recognize the important cultural and economic significance of our historic theaters through letters of commendation to the owners of such restored theaters including, but not limited to, the Palace Theater in Manchester, the Music Hall in Portsmouth, the Capital Center for the Arts in Concord, the Barn Theater in New London, the IOKA Theater in Exeter, the Colonial Theater in Keene, and the Claremont Opera House in Claremont.

AMENDED ANALYSIS

This house resolution urges the state of New Hampshire, through the historical resources council in conjunction with the division of historical resources, to recognize the important cultural and economic significance of certain historic theaters through letters of commendation to the owners of such restored theaters.