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. Tuesday, May 20, 1997 No. 64

Contains: Hearings, Notices, Work Sessions, Reports and Amendments for May 20

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

Today the House welcomes the Coe-Brown Northwood Academy Basketball Team.

The House will next meet in session on Wednesday, May 28 and if necessary on Thursday, May 29th.

As we are entering the Committee of Conference phase, we have included in this calendar the procedures to be followed after the House votes to establish a Committee of Conference. If you have any questions, please feel free to call or stop by.

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

There will be a Republican Caucus on Tuesday, May 20 at 9:15 a.m. in Representatives Hall.

Rep. Robert L. Wheeler, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, May 20 at 9:15 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter Hoe Burling, Democratic Leader

NOTICE

LEGISLATIVE FORUM

HOUSE CONTINUING EDUCATION

TOPIC: Department of Revenue Administration

PRESENTER: Commissioner Stanley R. Arnold

DATE: Thursday, May 22

TIME: Noon to 1:30 p.m.

PLACE: Room 100, State House

For the members' convenience the cafeteria will sell sandwiches, snacks and sodas outside the room. This will be an informative session with handouts. Please make every effort to attend. Thank you.

Future Date:

May 29 Department of Treasury

TUESDAY, MAY 20

CONSENT CALENDAR

COMMERCE

SB 12, establishing a Northern New England Interstate Commission on Economic Development. OUGHT TO PASS

Rep. Martha Fuller Clark for Commerce: This bill creates a commission composed of appropriate members from New Hampshire, Maine and Vermont to ensure that on going discussions and coordinated planning with regard to future economic development in northern New England will occur on a regular basis among the three states. Furthermore, the bill now stipulates that the three respective governors shall meet at least once a year to discuss economic development. The committee voted unanimously in favor of this pro-business, pro-planning legislation. It will only become effective when all three states have enacted similar provisions. Vote 14-0.

SB 22, relative to health benefit plans sponsored by qualified franchise associations. INEXPEDIENT TO LEGISLATE

Rep. Gregory G. Carson for Commerce: The Insurance Commissioner has issued a ruling that all franchises of the McDonald's Corporation which participate in the McDonald's Licensees Health & Welfare Plan maintained by the National Operators Advisory Board, Inc., are considered to participate in a large employer plan and therefore such franchises are not subject to the community rating provision of the New Hampshire statute RSA 420-G. This fulfills the intent of SB 22. Therefore, the bill is unnecessary and consequently we have recommended Inexpedient to Legislate. A full report on community rating is pending from the Insurance Department and this ruling avoids any amendment to law before that report is presented. Vote 19-0.

SB 100-FN, establishing a New Hampshire film and television commission. RE-REFER TO COMMITTEE

Rep. Tim S. McGough for Commerce: This bill would establish the New Hampshire Film and Television Commission. The committee voted to re-refer in order to resolve questions that arose during subcommittee discussion. The committee would like to study the make-up of this commission and determine its necessity to avoid overlap with efforts underway already. Vote 13-0.

SB 104, relative to rate setting for purposes of automobile insurance and homeowners insurance. OUGHT TO PASS WITH AMENDMENT

Rep. Gregory G. Carson for Commerce: This bill adds language to the definition of unfair discrimination under unfair methods, acts and practices in the business of insurance. The bill prohibits charging higher premiums for auto and home owners insurance solely on the basis of information obtained from a credit rating, a credit history or a credit scoring model. Vote 13-1.

SB 105, relative to rent collection upon delinquency in payment of common expenses by condominium unit owners. OUGHT TO PASS WITH AMENDMENT

Rep. Eric N. Lindblade for Commerce: Condominium associations have long been at a disadvantage in collecting dues from delinquent, absentee unit owners. This bill enables associations to collect directly the rent due, after notification to the delinquent owner. This avenue of redress is available to the associations after acceptance of this method of collecting from delinquent owners. Delinquent owners are afforded a 60 day grace period, plus a further 30 days after notification. Financial institutions' primary position as holders of first mortgages is protected. Vote 14-0.

SB 121, authorizing state-chartered financial institutions to engage in certain insurance activities. INEXPEDIENT TO LEGISLATE

Rep. Gregory G. Carson for Commerce: The provisions for New Hampshire state chartered banks to sell insurance had been dealt with and passed in HB 799. This bill is not necessary at this time. Vote 12-1.

SB 122, establishing a commission to examine the effects of the managed care industry on those belonging to the disabled and the mental health communities OUGHT TO PASS WITH AMENDMENT

Rep. Martha Fuller Clark for Commerce: During the current legislative session, the committee heard several pieces of legislation which raised many questions regarding managed care and its impact on all the residents of New Hampshire. The amendment to SB 122 replaces the original language, which called for a large commission to look at various aspects of health care, with a legislative study committee which will examine the following health care concerns related to managed care: 1) access to and availability of specialists and special needs providers, 2) the impact of managed care upon new populations now being served, especially Medicare and Medicaid recipients, 3) availability and affordability of health insurance, particularly small groups and individuals since the enactment of RSA 420-G:6, and 4) the question of a need to provide an external grievance mechanism regarding consumers' complaints. This study is critical to understanding the changing nature of health care and health care insurance in the state. Hopefully, it will result in the compilation of useful data which can be used to shape new legislative initiatives in the health care insurance arena. Vote 12-1.

SB 135, adopting the uniform "transfer on death" security registration act. OUGHT TO PASS WITH AMENDMENT

Rep. Tara G. Reardon for Commerce: This bill enacts the Uniform Transfer on Death Security Registration Act allowing an individual to designate a beneficiary to be paid upon death and therefore avoid probate. Vote 15-0.

SB 139, authorizing banks to invest trust funds in bank-affiliated investments. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill brings New Hampshire into conformity with every other state by expanding a trustee's scope of investment opportunities to include certain mutual funds. In so doing, trust funds can benefit from greater asset diversification and economies of scale. To prevent potential abuses, the bill contains stringent provisions for mandatory disclosure, non-layering of fees, and retention of fiduciary duties. Vote 15-0.

SB 178-FN, regulating managed care systems of health care delivery. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill establishes a process for grievance review when a covered insured has a problem with an HMO. This bill also designates the NH Department of Insurance, as an external source, to ensure that HMO's do indeed follow the proper grievance procedure. The amendments add additional consumer protection. Vote 13-0.

SB 211-FN, making technical changes under the motor vehicle financial responsibility laws, insurance fraud laws, and laws regulating managing general agents, reinsurance intermediaries, and third party administrators. OUGHT TO PASS

Rep. Gregory G. Carson for Commerce: This legislation makes technical changes under the motor vehicle financial responsibility laws, insurance fraud laws and laws regulating managing general agents, reinsurance intermediaries and third party administrators. Vote 14-0.

CRIMINAL JUSTICE AND PUBLIC SAFETY

SB 71-FN, establishing a committee to identify and study statutes and ordinances in cases in which the penalty is not specified by statutes and clarifying the right to a jury trial in cases in which a civil penalty is imposed for a violation. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The committee made a minor change in section 2 of the bill to let people know that if they are subject to a civil penalty of more than $1500, they have the right to appeal to the superior court for a trial de novo. We also supported establishing a committee to study statutes and ordinances where there is no penalty imposed. Lastly, we changed the effective date, sections l and 2 to take effect on January 1, l998 and the remainder, which is the study committee, on passage. Vote 15-0.

SB 102-FN, relative to the possession of certain weapons in the commission of a violent crime. RE-REFER TO COMMITTEE

Rep. Randy L. Lyman for Criminal Justice and Public Safety: The incident that precipitated this proposed change to RSA 159:15 was an abuse of the statute. The bill attempts to make clear the intent of the statute which makes possession of certain weapons an additional charge when an individual is arrested for an "offense against the state." SB 102 falls short of its goal and the committee has agreed to study the issue further. The Attorney General's Office did not support or oppose SB 102, but suggested it could be improved. Vote 14-0.

SB 181-FN, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and establishing a committee to study permitting certain prisoners to be sentenced to substance abuse treatment centers. INEXPEDIENT TO LEGISLATE

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: The committee felt that passage of this bill would undermine NH's Truth in Sentencing laws, particularly since the enactment of RSA 651:25:VI which states in substance "A low risk, non-violent prisoner who has not served sufficient time to be eligible for parole, may be released on parole subject to these four conditions: (l) the crime was not a violent one, (2) the prisoner has successfully completed a course of programs or treatment, (3) the Commissioner of Corrections recommends such early release, (4) the sentencing court does not object". The committee feels that since this law has never been used that no changes should be made to our existing statutes until it is. By doing so we will be able to determine if further changes might be indicated at a later date. This will allow us not to change the focus and foundation of our Truth in Sentencing philosophy. The Attorney General furnished the committee with a list of offenses for which an inmate could receive a reduction of his minimum sentence under SB 181-FN. Among those offenses are: all felony level drug offenses under RSA Chapter 318-B; felony stalking (RSA 633:3a, VI(a)); felony interference with custody (RSA 633:4,I); tampering with witnesses and informants (RSA 641:5); hindering apprehension or prosecution involving murder or a Class A felony (RSA 642:3); escape (RSA 642:6); false fire alarms resulting in injury or death (RSA 644:3-b); felony indecent exposure and lewdness (RSA 645:l, II); felony level prostitution and related offenses (RSA 645:2,II); felonious use of firearms (RSA 650-A:l) and felonious use of body armor (RSA 650-B:2). Currently the prosecution and the judge when considering sentence recommendations know that the minimum sentence will indeed be served. The victims and the public know that too. The committee voted to uphold the Truth in Sentencing law which has been partially responsible for the declining crime rate in New Hampshire. Vote 14-2.

ELECTION LAW

SB 70, establishing a committee to examine campaign finance reform. OUGHT TO PASS WITH AMENDMENT

Rep. David R. Boutin for Election Law: The Election Law Committee believes that campaign finance reform is a very important subject matter that deserves careful consideration by a joint house/senate study committee for the purpose of formulating a policy framework that will permit a reasoned debate of campaign finance reform issues in both houses of the legislature during the second half of the biennium. Vote 12-1.

ENVIRONMENT AND AGRICULTURE

SB 145-LOCAL, relative to the definition of "open space land" for purposes of current use taxation. RE-REFER TO COMMITTEE

Rep. M. Kathryn Aranda for Environment and Agriculture: This bill addresses the tax classification of watershed protection and water supply property which is owned by one municipality and located in a different municipality. This bill would have re-classified such land as "open-space" under the current use taxation program. This simple change will have substantial consequences for many towns, so the committee would like to study the issue before going forward with it. Vote 15-1.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 68-FN-L, providing health care coverage for the spouse and dependents of any group I or group II retirement system member who is killed in the line of duty. RE-REFER TO COMMITTEE

Rep. Merton S. Dyer for Executive Departments and Administration: This bill would provide health insurance from state funds for members of the family of local officials killed in the line of duty. There are still many unanswered questions remaining about the bill. The bill makes membership in the New Hampshire Retirement System mandatory for this benefit. The definition of the cause of death may be deficient given the possibility of death from infection incurred entirely in performance of duty. Due to the many questions and limited time, the committee voted to Re-Refer in an attempt to answer the many questions. Vote 14-l.

SB 149, prohibiting state agencies managing federal programs from exceeding their statutory authority in placing restrictions on activities of the private sector. OUGHT TO PASS WITH AMENDMENT

Rep. Howard C. Dickinson, Jr. for Executive Departments and Administration: This bill, as passed by the Senate, prohibits the state from enforcing any requirements which are more restrictive than those required by federal law in a federal program administered by the agency, unless the agency has statutory authority to do so. At present, RSA 541-A:26 protects the state and its political subdivisions from these same excessive administrative

rules. SB 149 extends this same protection to private sector interests in New Hampshire. In the event of an emergency, this bill authorizes the Joint Legislative Committee on Administrative Rules (JLCAR) to approve exceptions to this restriction. SB 149 has very strong support in the committee. Vote 17-l.

FINANCE

SB 29, establishing a pet overpopulation trust. OUGHT TO PASS

Rep. Mary E. Brown for Finance: This bill sets up a non-lapsing dedicated fund called the "Companion Animal Neutering Fund." HB 2 also dedicates this fund as the "Animal Population Control Fund." The result of passing this bill is to effect the name change and assure its sponsors the intent to set up a dedicated fund will survive the budgeting process. Vote 16-3.

SB 54-FN, relative to gainful occupation of disability beneficiaries in the New Hampshire retirement system. OUGHT TO PASS WITH AMENDMENT

Rep. Robert G. Holbrook for Finance: This bill was amended to limit funding for creditable service of teachers in job-sharing status from the New Hampshire retirement system special fund. The bill extends the provision for granting full creditable service for teachers in job-sharing status to three years while excluding from earnable compensation any compensation paid later than 120 days after termination of employment from a retirement-eligible position. Vote 17-0.

SB 182-FN, relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery. OUGHT TO PASS WITH AMENDMENT

Rep. Robert G. Holbrook for Finance: This bill places the operation of the New Hampshire state veterans cemetery into the authority of the Adjutant General. The bond authorization is increased to $1,600,000 for the New Hampshire share of the construction. The amendment appropriates $150,000 for FY 98 and $200,000 for FY 99 for operating costs. The date for the final report of the oversight committee is extended to November 1, 1997. Vote 19-0.

SB 212-FN, declaring a member of the retirement system on leave under the Family and Medical Leave Act to be in service for purposes of death or disability benefits. OUGHT TO PASS

Rep. Arthur P. Klemm, Jr. for Finance: This bill allows members of the New Hampshire Retirement System on leave under the provisions of the Family and Medical Leave Act to be considered in service for purposes of eligibility for death or disability benefits. The Finance Committee agreed that the impact would be less than $10,000 per year. Vote 18-0.

SB 213-FN-A, establishing a fund for loans to rehabilitate class III railroads and cog railroads and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. David J. Alukonis for Finance: The Finance Committee amendment changes language in the bill in order to better integrate certain fiscal issues with Chapter 338 of the Laws of 1994 -- the statute which created the railroad rehabilitation revolving fund. Additionally, the committee amendment strengthens the state's security interest in the improved property. Vote 18-2.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SB 35, including "accessibility lift" within the definition of "elevator". OUGHT TO PASS WITH AMENDMENT

Rep. Joseph Guthrie for Health, Human Services and Elderly Affairs: This bill adds "accessibility lift" in the definition of "elevator" thereby requiring them to meet the same requirements as elevators. The amendment exempts private homes, and clarifies inspection procedures. Vote 17-0.

SB 209-FN, establishing a residential care pilot program and providing for the funding of such program. OUGHT TO PASS

Rep. Robert Chabot for Health, Human Services and Elderly Affairs: This bill addresses an urgent need to equitably fund residential care for the elderly. For too long the elderly have been forced into nursing homes for approved care, many times against their better judgment. Twelve years ago the state eliminated the Federal COLA from residential care to save money. Three years ago, because of possible Federal sanctions, that annual COLA was reinstated. (After no increases occurred for eight years.) Thus, the reimbursement rate is far behind the actual costs of maintaining a resident and many facilities have closed or are refusing to take indigent residents. In many instances those residents must be placed in a less appropriate higher level of care at a much higher cost. This pilot program increases the reimbursement from $21/day to approximately $33/day which contrasts with approximately $130/day in the higher level facility. It caps the number of participants at 180. This long overdue bill satisfies the need for elderly care in a residential setting. It is the right thing to do. It is preferred by the elderly. It is workable and equally as important, it is cost effective. Most states have already passed similar legislation. Vote 17-0.

JUDICIARY AND FAMILY LAW

SB 197-FN, relative to final dispositional orders in child protection cases. RE-REFER TO COMMITTEE

Rep. Barbara Hull Richardson for Judiciary and Family Law: This bill provides that final dispositional orders in child protection cases shall include any ruling or order arising from administrative hearing held or initiated by any administrative agency in which a finding of child abuse or neglect is made. A substantial number of the administrative hearings heard within the past few years have overturned decisions made by the Division for Children and Youth Services staff members. The committee voted to spend more time studying the reorganization of administrative hearings which will remove the procedure entirely from DCYS jurisdiction, providing further credence for the process. Vote 10-2.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

SB 42, relative to the authority of the labor commissioner to revoke the license of an employee leasing company for violations of the labor laws. RE-REFER TO COMMITTEE

Rep. Wanda G. McNamara for Labor, Industrial and Rehabilitative Services: The committee learned during deliberations that, as drafted, this bill could close down an employee leasing company for violations by client companies. Ohio has legislation in place to deal with this, and the committee unanimously agreed we should study this and put protections in place to address this issue. Vote 14-0.

SB 93, relative to employees of employers who hire recipients of state assistance under the employment assistance program. OUGHT TO PASS WITH AMENDMENT

Rep. Lawrence V. Guaraldi for Labor, Industrial and Rehabilitative Services: This bill prohibits the New Hampshire employment or the alternative employment experience program from using participants in any way contrary to certain federal laws, and affords certain employment protection. The bill prohibits requiring a participant to work under certain subsidized employment conditions or for more than a certain number of hours, and states that participants shall be considered state employees for workers' compensation purposes only. Vote 13-1.

SB 172, making various changes to the workers' compensation law. OUGHT TO PASS WITH AMENDMENT

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: This bill grants full workers' compensation benefits to injured employees who return to temporary alternative work within 5 days. The bill deletes the fee schedule in workers' compensation and sets up payment for reasonable services. It also changes the reporting requirements for written safety plans from annual to biennial. Vote 13-1.

MUNICIPAL AND COUNTY GOVERNMENT

HB 811, legalizing, ratifying, and confirming actions, votes, and proceedings of the annual meetings of the North Walpole village district and the town of Bartlett. OUGHT TO PASS

Rep. Betsey L. Patten for Municipal and County Government: Since the State of New Hampshire is not a home-rule state, the committee unanimously approved legalizing the annual meetings of the North Walpole Village district and the town of Bartlett, as requested by those governing bodies. Vote 18-0.

HB 812, relative to the Melendy Pond Authority of Brookline, New Hampshire. RE-REFER TO COMMITTEE

Rep. Richard C. Leone for Municipal and County Government: The town of Brookline established a Melendy Pond Authority in 1950. The sponsor requested that these actions be legalized, ratified and confirmed. The committee determined there was a need to secure more background information and clarification before making a final decision. Also there is pending litigation involving the Melendy Pond Authority. Vote 19-0.

TUESDAY, MAY 20

REGULAR CALENDAR

COMMERCE

SB 39, relative to the delivery of bank products and services. OUGHT TO PASS WITH AMENDMENT

Rep. David T. Mittelman and Rep. George Hurt for Commerce: This bill deals with two bank branch-related issues. First, the unamended portion of the bill provides consumers with more convenient access to bank services. It allows (a) mobile units to operate as branch offices conducting bank business, and (b) customer representatives to establish new banking relationships at commercial locations or public events. This framework represents a compromise between state-wide banks and community banks. The minority of the committee is concerned about the potential that

banks may sell or solicit insurance products and services through the mobile units and customer representatives that this bill allows. Therefore, the majority and the minority of the committee wish to re-emphasize that the provisions of HB 799, which regulates the sale of insurance by banks, shall apply to all bank branches and agents, including delivery of bank products and services by mobile branch offices. Second, the amendment - which was not controversial in committee - addresses the issue of non-bank ATMs. Under current law, an ATM is considered a bank branch, and because only a bank may operate a bank branch, only banks may operate ATMs. This restriction, however, is not explicitly clear in our statutes nor is it consistent with the approach that other states have taken toward non-bank ATMs. Therefore, the amendment: (a) definitively places a moratorium on non-bank ATMs until January 1, 1999, and (b) establishes a study committee to examine whether non-banks should be allowed to operate ATMs, and if so, what if any consumer protection regulations (e.g., fraud prevention, error resolution) should govern the use of these ATMs. Vote 8-6.

SB 79, prohibiting the sale of gift certificates containing an expiration date, relative to unclaimed and abandoned property, and relative to liens on personal property. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. William Tsiros for the Majority of Commerce: Under the current law, all unclaimed gift certificates and store credits must be turned over to the state as abandoned property. This bill will now allow the consumer, who purchases a gift certificate, to have claim for it with the merchant, but with no expiration date. It also allows a repair shop to put claim and after 60 days to sell in public auction, the personal property that was abandoned and not paid for. Vote 13-1.

Rep. Tim S. McGough for the Minority of Commerce: This bill, as amended by the committee, contains a total ban on gift certificates containing an expiration date, except for promotional purposes. An amendment offered in committee to allow expiration dates of a minimum of 2 years from purchase failed on a 9-6 vote. The minority on this vote believed that merchants should be permitted to determine whether or not they wish to have an expiration date on gift certificates they sell. Only California has instituted a total ban on expiration dates on gift certificates. Fourteen states actually consider gift certificates to be a contract between the purchaser and the merchant. New Hampshire should not tie the hands of small businesses that wish to continue to offer this service.

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts. OUGHT TO PASS WITH AMENDMENT

Rep. Gregory G. Carson for Commerce: This legislation clarifies the procedure for acquisition transaction involving health care charitable trusts. It assures public notice and disclosure as to fair value, conflicts of interest and public benefit when a merger or sale occurs. Vote 11-3.

SB 113, establishing a committee to study health care issues related to individuals who are underinsured or without insurance. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce: This bill was originally reported out ITL. After a reconsideration to address a committee member's concerns, the committee feels the issue will be handled under the study committee established in SB 122. This study committee formed in SB 113 is not necessary. Vote 9-5.

SB 130, relative to the portability, availability, and renewability of health coverage. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This legislation brings New Hampshire into conformity with the federal HIPAA(Kennedy-Kassenbaum) bill. New Hampshire will avoid dual regulation by passing this bill. There are several provisions of HIPAA which will have a significant impact on New Hampshire insureds. Pre-existing conditions for maternity requirements and broadening existing NH law to include large employers (over 100 employees) will probably result in higher insurance premiums. Once again, the federal government thinks they can do it better than the states. Vote 12-1.

SB 165, relative to Medicare and health maintenance organizations and small employer and individual insurance. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Keith R. Herman for the Majority of Commerce: This legislation takes current Insurance Department rule and places it into statute where the Legislature will have better control. Consumers must be protected from the threat of false and misleading advertising. Despite the appearance of government intervention, all parties affected by this bill fully support it. The bill as amended, also allows for the use of any FDA approved test for A.I.D.S. Vote 12-2.

Rep. Tim S. McGough for the Minority of Commerce: This bill had a single controversial issue after it was reported out of committee: whether or not to give approval authority to the state on HMO advertising. The amendment to eliminate this censorship ability, but to keep a review process and all the other changes made by the committee amendment, fell to a tie vote of 7-7. This minority amendment now being offered still requires that all HMO advertising be reviewed by the insurance department, but leaves the final decision to use the material to the organization generating it. The state must not be involved in censoring advertising in any way, especially when sufficient remedy for false or misleading advertising already exists in statute.

EDUCATION

SB 154, relative to charter schools. OUGHT TO PASS WITH AMENDMENT

Rep. Richard L. Champagne for Education: This bill, as amended, makes minor changes to RSA 194(B) relative to clearly defining specific application process dates, technical changes regarding applications vs. contracts and other clarifications regarding charter school purpose statements. Vote 20-1.

SB 202-FN-A-L, relative to the certification of teachers, high school graduation examinations and making an appropriation therefor, school building aid, and establishing a committee to study school discipline and manifest educational hardship. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Susan B. Durham for the Majority of Education: The amendment replaces the bill as passed by the Senate and was discussed and voted on section by section.

Sections 1 and 2 direct the State Board of Education to establish testing for academic competence before a teacher is certified. This draws on the language of re-referred HB 612 and has support of teachers, administrators and School Boards.

Sections 3 and 4 give teachers and their representatives more time to prepare for a hearing and more time to appeal a local school board decision to non-renew a teacher's contract.

A section which prohibited binding arbitration in teacher contracts was deleted.

Sections 5-10 set up a 12th grade assessment program which will set standards of what New Hampshire graduates should know and be able to do. These standards shall be comparable to those of the world's top performing nations. The purpose is to encourage our teachers and students to excel academically. $300,000 is appropriated for the assessment program.

Sections 11-13 encourage school districts to have year round schools by paying 75% building aid for the cost of renovations needed for air conditioning.

The final section, #14, establishes a committee to study issues relating to school discipline and manifest educational hardship Vote 12-9.

Rep. Charles Yeaton for the Minority of Education: This bill offers little but simplistic solutions to very complex education reform problems.

To assume that educational personnel including teachers, principals and central office administrations are responsible for the decline in quality education is to blame police officers for crime, clergy for moral decay and doctors for physical and mental illness.

The new State Board of Education and the Commissioner of Education that has authority, has assured the Education Committee that education reform will be a top policy priority with recommendations for legislation to be available in a timely fashion.

ELECTION LAW

SB 97, relative to polling hours. INEXPEDIENT TO LEGISLATE

Rep. Jane A. Clemons for Election Law: This committee has twice voted ITL on this same issue. A bill recently passed by the House allowing 17 year olds to work at the polls may help to provide a solution to finding enough workers to keep the polls open. Vote 11-2.

ENVIRONMENT AND AGRICULTURE

SB 32, relative to dogs at large. INEXPEDIENT TO LEGISLATE

Rep. Harold P. Melcher for Environment and Agriculture: Upon a more thorough re-examination of SB 32, the committee felt that the bill does not add any essential improvement to current law, and raised several new unanswered questions, needing a basic re-examination of the policy principles of dog laws before new legislation is brought forward. Vote 14-2.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 207-FN, relative to a digital signature act. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: This bill, as amended, will allow the secretary of state to establish a program

to verify authenticity of an electronic digital signature and electronic documents for those that wish to make use of this new technology. The amendment added by the committee makes administrative rules governing this process mandatory by the agency. Vote 14-3.

FINANCE

SB 90-FN, requiring all proposed legislation affecting independently owned small businesses to include an analysis of the cost of the legislation. INEXPEDIENT TO LEGISLATE

Rep. Stephen T. DeStefano for Finance: This bill requires all proposed legislation affecting businesses with less than 100 employees to have a fiscal note. As a result, between 65% and 70% of all bills would have to include fiscal notes. Many of these fiscal notes would have to show different effects on different types of small businesses. This would impose a significantly increased workload on the LBA that might affect the quality of its output or would require additional analysts to handle this extra work. Vote 15-4.

SB 177-FN, relative to the liability of prospective adoptive parents for court ordered services. OUGHT TO PASS WITH AMENDMENT

Rep. Frances L. Riley for Finance: There are many disadvantaged children longing for a family, and there are many prospective adoptive parents who would be willing to adopt some of these children. This bill provides that the state shall have no right of action against such adoptive parents for any court-ordered services/programs after the adoption. For the protection of the state, however, this bill provides that should the adoptive parent be convicted of sexual or physical abuse, or that the adoptive parent has misappropriated adoption subsidy monies, the adoptive parent shall be responsible for payment for subsequent services/programs. The committee felt that the passage of this bill would be an added incentive for prospective adoptive parents to be willing to take on the responsibility of these potentially problem children without incurring additional expenses. Vote 20-0.

JUDICIARY AND FAMILY LAW

SB 25, establishing employer immunity from civil liability for good faith disclosure of information regarding current and former employees to prospective employers. RE-REFER TO COMMITTEE

Rep. Sandra B. Keans for Judiciary and Family Law: This bill was presented on behalf of the business community as a response to potential lawsuits. The committee had a hard time with many of the provisions based on the fact that this is an "employee at will" state. Also the proof required in these actions was a higher standard than needed in other civil actions. Even after joint subcommittees with the Labor committee, and the adoption of several amendments, the Judiciary & Family Law committee was unable to agree on a final bill which protected both sides. We believe the issue is of such importance that more data needs to be studied. Adopting legislation based on anecdotal information might only compound the problems associated with employer/employee relations. Vote 12-1.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

SB 40, relative to the payment of wages by employers. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Lawrence V. Guaraldi for the Majority of Labor, Industrial and Rehabilitative Services: The bill clarifies the method of payment or deposit of wages, prohibits any agreement for work to be paid less than the minimum wage, requires wage claims to be filed with the Department of Labor within 18 months from the date wages were due, and establishes the minimum hourly rate for employees receiving tips at $2.38 per hour or 45 percent of the federal minimum wage, whichever is higher. In 1996, Congress increased the minimum wage from $4.25 to $4.75. In September, it rises again to $5.15. This represents a payroll increase to hospitality operators close to 20 percent within one year. In addition, this increase does not include all the additional cost burdens that are a function of payroll - such as worker's compensation insurance and business enterprise taxes. At the same time, Congress changed the federal tip credit determination from its "percentage formula" basis to a permanent freeze of $2.13 per hour, which became effective for 26 states. This "percentage formula" basis has been traditionally applied at both the federal and state levels. This federal change broke New Hampshire's long-standing tradition of adhering to federal minimum wage standards. Even though the tradition has been broken, the majority seeks to establish a minimum rate at least 25 cents higher than the old traditional rate would provide. The committee heard testimony that tipped employees are among the most highly compensated employees in the food service industry and that they earn anywhere between $8 to $16 per hour. Under state law, tipped employees are guaranteed the minimum wage no matter what. If not, the employer is responsible for making up the difference if actual tip earnings are reported less than this amount. Both New Hampshire and federal income tax laws, as well as the IRS, treat 100 percent of tip earnings as income. Clearly tips are wages and there are safeguards in the law to guarantee that all tipped employees earn at least the minimum wage. Because the New Hampshire payroll rate for tipped employees ($2.38) is higher than the federal rate, because tipped employees earn well above the minimum wage, and because the hospitality industry employs over 42,000 workers and generates significant revenues to state coffers ($113 million alone in meals and room taxes), the majority believes it is good public policy to freeze the payroll rate at the current level of $2.38 with a 45 percent formula for future tip credit determinations. The majority feels this is a "win-win" situation for both employees and employers. Vote 10-5.

Reps. Donald D. Welch, Richard E. Dolan, Jane P. Kelley, Lorraine R. Palmer and Benjamin C. Baroody for the Minority of Labor, Industrial and Rehabilitative Services: New Hampshire has had a long standing tradition of setting the minimum wage for "tipped" employees, waiters and waitresses at one-half of the minimum wage for "non-tipped" employees. This minimum wage for "tipped" employees is scheduled to increase to $2.58 in September, 1997. This tradition paralleled the federal law until the federal minimum wage increased on October 1, 1996, to $4.75 an hour, when Congress froze the minimum wage for "tipped" employees at $2.13. The majority amendment is nothing more than "a wolf in sheep's clothing!" The majority believes it is fair to break tradition by reducing the "tipped" employees' minimum wage to 45 percent of the standard minimum wage. When asked why 45 percent was better than 50 percent, the majority gave no justification for this number. The minority believes in protecting the low wage earners, students working to save money for college, single parents working second jobs to pay for medical expenses, fuel, or food. Keeping in place the long standing tradition of paying "tipped" employees one-half the minimum wage is in the state's best interest.

LOCAL AND REGULATED REVENUES

SB 196-FN-L, allowing the transmission of simulcast races at grand hotels. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Linda T. Foster for the Majority of Local and Regulated Revenues: The majority of the committee believes that this bill gives New Hampshire's grand hotels an important tool to revitalize their businesses and stimulate their regional economy. The bill keeps in place the regulatory plan and public protections which currently govern pari-mutuel wagering. It includes a home rule provision whereby a majority of the voters in the municipality where the hotel is located must vote to allow pari-mutuel wagering. This is enabling legislation. Whether or not to request such licensure and local referendum is the business decision of the owner. Whether or not you, the consumer, decide to stay in a facility which is granted such licensure is your individual choice. The majority believes that the benefit to local communities in keeping our historic grand hotels open and economically viable far outweighs any imagined negative impact of the legislation. Vote 11-9.

Reps. Betsy McKinney, Betsy A. Coes, William J. Desrosiers, Marian E. Lovejoy, Lauren Carney, and Dawn C. Piteri for the Minority of Local and Regulated Revenues: A substantial minority of the committee, including a majority of the Republicans, are strongly opposed to this major expansion of gambling at a non-track site. This bill permits off-track betting for the first time. It opens the door to a further, far more extensive expansion of gambling, as evidenced by an amendment offered in committee which would have allowed off-track betting in any hotel or motel with more than 80 rooms. This bill crosses the well-defined line which limits pari-mutuel gambling to only the four racetracks. It also singles out a single business entity for special treatment and discriminates against its competitors. This bill is not needed. It will only generate an estimated $311,000 in additional revenue to the state, which does not begin to offset any revenue which may be lost from other bills concerning racing.

SB 216-FN-A, relative to pari-mutuel racing and taxes on pari-mutuel pools. OUGHT TO PASS WITH AMENDMENT

Rep. Stephen G. Avery for Local and Regulated Revenues: This bill revises the commission structure on pari-mutuel pools. The new structure of the tax lowers and standardizes the overall rate of tax on all pari-mutuel wagering. The amendment puts back in the law the 100 days of live racing requirement and removes computer wagering from the bill. Vote 14-6.

MUNICIPAL AND COUNTY GOVERNMENT

SB 109, relative to the official ballot voting option. OUGHT TO PASS WITH AMENDMENT

Rep. Betsey L. Patten for Municipal and County Government: On a unanimous vote the Committee passed this bill regarding changes and clarifications for the official ballot voting process, commonly known as SB 2. The following are issues addressed: expending money prior to budget adoption; explanation of how the first session addresses warrant articles; restriction of reconsideration; clarifying that the previous years operating budget shall not be amended by the legislative body; defining the 3/5 vote requirement; additional polling places for second session; and repealing the public hearing after the first deliberative session. The committee debated and the majority approved provisions which enable town and school district governing bodies to, at their discretion, grant one special meeting for the purpose of addressing negotiated cost items without petitioning the court. Such meetings shall specifically address negotiated cost items submitted according to law but amended or rejected by the legislative body. Vote 19-0.

PUBLIC WORKS AND HIGHWAYS

SB 162-FN-A-LOCAL, relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: RE-REFER TO COMMITTEE.

Rep. Paul I. LaMott for the Majority of Public Works and Highways: The bill appropriates $950,000 through the bonding process to purchase conservation land and buildings on the western shore of Lake Tarleton, a pristine 350 acre lake in the White Mountains in the Town of Piermont. The majority of the committee felt that the property in question deserves protection now for use and enjoyment by the citizens of New Hampshire today and in the future. Surrounding the property is over 5,000 acres of land about to be protected through over $4 million of federal money ($1.6 million in hand) and $525,000 of private money of which nearly $400,000 is already raised. In the New Hampshire tradition of partnerships, this is

a substantial effort with the state, federal government and private sector all contributing significant dollars to make the entire effort successful. The amendment protects the state's long term interests by specifically identifying the purpose of the project, the acreage involved, the Department of Resources and Economic Development's (DRED) role in managing the property and in developing a master plan, DRED's ability to enter into cooperative agreements to manage the property, a provision to allow DRED to resell the property or portions of the property should management arrangements not be suitable to DRED, making the appropriation contingent upon the completion of the surrounding federal acquisitions and private fundraising. The majority felt that the action needs to be taken now to take advantage of the leverage of other federal and private money while the lands are still available for acquisition. Vote 12-8.

Reps. Leon Calawa, Jr., Marlene M. DeChane, William E. Leber, Winston H. McCarty, Gerald P. Merrill, Steve Vaillancourt and James A. Whittemore for the Minority of Public Works and Highways: The minority believes that the proper way to frame this issue is not in preserving pristine purity but rather in assessing prudent priorities. This bill calls for an appropriation of $950,000. In formulating the Capital Budget earlier this year, this committee realized we had a finite number of dollars to spend and then set about establishing priorities for spending. Any number of items, from roof repairs and renovations of state buildings to purchase of lab equipment and books for the community college system, would have a higher priority than this bill. Should this bill not pass, Lake Tarleton is in no imminent danger. No less than three-quarters of the shoreline will be in the White Mountain National Forest; Fish and Game will continue to have a boat launch on the lake. There is no danger that public access to the lake will be lost. The minority also has concerns that this bill represents an attempt to bail out a private developer who has been trying to sell lots for the past ten years and has managed to sell only two. Quite clearly, there is no rush to get this land. So many questions remain unanswered that at best this bill should be re-referred for further study. There is no hurry. Such extravagant spending should not be tolerated when so many other vital issues cry out for funding. This item certainly would be on our wish list but not on our reality check list. If you support this, ask yourself: "What would you not do in its stead - not fund more prison beds? Not dredge the Seabrook/Hampton harbor? Not try to stop land erosion along the Connecticut River?" These are all vital issues before this committee, and there are many others.

SB 168-A, requiring the department of corrections to prepare and enter into a lease-purchase agreement with the Berlin Economic Development Council for a medium security correctional facility to be constructed in Berlin and making an appropriation therefor. RE-REFER TO COMMITTEE

Reps. Gene G. Chandler and Katherine D. Rogers for Public Works and Highways: The New Hampshire Department of Corrections was responsible for 2,306 inmates on January 27, 1997, and 2,366 inmates on April 30, 1997. NH DOC is currently over operating capacity by 478 beds. While the NH DOC has been able to divert 425 - 475 prisoners over the past two years through improved parole management, the department's Academy Program, and increased use of probation, it is time for the state to develop and implement a comprehensive plan to deal with current and projected prison overcrowding. The prison problem requires a balanced, well planned and coordinated approach to deal with all aspects of the Corrections department and inmate population. The committee plans to work with the Senate sponsors, House members, NH DOC and the Governor's office to make recommendations for the next legislative session that will involve not only new facilities but other moves that will best utilize available resources. The Public Works & Highways Committee applauds the sponsors of SB 168 for stepping forward with a concept for solving the overcrowding situation, but the committee feels that other issues need to be addressed and the above mentioned comprehensive all encompassing approach is in the best interest of the state at this time. The committee commits to using this re-referred bill as a vehicle to present to the legislature a detailed corrections plan n January 1998. Vote 15-1.

SCIENCE , TECHNOLOGY AND ENERGY

SB 116-FN, relative to the regulation of rural electric cooperatives by the public utilities commission. OUGHT TO PASS WITH AMENDMENT

Rep. Jeb E. Bradley for Science, Technology and Energy: This is essentially the same bill that passed the House last year but failed in the Senate. Passage of this bill will allow the N.H. Electric Cooperative to be exempt from price setting regulation by the Public Utilities Commission. This will save Coop members significant overhead costs. The committee deemed the policy of exempting the Coop from price regulation to be appropriate, as the Coop is a member-controlled organization whose officers are elected. For the Coop to become exempt from price regulation, its members must affirmatively vote to do so by a 60 percent majority per the committee amendment. Passage of this legislation will not affect statutory regulation of the Coop with regard to several statutes, including: RSA 362-A, the Limited Electrical Energy Producers Act; RSA 363-B, Termination of Services; RSA: 371, Eminent Domain; RSA 374:2-a, Alternative to Herbicide Use; RSA 374:26, Permission for Franchises; RSA 374:26-a, the Pilot Program; RSA 374-C, Public Utility Bond Financing; RSA 374-F, Electric Utility Restructuring; and RSA 378:37-39, New Hampshire Energy Policy and Least Cost Planning. Vote 17-0.

NOTICE

MEMBERS OF THE HOUSE:

I would like to thank those members who attended the Continuing Education Session on Thursday dealing with Committees of Conference. For those of you who were not able to attend, the procedures are outlined below. If any questions arise as we go through this process, please do not hesitate to contact me.

Donnalee Lozeau, Deputy Speaker

1997 HOUSE COMMITTEE OF CONFERENCE PROCEDURES

- The Chairmen of the policy committees will receive bills amended by the Senate and should check with their committees to determine whether the committee will concur, non-concur, or request a Committee of Conference.
- When a committee requests that the bill be sent to a Committee of Conference, the Speaker generally will appoint members from those committees which have heard the bill. Chairmen will recommend members for appointment. If the bill has gone to more than one committee, the members may come from the different committees. Chairmen should recommend only those members from their policy committees. In the case of a bill which has gone to a policy committee and Finance, one slot is generally reserved on the four member Committee of Conference for a member from the Finance Committee.
- For House bills in Committee of Conference, the House Committee of Conference Chairman shall set the time and place of the first meeting and shall chair each meeting of the Committee of Conference. Each meeting shall be posted in the Clerk's Office and outside the committee room at least 24 hours in advance.(House Rule 43(b)(3))
- The House and Senate Committees of Conference on a bill shall meet jointly but vote separately while in conference.
- The Committee of Conference may not change the title of the bill. The Committee also may not add amendments to the bill which are not germane to the subject matter of the bill or contain subject matter that has been indefinitely postponed. A non-germane amendment is one in which the subject matter is not contained in either the House or Senate version of the bill.(House Rule 49 (b))

The sponsor of a bill which is in Committee of Conference shall be granted a hearing upon request.

- A unanimous vote of both the House and Senate Committees of Conference voting separately is necessary for an agreed upon report to be sent to the House and Senate.
- Reports of all Committees of Conference must be filed with the Office of Legislative Services by June 5, at 5 p.m. All Committee of Conference members must sign all Committee of Conference reports in the Office of Legislative Services.
- The first-named House member on all bills in Committee of Conference must prepare an analysis of the report for printing in the House Calendar. This blurb should contain a complete explanation of all changes made to the bill since it was passed by the House.
- All Committee of Conference reports shall be distributed in seat pockets to be acted on some subsequent day.
- A Committee of Conference report on either a House or Senate bill may be placed on the Consent Calendar only upon a unanimous vote of all House conferees.(House Rule 49 (d)).
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COMMITTEES OF CONFERENCE

HB 252, relative to posting of bylaws in advance of any town election. (Reps. Horton, Root, Hart and Buckley)

HB 254, relative to shared tenant telecommunication services. (Reps. Howard, Donald White, Below and Jeb Bradley; Sens. Johnson, Whipple and Patenaude)

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners. (Reps. Christie, Hansen, Lyman and Yvonne Coulombe; Sens. Podles, Pignatelli and Gordon)

SB 4, relative to patient information. (Sens. Danais, Squires and K. Wheeler)

SB 21, excepting persons who are 17 years old and graduated from high school from the youth employment law. (Sens, Squires, Francoeur and Pignatelli)

SB 189-FN-L, authorizing the department of safety to issue driver's licenses to certain aliens. (Sens. Patenaude, Whipple and Rubens)

HOUSE BILLS AMENDED BY THE SENATE

HB 105, allowing an extension of time limits upon a showing of good cause for holding an adjudicatory hearing in certain delinquency cases. (House Concurred 4/10/97)

HB 117, relative to Persian Gulf War bonus payments. (House Concurred 5/14/97)

HB 121, relative to quality review for accountancy and requiring the board of accounting to adopt administrative rules. (SJ 17)

HB 157, requiring persons marketing small consumer loans by offering inducement checks to print a disclosure on the inducement checks. (SJ 16)

HB 165, establishing a committee to study withdrawal from cooperative school districts. (SJ 10)

HB 181, prohibiting the sale or distribution of exotic aquatic weeds and increasing certain fees. (SJ 17)

HB 201-L, allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer. (SJ 18)

HB 230, establishing a committee to study the school building aid system. (SJ 10)

HB 249, clarifying the authority of local police officers to serve cease and desist orders against planning and zoning violations. (House Concurred 5/7/97)

HB 251, reclassifying a portion of North Main Street in the town of Farmington and a portion of Passaconaway Road in the town of Albany. (House Concurred 4/10/97)

HB 252, relative to posting of bylaws in advance of any town election. (House Nonconcurred; C-of-C 5/14/97)

HB 254, relative to shared tenant telecommunication services. (House Nonconcurred; C-of-C 4/30/97)

HB 255, establishing a committee to study access to dental care for low-income, uninsured, and underinsured persons. (House Concurred 4/30/97)

HB 258-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. (SJ 16)

HB 262-FN-A-L, establishing a National Information Infrastructure oversight committee. (SJ 18)

HB 264, relative to technical committees advising the director of the office of information technology management on technical issues. (House Concurred 4/30/97)

HB 289-L, authorizing annual school district meetings to be held at multiple locations. (SJ 18)

HB 315, expanding certain financial powers of village districts. (House Concurred 4/30/97)

HB 327, relative to pledges for loans, finance charge disclosure statements, debt adjusters, and consumer credit transactions. (SJ 16)

HB 329, clarifying the applicability of the fireman's rule. (SJ 17)

HB 338, repealing certain requirements relative to the duty to deliver a copy of process to prisoners. (House Nonconcurred; C-of-C 4/10/97)

HB 340, relative to the real estate commission and its licensing and bonding requirements. (SJ 17)

HB 343, relative to authority by governmental entities over driveways and other accesses to public ways. (House Concurred 4/23/97)

HB 344-L, relative to planning board procedures on plats. (SJ 18)

HB 368, establishing the honorary position of artist laureate of the state of New Hampshire. (House Concurred 5/7/97)

HB 370, updating and making technical corrections in certain banking laws. (House Concurred 5/14/97)

HB 378, regulating the practice of acupuncture. (SJ 17)

HB 392, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code." (House Concurred 4/10/97)

HB 404, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool. (House Concurred 5/14/97)

HB 412, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles. (SJ 15)

HB 447, eliminating the grandfather clause for licensure of professional engineers. (SJ 17)

HB 448, relative to the trust fund for the prevention of child abuse and neglect. (SJ 14)

HB 450, relative to accessing directory information as defined by the Family Educational Rights and Privacy Act. (SJ 11)

HB 453, relative to the bank commissioner's regulation of sales finance companies and retail sellers. (SJ 17)

HB 469, relative to the rules of the board of dental examiners. (SJ 17)

HB 473, relative to the use of watercraft and boats on the waters of Chocorua Lake in the town of Tamworth. (SJ 17)

HB 486, relative to a study of a certain portion of Route 3A. (House Nonconcurred; 5/7/97)

HB 516-FN, increasing the fuel oil discharge cleanup fund fee. (House Concurred 4/30/97)

HB 528-LOCAL, relative to municipal water, gas and electric utilities. (SJ 17)

HB 539, relative to the tax lien process for quarterly tax bills in the city of Concord. (House Concurred 4/23/97)

HB 580-FN, providing that the proper place for filing security interests on manufactured housing is in the office where mortgages or real estate are filed or recorded. (SJ 16)

HB 588-FN, relative to certification of operators of solid waste plants, water treatment plants, and wastewater treatment plants, and adding late renewal fees. (SJ 17)

HB 592-FN-A-L, establishing an advisory council on brain and spinal cord injuries. (SJ 18)

HB 611-FN, making state securities laws comply with the National Securities Markets Improvement Act. (SJ 16)

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee. (House Concurred 4/30/97)

HB 652, establishing a committee to study certification of police and fire dispatchers. (House Concurred 5/7/97)

HB 662, revising the laws relative to the use of dealer plates. (House Concurred 5/7/97)

HB 677-FN, increasing the wetlands excavating and dredging permit fee for major and minor projects. (SJ 17)

HB 693, establishing a house committee to examine water quality issues. (SJ 17)

HB 704, relative to provisional licenses for manufacturers of beverages and requiring approval of the source of water used to manufacture beverages. (House Concurred 4/30/97)

HB 706, establishing a commission on animal damage control to review the fish and game laws relating to damage by game birds and game. (House Concurred 4/30/97)

HB 737, establishing a committee to study the New Hampshire retirement system relative to redefining earnable compensation. (House Concurred 4/23/97)

HB 755-FN, relative to OHRVs and increasing certain OHRV registration fees (SJ 18)

HB 781-FN, relative to lucky 7 tickets and bingo games and requiring manufacturers and distributors of bingo supplies to be licensed. (SJ 18)

HB 799, regulating the sale of insurance by financial institutions. (SJ 18)

HCR 2, urging all school districts in the state of New Hampshire to implement peer mediation programs. (SJ 11)

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act. (SJ 16)

LAID ON TABLE

HB 198-L,

(Pending question is the adoption of the Committee report, re-refer to committee.)

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

COMMITTEE HEARINGS

TUESDAY, MAY 20

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive session on pending legislation and revenue estimates.

WEDNESDAY, MAY 21

FINANCE, Rooms 210-211, LOB

IF PASSED BY THE HOUSE ON 5/20, THE FOLLOWING BILLS WILL BE HEARD AS SCHEDULED BELOW:

9:00 a.m. ***SB 202-FN-A-L,*** relative to the certification of teachers, high school graduation examinations and making an appropriation therefor, school building aid, and establishing a committee to study school discipline and manifest educational hardship.

10:00 a.m. ***SB 209-FN,*** establishing a residential care pilot program and providing for the funding of such program.

11:00 a.m. ***SB 172*** , making various changes to the workers' compensation law.

11:30 a.m. ***SB 207-FN,*** relative to a digital signature act.

1:00 p.m. ***SB 162-FN-A-L,*** relative to the acquisition of a certain piece of property in Piermont, New Hampshire and making an appropriation therefor.

1:30 p.m. ***SB 79,*** prohibiting the sale of gift certificates containing an expiration date, relative to unclaimed and abandoned property, and relative to liens on personal property.

2:00 p.m. ***SB 216-FN-A***, relative to pari-mutuel racing and taxes on pari-mutuel pools.

3:00 p.m. ***SB 196-FN-L,*** allowing the transmission of simulcast races at grand hotels.

Executive session on pending legislation to follow.

FINANCE - (DIVISION I), Room 212, LOB

Work and executive session at the conclusion of the public hearings.

FINANCE - (DIVISION II), ROOM 209, LOB

Work and executive session at the conclusion of the public hearings.

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

Work and executive session at the conclusion of the public hearings.

JUDICIARY AND FAMILY LAW, Room 208, LOB

10:00 a.m. Subcommittee work session on ***HB 290,*** relative to electronic signatures; ***HB 555,*** exempting an individual's pensions and individual retirement accounts from bankruptcy attachment; ***HB 595-FN,*** protecting consumers from the unlicensed practice of law; ***HB 616-FN,*** relative to jury selection reforms; ***HB 734-FN,*** requiring district courts to hold evening sessions and ***HB 736-FN,*** increasing jurors' fees.

10:00 a.m. Subcommittee work session on ***HB 234-FN-LOCAL,*** relative to disposition by counties of funds of deceased patients of county nursing homes, ***HB 361,*** clarifying the status of tenants who reside in rooming or boarding houses for more than 90 consecutive days, ***HB 606-FN-LOCAL,*** relative to procedures regarding children in need of services under RSA 169-D, ***HB 635,*** relative to a limitation on liability for emergency medical care providers, ***HB 774-FN,*** relative to child support, custodial rights, and visitation, ***HB 793,*** limiting the civil liability of persons engaged in equine activities and ***HB 802,*** relative to judgments on past due rent and judgments for eviction.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:30 a.m. Subcommittee work session on ***HB 405-LOCAL,*** relative to standardizing the requirements for the design and specifications of septic systems.

WILDLIFE AND MARINE RESOURCES, Room 307, LOB

10:00 a.m. Subcommittee work session on ***HB 177-FN,*** increasing the wild black bear license and tag fee.

THURSDAY, MAY 22

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

9:00 a.m. Subcommittee work session on ***HB 553-LOCAL,*** relative to a right to farm.

10:00 a.m. Full committee discussion on environmental issues.

FINANCE, Rooms 210-211, LOB

9:00 a.m. Executive session.

FINANCE - (DIVISION I), Room 212, LOB

9:00 a.m. Work and executive session on pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive session on pending legislation.

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

9:00 a.m. Work and executive session on pending legislation.

JUDICIARY AND FAMILY LAW, Room 208, LOB

10:00 a.m. Subcommittee work session on ***HB 290,*** relative to electronic signatures; ***HB 555,*** exempting an individual's pensions and individual retirement accounts from bankruptcy attachment; ***HB 595-FN,*** protecting consumers from the unlicensed practice of law; ***HB 616-FN,*** relative to jury selection reforms; ***HB 734-FN,*** requiring district courts to hold evening sessions and ***HB 736-FN,*** increasing jurors' fees.

TUESDAY, MAY 27

ETHICS COMMITTEE (RSA 14-B:2), Room 304, LOB

9:00 a.m. Rescheduled regular meeting.

JUDICIARY AND FAMILY LAW, Room 208, LOB

10:00 a.m. Subcommittee work session on ***HB 234-FN-LOCAL,*** relative to disposition by counties of funds of deceased patients of county nursing homes, ***HB 361,*** clarifying the status of tenants who reside in rooming or boarding houses for more than 90 consecutive days, ***HB 606-FN-LOCAL,*** relative to procedures regarding children in need of services under RSA 169-D, ***HB 635,*** relative to a limitation on liability for emergency medical care providers, ***HB 774-FN,*** relative to child support, custodial rights, and visitation, ***HB 793,*** limiting the civil liability of persons engaged in equine activities and ***HB 802,*** relative to judgments on past due rent and judgments for eviction.

WILDLIFE AND MARINE RESOURCES, Room 307, LOB

9:00 a.m. Subcommittee work session on ***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.

10:00 a.m. Subcommittee work session on ***HB 132-FN,*** allowing New Hampshire residents on active duty in the armed forces or coast guard to be issued hunting and fishing licenses at no charge.

1:00 p.m. Rescheduled subcommittee work session on ***HB 371,*** relative to the authority of the department of fish and game to regulate the management, preservation, propagation, and taking of state fish, game, and wildlife resources.

MONDAY, JUNE 2

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

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

TUESDAY, JUNE 3

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 203, LOB

10:00 a.m. Regular meeting.

ELECTION LAW, Room 308, LOB

10:00 a.m. Work session on campaign finance reform.

MONDAY, JUNE 9

FISCAL COMMITTEE (RSA 14:30-a), Rooms 210-211, LOB

9:00 a.m. Regular business.

FRIDAY, JUNE 20

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

9:00 a.m. Regular meeting.

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62), Room 307, LOB

9:00 a.m. Regular meeting.

FRIDAY, JUNE 27

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

9:30 a.m. Rescheduled regular meeting.

MONDAY, JUNE 30

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

9:30 a.m. Regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

The Sullivan County Executive Committee will meet on Thursday, May 22 in the Commissioners' Conference Room in Newport at 10:00 a.m. to review the third quarter budget figures.

Rep. Gordon B. Flint, Chairman

Sullivan County Executive Committee

COUNTY DELEGATION NOTICE

Strafford County Executive Committee will meet Friday, May 23 at 8:30 a.m. at the County Commissioners' Conference Room to review the first quarter budget.

Deborah F. Merritt, Chairman

Strafford County Executive Committee

COUNTY DELEGATION NOTICE

The Strafford County Delegation will meet with Mr. Art Nickless of the Pease Development Authority on Wednesday, May 28 at noon in Room 305, LOB. Bring your lunch.

Deborah F. Merritt, Chairman

Strafford County Executive Committee

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NOTICE

The Sergeant-at-Arms Annual Buffalo Barbecue featuring bison burgers and dogs will be held Wednesday, May 28 at 5:00 p.m. at Bear Brook State Park, Allenstown. Tickets ($8) and directions are available from the Sergeant-at-Arms office. All are welcome.

Rob Johnson, II, Sergeant-at-Arms

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The New Hampshire Supreme Court has announced that typewritten memoranda on the questions presented by the request of the Senate for an opinion of the justices on the constitutionality of SB 73-FN on property taxation of telephone and cable poles and lines may be furnished by any attorney, legislator, organization, interested party or member of the public on or before May 27, 1997. An original and fifteen copies of any memorandum must be filed with the clerk's office.

Howard J. Zibel, Clerk

New Hampshire Supreme Court

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Members are reminded that material in mailboxes needs approval of the chairman of the Legislative Administration Committee. Such material should relate to legislative business and must indicate the identity of the sender.

Rep. Channing T. Brown, Chairman

Legislative Administration Committee

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REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 2, 25, 50, 53, 120, 151, 181, 186, 187, 225, 229, 236, 243, 262, 268, 340; 378, 379, 430, 436, 457, 459, 486, 498, 511, 516, 530, 557, 559, 560, 562, 564, 565, 567; 568, 569, 570; 571, 572, 573, 577, 578; 580, 587, 588, 589; 591, 592, 593, 595, 596, 598, 599, 602; 603; 604, 605; 607; 608, 610; 611, 615; 617; 618; 619;622, 625; 626, 627; 636, 637, 638; 643; 644,645; 649; 657, 658, 661; 663, 671, 677, 686; 688, 689, 696, 700, 702, 716; 719; 720, 723, 724, 725, 726, 727, 729, 731, 733, 734, 735, 737, 739, 740, 741, 742, 743, 744, 745, 747, 748, 749, 750, 751, 755, 760, 761, 762, 763. 764, 765,766, 767, 768, 769, 770, 771, 773, 774, 780, 781, 783, 784, 785, 786, 788, 791, 792, 794, 795, 796, 799 and 810.

Leo J. Callahan, Assistant Clerk

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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.

David S. Feng, 1 Timber Lane, Hudson, New Hampshire 03061-3114

Paul W. Taylor, 214 Harris Road, Nashua, New Hampshire 03060-3708

Karen O. Wadsworth, Clerk of the House

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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.

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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

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On May 20, from 4:30 to 6:30 p.m., the New Hampshire Women's Lobby will honor legislators and citizens who are making a difference in the lives of women and families in New Hampshire. Spring Celebs '97 will be held at the Kimball-Jenkins Carriage House, 266 North Main Street, Concord. This year, the Lobby will honor six individuals, Governor Jeanne Shaheen will receive the Women in Leadership Award, which has been awarded only twice in the past. In addition, Rep. Martha Fuller Clark of Portsmouth and Sen. Debora Pignatelli of Nashua will both receive the Meritorious Service Award. Arnie Alpert of Canterbury, the NH Program Coordinator for the American Friends Service Committee, will receive the Citizen Award. Barbara Keshen of Chichester, a Lobby Board Member, will receive the Volunteer Award. Laura Kiernan of Concord, the former Perspectives host for NH Public Radio, will receive the Media Award. The New Hampshire Women's Lobby is a grassroots, non-partisan, statewide membership organization. Its purpose is to promote public policy which improves the economic and social well-being of New Hampshire women and families. For further information contact the NH Women's Lobby at 224-9105

Rep. Barbara C. French

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The New Hampshire Dietetic Association is hosting a breakfast on Wednesday, May 21 at St. Paul's Church. Please join us anytime between 8:30 and 10:00 a.m. for a sit-down breakfast or put together a brown-bag breakfast for a snack to take with you.

Reps. Robert L. Wheeler and Peter Hoe Burling

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The next meeting of the House Republican Alliance will be held at the Upham Walker House (Park Street across from the State House) on Wednesday, May 21st at 9:00 a.m. for a one hour work session. Refreshments will be served.

Rep. Thomas M. Colburn

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The Manchester Republican Committee will hold a fund raising "Spring Fling" Dinner featuring the Honorable John H. Sununu at the Center of New Hampshire on Thursday, May 22nd. Reception at 6:00 p.m. Dinner at 7:00 p.m. Tickets $50 each; Table of 10 $450. RSVP by May 15. For more information contact Bobbi Arnold at 669-4814; or Rep. Bill Golding at 623-6562; or Rep. Winston McCarty at 668-4263.

Rep. William M. Golding

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Sullivan County Democrats will meet on May 27 at 7:00 p.m. at the Bakery Building in Charlestown. State Chairman Jeff Woodburn will be the Speaker. All NH Democrats and guests are welcome.

Rep. Celestine K. Wiggins

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There will be a meeting of the Manchester Mayor and Board of Alderman with inner city residents on May 28th at 7:00 p.m. at the Beech Street School. The topic will be combating drugs and gang violence. All legislators are invited to attend as this is fast becoming a statewide concern. For further information, contact Patricia Randall of Manchester Neighborhood Housing Services at 626-4663, ext. 13.

Rep. Peter F. Leonard

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The New Hampshire Order of Women Legislators is now accepting applications for its scholarships. All NH men and women are eligible who are in transitional education in his/her field of endeavor with a view to public service. Applications may be obtained from Rep. Janet Arndt in Room 308, LOB or the NH University System and Technical College Admission Offices. Applications are due May 30th.

Rep. Janet S. Arndt

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Members of the NH House and Senate are cordially invited to join with other interested New Hampshire citizens to attend a live satellite broadcast by the Women's Bureau of the US Department of Labor as a National Working Women's Summit: "Economic Equity: Realities, Responsibilities and Rewards". June 5 from 1:00 to 3:00 p.m. at the New Hampshire Technical Institute in Concord. Call the Commission on the Status of Women at 271-2660 or the NH Women's Lobby at 224-9104 for information.

Rep. Sandra B. Keans

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The Belknap County Republic Committee will hold its Annual Chicken Barbecue at the Smith Meeting House Gilmanton on Saturday, June 14 from Noon to 4:00 p.m. Donation $15. For tickets see Reps. Rice, Thomas (528-5112), Rosen, Steve Nedeau, or any Belknap County Republican.

Rep. Thomas E.P. Rice, Jr.

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The Department of Transportation will hold the following meetings:

May 22 Exeter Public Library, Pleasant Street, 7:00 p.m. Public meeting to brief members and residents of project status, Route 101 expansion update.

May 27 Epping Town Hall, 157 Main Street, 7:00 p.m. Public meeting to brief members and residents of project status, Route 101 expansion update.

May 29 Fire Station, US Route 4, Grafton, 7:00 p.m. Combined public officials/public information meeting, Grafton, removal of RR bridge over Route 4.

May 29 Bow Town Hall, 10 Grandview Road, 7:00 p.m. Public hearing, Bow, alterations Bow Center Road, Logging Hill Road, Knox Road and White Rock Hill Road

Rep. Gene G. Chandler, Chairman

Public Works and Highways

TUESDAY, MAY 20

AMENDMENTS

(Listed in numerical order.)

1997-1405h

Amendment to SB 35

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 extending the elevator law to accessibility lifts.

1 Accessibility Lifts Added. Amend RSA 157-B:1 through 157-B:5 to read as follows:

157-B:1 Title. This chapter may be called the "Elevator ***and Accessibility Lift*** Law."

157-B:2 Definitions. In this chapter:

I. "Owner" means a person, partnership, association, or corporation who is the holder of title to, or who leases an elevator ***or accessibility lift*** from the holder of title to, a building in which there is an elevator ***or accessibility lift,*** as defined in this section, except an elevator ***or accessibility lift*** for the exclusive use of the holder of title in the holder's home.

II. "Commissioner" means the labor commissioner.

III. "Standards" means regulations issued by the commissioner which establish the minimum safety requirements for elevators ***and accessibility lifts*** in use on or installed after January 1, 1968.

IV. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction; or a stairway inclined lift which moves in guides in an inclined direction; and includes the doors, well, enclosures, means, and appurtenances required for its operation. ***The term "elevator" shall include an accessibility lift but does not include a vertical reciprocating conveyor, a material lift, or an accessibility lift in a private residence.***

V. "Accessibility lift" means an inclined chair/platform lift or vertical wheelchair lift used to raise and lower a person in a wheelchair or person of limited mobility in or on a car or platform from one level to another and shall meet the requirements of the most recent version of ASME/ANSI-A 17.1 for handicap lifts.

157-B:3 New Elevators***;*** **New Accessibility Lifts**. [~~The provisions of the most recent version of the American Standard Safety Code for Elevators, Dumbwaiters, and Escalators as amended are the minimum requirements for all elevators, dumbwaiters, and escalators installed after the effective date of this section. The commissioner may issue and amend reasonable and practicable standards for the safe use, alteration, repair, and inspection of all elevators installed after January 1, 1968.~~] ***The provisions of the most recent version of the American Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, Material Lifts and Dumbwaiters With Automatic Transfer Devices, Wheelchair Lifts and Stairchair Lifts are the minimum requirements for all elevators, dumbwaiters, escalators, and accessibility lifts installed after January 1, 1998.***

157-B:4 Existing Elevators ***and Accessibility Lifts***.

I. The commissioner may issue and amend reasonable and practicable standards for the use, alteration, repair, operation, and inspection of all elevators ***and accessibility lifts*** in existence on January 1, 1968.

II. Inspections of elevators ***and accessibility lifts*** installed after [~~the effective date of this paragraph~~] ***January 1, 1985,*** shall be in accordance with the American Standard Safety Code applicable to the year installed.

157-B:5 Inspection Report and Certificates; Fee***; Penalty.***

I. Subsequent to the inspection of an elevator ***or accessibility lift***, an inspector shall file with the commissioner an inspection report on a form prescribed by the commissioner indicating whether or not the elevator ***or accessibility lift*** is certifiable and shall provide a copy of the inspection report to the owner or the owner's designee. When an elevator ***or accessibility lift*** passes inspection, the commissioner shall furnish an inspection certificate to its owner or the owner's designee on a form prescribed by the commissioner. A fee of $25 shall be charged for each certificate. If the fee is not paid within 30 days of the date on which the certificate is issued, the certificate shall be void.

II. If the elevator ***or accessibility lift*** fails the inspection, the inspector shall furnish the owner or the owner's designee an appropriate abstract of the statutory requirements and recommendations for repairs necessary to correct the deficiency.

III. Upon compliance with the recommendations of an inspector, whether by repair or replacement, the owner of an elevator ***or accessibility lift*** which has failed to pass inspection, or the owner's designee, shall notify the commissioner and inspector that the required repairs have been completed.

IV. The elevator ***or accessibility lift*** shall, at the discretion of the inspector or the commissioner, then be reinspected in accordance with this section; and, upon finding compliance with the recommendations, an inspection certificate shall be furnished to the owner or the owner's designee.

V. Certificates shall be posted in the elevator car ***or accessibility lift platform*** under glass or other suitable transparent cover. Certificates shall be effective for one year from the date of inspection.

VI. An owner who permits the operation of any elevator ***or accessibility lift*** without an effective inspection certificate in the elevator ***or accessibility lift*** shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

2 Accessibility Lift Added. Amend RSA 157-B:6 to read as follows:

157-B:6 Suspension of Certificate.

I. The commissioner may suspend an inspection certificate when an elevator ***or accessibility lift*** does not meet the requirements of the standards established under this chapter. When an inspection certificate is suspended, the owner shall not permit the use of the elevator ***or accessibility lift*** until a new certificate of inspection is issued for the elevator ***or accessibility lift***. The commissioner shall have a notice of the suspension of the inspection certificate posted at every entrance to the unsafe elevator ***or accessibility lift***, and shall have the inspection certificate removed from the elevator car ***or accessibility lift platform***. The notice of suspension may be removed only by the authority of the commissioner. The commissioner shall notify the owner in writing of the suspension of the inspection certificate. The notice may be served on the owner by registered mail or otherwise.

II. The commissioner may adopt by rule the conditions to empower an elevator inspector or authorized representative of the commissioner to make an emergency suspension of the inspection certificate for a period of not more than 24 hours, to enable the commissioner to take action on the suspension under paragraph I of this section, or to enable the owner to make repairs on the elevator ***or accessibility lift***.

III. Any person who removes or defaces a notice of suspension of the inspection certificate without the authority of the commissioner shall be guilty of a misdemeanor.

3 Accessibility Lift Added. Amend RSA 157-B:8-a to read as follows:

157-B:8-a Mechanics. An elevator ***or accessibility lift*** mechanic shall pass an examination given by the commissioner, except in cases in which an elevator ***or accessibility lift*** mechanic has proven to the satisfaction of the commissioner experience in excess of 5 years within the state. A license shall be issued to the mechanic for a 2-year period. A fee of $50 shall be charged for the initial examination and license. A license may be renewed every 2 years upon payment of a fee of $35. Employees of the department of labor shall not be charged for the issuance or renewal of a license. A person who holds a certificate or license of competency as a mechanic [~~of elevators from a state that has a standard of examination~~] equal to that of this state may be issued a license without examination upon payment of a fee of $35. The commissioner may revoke any license for cause shown, after a hearing. The holder of a license under question shall receive 7 days' written notice informing the licensee of the charges and of the time and place of the hearing.

4 Accessibility Lift Added. Amend RSA 157-B:9 to read as follows:

157-B:9 Installation of New Elevators ***and New Accessibility Lifts; Fees***. Detailed plans or specifications of each new or altered elevator ***or accessibility lift*** shall be submitted to and approved by the commissioner or the commissioner's authorized representative before the construction of the elevator ***or accessibility lift*** may be started. Fee for examination of the plans or specifications is $2 per $1,000 of the valuation of the elevator ***or accessibility lift*** as covered by the blueprints. The minimum fee is $100.

5 Accessibility Lift Added. Amend RSA 157-B:15 to read as follows:

157-B:15 Notice of Accidents***; Penalty***. The owner shall report every elevator ***and accessibility lift*** accident, whether or not it results in injury to a person or damage to the equipment, to the commissioner within 48 hours after its occurrence. The inspection certificate for the involved elevator ***or accessibility lift*** may be suspended if a qualified inspector inspects the elevator ***or accessibility lift*** and finds it to be unacceptable. An owner who willfully refuses or neglects to make such a report shall be fined not more than $25.

6 Accessibility Lifts Added. Amend RSA 157-B:17 to read as follows:

157-B:17 Exception. Notwithstanding other provisions of this chapter any elevator ***or accessibility lift*** which is periodically inspected and tested for safety under a maintenance contract with the company which installed [~~said~~] ***the*** elevator ***or accessibility lift*** shall be exempt from the annual inspection requirements of RSA 157-B:5, so long as [~~said~~] ***the*** maintenance contract is effective, and the inspection certificate as provided in RSA 157-B:5 shall be posted in the elevator car ***or accessibility lift platform***. Provided, however, that the other provisions of this chapter shall apply to the elevators ***and accessibility lifts*** covered by this exception.

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

AMENDED ANALYSIS

This bill extends the elevator law to accessibility lifts. The bill excludes accessibility lifts in private residences.

1997-1366h

Amendment to SB 39

Proposed by the Committee on Commerce

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

AN ACT relative to the delivery of bank products and services, and establishing a study committee on operation of electronic customer service terminals by non-banks and non-credit unions.

Amend the bill by replacing all after section 2 with the following:

3 New Paragraphs; Electronic Banking. Amend RSA 384-B:7 by inserting after paragraph II the following new paragraphs:

III. The presence of an authorized service representative of a bank at any such electronic device or machine for the purpose of assisting customers to engage in transactions shall not cause the electronic device or machine to become a "branch office" as defined in RSA 384-B:1, III.

IV.(a) No person other than a bank, cooperative bank, or credit union may establish, maintain and operate electronic devices or machines which permit customers to deposit funds in any account, to withdraw or receive funds from any account either on a debit or credit basis, to have access to any account for informational purposes, to transfer funds between accounts, to obtain loans or other extensions of credit or to engage in banking transactions, except that:

(1) Any person who sells goods or services may establish, maintain, and operate point of sale devices which allow for the withdrawal or receipt of funds as an incident to the purchase of goods or services; and

(2) Any lender licensed under RSA 399-A may make a small loan using an electronic device or machine.

(b) Any violation of this paragraph shall be deemed a violation of RSA 384:24. The bank commissioner may issue cease and desist orders against any person who violates any provision of this paragraph.

4 Study Committee Established. There is established a committee to study the ability of non-banks and non-credit unions to operate, maintain, and establish electronic customer service terminals.

5 Membership and Compensation.

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

(a) Three members of the house from the house commerce committee, appointed by the speaker of the house.

(b) Three members of the senate, at least one of whom shall be a member of the senate banks committee, appointed by the president of the senate.

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

6 Duties. The committee shall study:

I. The effective regulation of the establishment, operation, and maintenance of electronic cash withdrawal machines, and other electronic devices or machines by non-bank persons or entities.

II. Regulatory and supervisory oversight of owners and operators of non-bank and non-credit union persons or entities.

III. Issues related to authorizations, application procedures, and approval standards; service requirements and limitations; bonding requirements; safeguards to protect confidentiality of accounts; settlement disputes; protection of persons and property; reporting requirements and sanctions for noncompliance.

IV. Any other matter determined relevant by the committee.

7 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Four members of the committee shall constitute a quorum.

8 Report. The committee shall report its findings and any recommendations for proposed legislation to the 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, 1998.

9 Repeal. RSA 384-B:7, IV, relative to operation of electronic devices or machines by persons other than banks or credit unions, is repealed.

10 Effective Date.

I. Sections 4-8 of this act shall take effect upon its passage.

II. Section 9 of this act shall take effect January 1, 1999.

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

AMENDED ANALYSIS

This bill allows a bank to establish and operate mobile branch offices and defined service branch offices. The bill also authorizes account service representatives of banks to visit public events and commercial locations for the purposes of opening new banking accounts or establishing new banking relationships.

The bill also authorizes persons other than banks and credit unions to maintain and operate electronic devices and machines for certain purposes. The bill establishes a study committee on the ability of non-banks and non-credit unions to operate, maintain, and establish electronic customer service terminals.

1997-1422h

Amendment to SB 40

Proposed by the Majority of the Committee on Labor, Industrial and Rehabilitative Services

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

AN ACT relative to the payment of wages by employers and increasing the minimum hourly rate.

Amend RSA 275:43, I as inserted by section 1 of the bill by replacing it with the following:

I. Every employer shall pay all wages due to [~~his~~] employees within 8 days including Sunday after expiration of the week in which the work is performed, ***except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph II,*** on regular paydays designated in advance by the employer[~~,~~]***:***

(a) In lawful money of the United States,

(b) By [~~deposit through~~] electronic fund transfer [~~or otherwise~~] ***at no cost to the employee,***

(c) By direct deposit with written authorization of the employee to banks of the employee's choice***,*** or

(d) With checks on banks convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due;

provided, however, that if an employer elects to pay employees as specified in subparagraphs (b) or (c), the employer shall offer employees the option of being paid as specified in subparagraph (d), and further provided [~~, however,~~] that all wages in the nature of health and welfare fund or pension fund contributions required pursuant to a health and welfare fund trust agreement, pension fund trust agreement, collective bargaining agreement, or other agreement, adopted for the benefit of [~~his~~] employees and agreed to by [~~him~~] ***the employer*** shall be paid by every such employer within 30 days of the date of demand for such payment, the payment to be made to the administrator or other designated official of the applicable health and welfare or pension trust fund.

Amend the bill by replacing all after section 4 with the following:

5 Minimum Hourly Rate. The introductory paragraph of RSA 279:21 is repealed and reenacted to read as follows:

279:21 Minimum Hourly Rate. Unless otherwise provided by statute, no person, firm, or corporation shall employ any employee at an hourly rate lower than that set forth in the federal minimum wage law, as amended, or as follows, whichever is higher:

Date Hourly Rate

April 1, 1991 to September 30, 1996 $4.25

October 1, 1996 to August 31, 1997 $4.75

On and after September 1, 1997 $5.15

Tipped employees of a restaurant, hotel, motel, inn or cabin, who customarily and regularly receive more than $20 a month in tips directly from the customers will receive a base rate from the employer of not less than $2.38 per hour. With any change to the minimum wage after the effective date of this section, the employer is responsible to pay employees $2.38 per hour or 45 percent of the applicable minimum wage whichever is higher. If an employee shows to the satisfaction of the commissioner that the actual amount of wages received at the end of each pay period did not equal the minimum wage for all hours worked, the employer shall pay the employee the difference to guarantee the applicable minimum wage. The limitations imposed hereby shall be subject to the following exceptions:

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

AMENDED ANALYSIS

This bill:

(a) Clarifies the method of payment or deposit of wages;

(b) Prohibits any agreement for work to be paid less than minimum wage; and

(c) Requires wage claims to be filed with the department of labor within 18 months from the date wages were due.

(d) Increases the minimum hourly rate for employees to match the federal rate.

1997-1035h

Amendment to SB 40

Proposed by the Minority of the Committee on Labor, Industrial and Rehabilitative Services

Amend RSA 275:43, I as inserted by section 1 of the bill by replacing it with the following:

I. Every employer shall pay all wages due to [~~his~~] employees within 8 days including Sunday after expiration of the week in which the work is performed, ***except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph II,*** on regular paydays designated in advance by the employer[~~,~~]***:***

(a) In lawful money of the United States,

(b) By [~~deposit through~~] electronic fund transfer [~~or otherwise~~] ***at no cost to the employee,***

(c) By direct deposit with written authorization of the employee to banks of the employee's choice***,*** or

(d) With checks on banks convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due;

provided, however, that if an employer elects to pay employees as specified in subparagraphs (b) or (c), the employer shall offer employees the option of being paid as specified in subparagraph (d), and further provided [~~, however,~~] that all wages in the nature of health and welfare fund or pension fund contributions required pursuant to a health and welfare fund trust agreement, pension fund trust agreement, collective bargaining agreement, or other agreement, adopted for the benefit of [~~his~~] employees and agreed to by [~~him~~] ***the employer*** shall be paid by every such employer within 30 days of the date of demand for such payment, the payment to be made to the administrator or other designated official of the applicable health and welfare or pension trust fund.

1997-1460h

Amendment to SB 54-FN

Proposed by the Committee on Finance

Amend the bill by replacing section 4 with the following:

4 Funding. Any increase in retirement system pension liabilities due to an increase in the state annuity payable to a disability beneficiary pursuant to section 2 of this act shall be terminally funded from the special account established by RSA 100-A:16, II(h).

1997-1445h

Amendment to SB 70

Proposed by the Committee on Election Law

Amend subparagraphs I(a)-(b) as inserted by section 2 of the bill by replacing them with the following:

(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.

Amend section 4 of the bill by replacing it with the following:

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 7 days of the effective date of this section. Four members of the committee shall constitute a quorum.

1997-1290h

Amendment to SB 71-FN

Proposed by the Committee on Criminal Justice and Public Safety

Amend RSA 592-A:2-b as inserted by section 2 of the bill by replacing it with the following:

592-A:2-b Jury Trial. Trial by jury shall not be afforded in the superior court for any violation as defined in RSA 625:9, except upon [~~an appeal pursuant to RSA 599:1 of~~] ***being subject to*** the imposition of a civil penalty which aggregates the total fines and penalties for a violation to an amount in excess of [~~$500~~] ***$1,500 in which case an appeal may be taken in the same manner as is provided for class A misdemeanor convictions under RSA 599:1***.

Amend the bill by replacing section 8 with the following:

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 1998.

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

1997-1369h

Amendment to SB 79

Proposed by the Majority of the Committee on Commerce

Amend RSA 358-A:2, XIII as inserted by section 1 of the bill by replacing it with the following:

XIII. Selling gift certificates to purchasers which contain expiration dates. This paragraph shall not apply to gift certificates that are distributed to a consumer for promotional purposes without any money or other thing of value being given in exchange for the gift certificate by the consumer.

Amend RSA 451-B:2 as inserted by section 2 of the bill by replacing it with the following:

451-B:2 Lien Upon Item for Work. Except to the extent otherwise provided by law, every person who shall repair, at the request of the owner, any article of personal property, the fair market value of which is not greater than $1,000, shall have a lien upon the property and may retain the possession of the article of property until the charges for such repair have been paid. Further, persons who repair articles of personal property shall provide notice that the owner of such personal property must disclose any prior lienholders having a security interest in such personal property at the time repairs are requested. The foregoing notice requirement may be satisfied either by sign or by express written notification at the time that a repair order is made.

Amend the bill by replacing section 3 with the following:

3 Gift Certificates and Store Credits. RSA 471-C:16 is repealed and reenacted to read as follows:

471-C:16 Gift Certificates and Store Credits. Notwithstanding any law to the contrary, gift certificates, and store credits, regardless of when issued, shall not be property presumed abandoned and shall not be subject to RSA 471-C or any other past or present law provided that all gift certificates, and store credits remitted to the state prior to January 1, 1998, shall remain in the custody of the state unless and until returned to the owner.

AMENDED ANALYSIS

This bill:

I. Prohibits gift certificates sold to purchasers from containing enforceable expiration dates.

II. Allows any person who repairs personal property items to have a lien on the property until charges for the repair have been paid. In the event the

repair is unpaid after 60 days the holder of the lien may sell the property at public sale.

III. Provides that gift certificates and store credits shall not escheat to the state.

1997-1443h

Amendment to SB 79

Proposed by the Minority of the Committee on Commerce

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

AN ACT prohibiting the sale of gift certificates which expire less than 24 months after the date of issue, relative to unclaimed and abandoned property, and relative to liens on personal property.

Amend RSA 358-A:2, XIII as inserted by section 1 of the bill by replacing it with the following:

XIII. Selling gift certificates to purchasers which expire less than 24 months after the date of issue. This paragraph shall not apply to gift certificates that are distributed to a consumer for promotional purposes without any money or other thing of value being given in exchange for the gift certificate by the consumer.

Amend RSA 451-B:2 as inserted by section 2 of the bill by replacing it with the following:

451-B:2 Lien Upon Item for Work. Except to the extent otherwise provided by law, every person who shall repair, at the request of the owner, any article of personal property, the fair market value of which is not greater than $1,000, shall have a lien upon the property and may retain the possession of the article of property until the charges for such repair have been paid. Further, persons who repair articles of personal property shall provide notice that the owner of such personal property must disclose any prior lienholders having a security interest in such personal property at the time repairs are requested. The foregoing notice requirement may be satisfied either by sign or by express written notification at the time that a repair order is made.

Amend the bill by replacing section 3 with the following:

3 Gift Certificates and Store Credits. RSA 471-C:16 is repealed and reenacted to read as follows:

471-C:16 Gift Certificates and Store Credits. Notwithstanding any law to the contrary, gift certificates and store credits, regardless of when issued, shall not be property presumed abandoned and shall not be subject to RSA 471-C or any other past or present law provided that all gift certificates and store credits remitted to the state prior to January 1, 1998, shall remain in the custody of the state unless and until returned to the owner.

AMENDED ANALYSIS

This bill:

I. Prohibits gift certificates sold to purchasers from expiring less than 24 months after the date of issue.

II. Allows any person who repairs personal property items to have a lien on the property until charges for the repair have been paid. In the event the repair is unpaid after 60 days the holder of the lien may sell the property at public sale.

III. Provides that gift certificates and store credits shall not escheat to the state.

1997-1217h

Amendment to SB 93

Proposed by the Committee on Labor, Industrial and Rehabilitative Services

Amend the bill by replacing section 1 with the following:

1 New Section; Employment Program Participants. Amend RSA 167 by inserting after section 82 the following new section:

167:82-a Infringement on Rights of Other Employees Prohibited; Limited Employee Status.

I. The employment program shall not use participants in any way contrary to federal law under section 407(f) of the Social Security Act.

II. No participant in the employment program shall be required to work in subsidized employment for more hours than would be needed to produce an equivalent compensation if the participant were paid at the federal minimum wage level, unless a greater number of hours is necessary for the participant to meet federal work participation requirements.

III. Participants in the employment program shall receive the protections regarding sexual harassment and work conditions, not related to compensation and benefits, which are available to regular employees in that workplace such as safe environment, non-discrimination, and adequate rest and meal periods.

IV. Participants in subsidized work programs administered by the state shall be considered employees of the state for workers' compensation purposes only.

AMENDED ANALYSIS

This bill prohibits the New Hampshire employment program or the alternative employment experience program from using participants in any way contrary to certain federal laws.

This bill prohibits requiring a participant to work under certain subsidized employment conditions or for more than a certain number of hours and requires that participants be afforded certain employment protections.

This bill also requires that participants shall be considered state employees for workers' compensation purposes only.

1997-1371h

Amendment to SB 101

Proposed by the Committee on Commerce

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

AN ACT relative to standards for acquisition transactions involving health care charitable trusts.

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

1 New Section; Standards for Certain Acquisitions. Amend RSA 7 by inserting after section 19-a, the following new section:

7:19-b Standards for Acquisition Transactions Involving Health Care Charitable Trusts and Review by Director of Charitable Trusts.

I. In this section:

(a) "Acquisition transaction" or "acquisition" means transfer of control, direct or indirect, of a health care charitable trust, or of 25 percent or more of the assets thereof, including, but not limited to purchases, mergers, leases, gifts, consolidations, exchanges, joint ventures or other transactions involving transfer of control or of 25 percent or more of assets. However, changes in membership of the governing body of a health care charitable trust occurring through regular election or filling of vacancies in accordance with the bylaws thereof do not of themselves constitute acquisition transactions within the meaning of this section.

(b) "Acquirer" means a person acquiring control, direct or indirect, of a health care charitable trust, or of 25 percent or more of the assets thereof.

(c) "Control" of a health care charitable trust means the power to elect a majority or more of the membership of the governing body thereof, or otherwise to direct the affairs thereof.

(d) "Health care charitable trust" means a charitable trust organized to provide health care services including, but not limited to, hospitals, community health services and medical-surgical or other diagnostic or therapeutic facilities or services, or a charitable trust operating as a health insurer or health maintenance organization. "Health care charitable trust" shall not include any testamentary or inter vivos trust which is not organized to provide health care services.

II. The governing body of a health care charitable trust, or any other persons having authority to direct the affairs of a health care charitable trust, shall not approve the acquisition thereof unless the governing body has acted in good faith and in a manner consistent with its fiduciary duties to the health care charitable trust, and unless the following minimum standards are met:

(a) The proposed transaction is permitted by applicable law, including, but not limited to RSA 7:19-32, RSA 292, and other applicable statutes and common law;

(b) Due diligence has been exercised in selecting the acquirer, in engaging and considering the advice of expert assistance, in negotiating the terms and conditions of the proposed transaction, and in determining that the transaction is in the best interest of the health care charitable trust and the community which it serves;

(c) Any conflict of interest, or any pecuniary benefit transaction as defined in this chapter, has been disclosed and has not affected the decision to engage in the transaction;

(d) The proceeds to be received on account of the transaction constitute fair value therefor;

(e) The assets of the health care charitable trust and any proceeds to be received on account of the transaction shall continue to be devoted to charitable purposes consistent with the charitable objects of the health care charitable trust and the needs of the community which it serves;

(f) If the acquirer is other than another New Hampshire health care charitable trust, control of the proceeds shall be independent of the acquirer; and

(g) Reasonable public notice of the proposed transaction and its terms has been provided to the community served by the health care charitable trust, along with reasonable and timely opportunity for such community, through public hearing or other similar methods, to inform the deliberations of the governing body of the health care charitable trust regarding the proposed transaction.

III. Notice of a proposed acquisition transaction shall be given to the director of charitable trusts in writing to be received by the director no less than 120 days before consummation of the transaction. Such notice shall identify all parties to the transaction; shall set forth all material terms thereof, including, without limitation, any changes in control or ownership of assets, any acquisition price, any change in the capital structure and management, and any and all compensation paid or to be paid in connection therewith; shall include a copy of the minutes and other documents evidencing the decision of the governing body of the health care charitable trust, including documentation of steps taken to comply with paragraph II(g) of this section and any changes in the proposed transaction resulting therefrom, any relevant community needs assessment developed by the health care charitable trust, and a copy of the acquisition agreement and financial statements of all parties; and shall include a certification signed by those members of the governing body or other person approving the acquisition on behalf of the health care charitable trust that the standards set forth in paragraph II of this section have been considered in good faith and complied with, together with such explanations and other documentation as may be necessary to demonstrate such compliance. The notice shall also include a statement from the acquirer specifying the manner in which it proposes to continue to fulfill the charitable objects of the health care charitable trust. Any information submitted pursuant to this section shall be subject to RSA 91-A.

IV. Within a reasonable time, not to exceed 120 days after receipt of the notice specified in the preceding paragraph, the director shall determine compliance with the standards set forth in paragraph II of this section and shall notify the parties either that the director will take no further action with respect thereto, or that the director objects to the transaction on specified grounds. Within 60 days following receipt of the notice specified in the preceding paragraph, the director may require submittal of such additional information as may be reasonably necessary to make such a determination. In making such a determination, the director shall accept public comment and may conduct public hearings relating thereto within the time specified in this paragraph and may direct the health care charitable trust to publish notice thereof in a manner reasonably specified by the director. Such hearing may be conducted informally or in conformity with RSA 541-A, at the discretion of the director. The expenses of such public hearing shall be paid for by the parties to the proposed transaction, after consultation with the parties. Where the acquisition transaction involves assets, the fair value of which are in excess of $5,000,000, after consultation with the parties, the director may employ, at the parties' expense, expert assistance, including independent counsel and independent financial advisors that are reasonably necessary to make the determination specified in this paragraph.

V. In addition to all other powers conferred by statute or common law, the director may bring judicial proceedings to enjoin consummation of any acquisition transaction in which notice has not been provided in accordance with paragraph III of this section. Any acquisition transaction which has been consummated following the effective date of this section without such notice having been provided, or any acquisition transaction of which such notice was deceptive or materially inaccurate, shall be voidable through appropriate judicial proceedings instituted by the director of charitable trusts.

VI.(a) Nothing in this section shall derogate from authority of the attorney general, or the rights of others, provided by common law or other statute.

(b) This section shall not supplant or restrict the general powers of the probate courts with respect to charitable trusts pursuant to RSA 498, RSA 547:3 through 547:3-h, or at common law. Nor do the standards set forth in paragraph II of this section supplant or restrict the standards that may lawfully be applied in connection with the doctrines of cy pres, deviation, and termination as applicable by the probate courts of this state in such proceedings.

(c) Notwithstanding the provisions of this section, the commissioner of insurance retains full jurisdiction to regulate any charitable trust operating as

a health insurer or health maintenance organization, including through the application of RSA 401-B. If the insurance commissioner determines that an acquisition or acquisition transaction otherwise subject to the provisions of this section is necessary to avoid the future impairment or insolvency of either or both of the merging health insurers or health maintenance organizations, the commissioner may waive any of the provisions of this section.

2 Applicability. This act shall not apply to any acquisition transaction involving a health care charitable trust operating as a health insurer or health maintenance organization with respect to which there has been a filing pursuant to RSA 401-B:3 prior to the effective date. With respect to any other health care charitable trust, this act shall not apply to any acquisition transaction as to which there has been, prior to the effective date, a recorded vote of the governing body giving approval to the acquisition transaction.

3 Effective Date. This act shall take effect September 1, 1997.

AMENDED ANALYSIS

This bill clarifies the procedure for acquisition transactions involving health care charitable trusts.

1997-1305h

Amendment to SB 104

Proposed by the Committee on Commerce

Amend RSA 417:4, VIII(g) as inserted by section 1 of the bill by replacing it with the following:

(g) Charging a higher premium for private passenger automobile or homeowner insurance solely on the basis of information obtained from a credit rating, a credit history, or a credit scoring model.

AMENDED ANALYSIS

This bill includes in the definition of unfair discrimination, under unfair methods, acts and practices in the business of insurance, the practice of charging a higher premium for private passenger automobile or homeowner insurance solely on the basis of information obtained from a credit rating, a credit history, or a credit scoring model.

1259h-1997

Amendment to SB 105

Proposed by the Committee on Commerce

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

1 New Section; Rent Collection Upon Delinquency in Payment of Common Expenses. Amend RSA 356-B by inserting after section 46 the following new section:

356-B:46-a Rent Collection Upon Delinquency in Payment of Common Expenses. On and after January 1, 1998:

I. If a unit owner fails to pay the common expenses assessed to the unit by the unit owners' association within 60 days of the date it was due, the unit owners association may, as a separate and additional remedy, subject to the existing rights of a holder of a first mortgage of record as provided in this section, collect from any tenant renting the unit any rent then or thereafter due to the owner of such unit. The unit owners' association shall apply such rent collected against the amount owed to it by the unit owner. Prior to taking any action under this paragraph, the unit owners' association shall give to the delinquent unit owner written notice of its intent to collect the rent owed. Such notice shall be sent by both first class and certified mail, shall set forth the exact amount the unit owners' association claims is due and owing by the unit owner, and shall indicate the intent of the association to collect such amount from rent, along with any other amounts which become due within the current fiscal year and which remain unpaid. A copy of such notice shall be provided to any first mortgagee of record on such unit who has previously requested in writing that the unit owners' association notify it of any delinquency in the payment of amounts due to it by the owner of such unit.

II. The unit owner shall have 30 days from the date of mailing of such notice to pay the amounts due, including collection costs, or to provide proof of the prior payment of the assessments due. No unit owner shall be entitled to withhold payment of assessments due, off-set against the same, or make any deduction therefrom without first obtaining a determination by a court of competent jurisdiction that the assessment was unlawful.

III. If the unit owner fails to timely file a response in compliance with paragraphs I and II, the unit owners' association may notify and direct each tenant renting such unit from such owner to pay all or a portion of the rent otherwise due by such owner to the association, such rent or portion of such rent to be in the amount the association claimed is due on its notice to the unit owner or the full rent, whichever is less. The association shall have a continuing right to collect any rent otherwise payable by the tenant to such unit owner until such amount, plus any charges thereafter becoming due, are satisfied in full. Nothing in this section shall preclude the unit owner from seeking equitable relief from a court of competent jurisdiction or seeking a judicial determination of the amount owed. Nothing in this section shall prevent the unit owners' association from bringing an action under this chapter or to otherwise establish the amount owed to it by the unit owner or otherwise to seek and obtain an order requiring the tenant in such unit, or tenants in other units owned by the unit owner in the condominium, to pay to the association rent otherwise due to the unit owner or otherwise limit the unit owner's association's rights at common law.

IV. In no event shall a unit owner take any retaliatory action against any tenant who pays rent, or any portion of rent, to the unit owners' association as provided in this section. Any tenant so paying rent shall not be deemed in default on the rent to the extent of the payment to the association. Any waiver of the provisions of this section in any lease or rental agreement shall be void and unenforceable as against public policy.

V. Notwithstanding any other provision of this chapter, a vote of a majority of those attending an annual meeting of the unit owner's association, in person or by proxy, shall be necessary to adopt the provisions of this section as a part of the association's declaration or bylaws or both.

2 Compliance with Condominium Instruments. Amend RSA 356:15 to read as follows:

356-B:15 Compliance with Condominium Instruments.

I. The declarant, every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association, or by its board of directors or any managing agent on behalf of such association, or, in any proper case, by one or more aggrieved unit owners on their own behalf or as a class action.

II. The unit owners' association shall be entitled to all costs and attorneys' fees incurred in any proceeding under RSA 356-B:15, I.

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

AMENDED ANALYSIS

This bill:

I. Allows a condominium unit owners' association to collect rents from the tenant of a unit to offset common expenses assessed to the unit in the event that the unit owner fails to pay the common expenses assessed to the unit.

II. Holds harmless any tenant who pays rent or a portion of rent to the unit owners' association, rather than to the unit owner, in compliance with the provisions of the bill.

III. Provides for the association's recovery of its attorneys' fees and costs incurred in enforcing RSA 356-B:15, I.

1997-1363h

Amendment to SB 109

Proposed by the Committee on Municipal and County Government

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

1 New Paragraph; Special Meeting Concerning Negotiated Cost Items. Amend RSA 31:5 by inserting after paragraph II the following new paragraph:

III. In the event that the legislative body at an annual meeting amends or rejects the cost items or fact finders report as submitted pursuant to RSA 273-A, notwithstanding paragraphs I and II, the selectmen may call one special meeting for the sole purpose of addressing negotiated cost items without petitioning the superior court for authorization.

2 Expenditures Prior to Budget Adoption. Amend RSA 32:13, II to read as follows:

II. This subdivision shall not be construed to affect the authority of the local governing body, in towns with a March annual meeting and a January

through December fiscal year, to make expenditures between January 1 and the [~~annual meeting~~] ***date a budget is adopted*** which are reasonable in light of prior year's appropriations and expenditures for the same purposes during the same time period.

3 Optional Provisions. Amend RSA 39:2-a to read as follows:

39:2-a Optional Provisions.

I. Any town may at an annual meeting vote to conduct the choice of town officers elected by an official ballot and other action required to be inserted on said official ballot on the second Tuesday of March or on the second Tuesday of May if the town has adopted the provisions of RSA 31:94-a and authorize the selectmen to choose another day for the second session of the town meeting for the transaction of all other town business. Upon written application of [~~10~~] ***25*** or more voters, addressed to the selectmen, the following question shall be submitted to the voter at such annual meeting: "Do you approve of having 2 sessions for the annual town meeting in this town, the first session for choice of town officers elected by an official ballot and other action required to be inserted on said official ballot and the second session, on a date set by the selectmen, for transaction of other business?" This question shall appear upon the official ballot in towns having such a ballot, otherwise upon a special ballot prepared by the town clerk. Proper provision shall be made on the ballot to permit the voter clearly to indicate his choice on the question If a majority of the legal voters present and voting on the question vote in the affirmative, the provisions of this section shall be declared adopted. In any town adopting the provisions hereof the warrant for an annual meeting held hereunder shall prescribe the place, day and hours of each session of said meeting and said warrant shall be posted as required for any town meeting. In a town which has adopted the provisions of this section no business other than the election of town officers elected by an official ballot and other action required to be inserted on said official ballot shall be taken up at the first session of said meetings. A town which has adopted the provisions hereof may rescind such action in the same manner as provided for its adoption. The question in this case shall be: "Shall the provisions for having 2 sessions of the annual town meeting be declared no longer in effect in this town?"

II. Alternatively, a town may conduct its meetings and the election of officers through use of the official ballot by adoption of the provisions of RSA 40:13.

4 Timing and Use of First Session. Amend RSA 40:13, III and IV to read as follows:

III. The first session of the annual meeting, which shall be for the transaction of all business other than voting by official ballot shall be held between the second Tuesday of March and the Saturday following the second Tuesday of March, at a time prescribed by the local political subdivision's governing body. The second Tuesday in March shall be deemed the annual meeting date for purposes of all applicable statutes pertaining to hearings, notice, petitioned articles, and warrants, including, but not limited to, RSA 31:95-d, 32:5, 32:16, 33:8-a, 39:3, 39:5, 195:12, 197:6, [~~and~~] 197:7***, and 675:3; providing that the warrant be posted not fewer than 14 days prior to the date of the first session. The 14 days shall not include the day of posting nor the day of the meeting, but shall include Saturdays, Sundays, and legal holidays within the period.***.

IV. [~~The first session of the meeting, governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-10, shall consist of explanation, discussion, and debate of each warrant article.~~] ***The first session of the meeting shall consist of explanation, discussion, and debate of each warrant article, and shall be governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-40:10; provided, however, that RSA 40:10, II shall not apply, and a vote to restrict reconsideration pursuant to RSA 40:10, I shall be deemed to prohibit any further action on the restricted article until the second session.*** Warrant articles may be amended ***at the first session***, subject to the following limitations:

(a) [~~Warrant articles~~] ***Questions*** whose wording is prescribed by law shall not be amended.

(b) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

5 Alternative Budget. Amend RSA 40:13, XI to read as follows:

XI. ***The amount of the previous year's operating budget, as adjusted pursuant to paragraph X, shall be disclosed to the voters at the first session. This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, acting on relevant new information at any time before the ballots are printed.*** The wording of the [~~article on~~] ***second session ballot question concerning*** the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles, the amounts set forth on the budget posted with the warrant ***or as amended by vote of the first session***, for the purposes set forth therein, totaling $.....? Should this article be defeated, the operating budget shall be $....., which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law***;*** or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

6 Reconsideration and Special Meetings. Amend RSA 40:13, XV and XVI to read as follows:

XV. Votes taken at the second session shall not be reconsidered [~~except by warrant article at a subsequent annual or special meeting~~].

XVI. The warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than 28 days nor more than 60 days following the first session. The first and second sessions shall conform to the provisions of this subdivision pertaining to the first and second sessions of annual meetings. Special meetings shall be subject to RSA 31:5, 39:3, 195:13, 197:2, and 197:3, provided that no more than one special meeting may be held to raise and appropriate money ***for the same question or issue*** in any one calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to paragraphs X and XI shall not be subject to RSA 31:5 and RSA 197:3 and shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.

7 Vote Necessary to Adopt Official Ballot Referendum. Amend RSA 40:14, I to read as follows:

I. This subdivision may be adopted by any local political subdivision as defined in RSA 40:12. A 3/5 [~~vote~~] ***majority*** of those voting ***on the question*** shall be required to adopt this subdivision. ***Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority.***

8 Vote Necessary to Adopt Official Ballot Referendum. Amend RSA 40:14, VI to read as follows:

VI. If ***a*** 3/5 ***majority*** of those voting on the question vote "yes," RSA 40:13 shall apply within the local political subdivision at the annual or special meeting next following. ***Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority.***

9 Vote Necessary to Rescind Official Ballot Referendum. Amend RSA 40:14, VII to read as follows:

VII. Any local political subdivision which has adopted RSA 40:13 may consider rescinding its action in the manner described in RSA 40:13, III-VI. The wording of the question shall be: "Shall the provisions for voting by official ballot on all issues before the (local political subdivision) under RSA 40:13 be limited to election of officers and certain other questions?" A 3/5 [~~vote~~] ***majority*** of those voting ***on the question*** shall be required to rescind the provisions of this subdivision, except in the case of repeal by charter enactment under RSA 49D. ***Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority.***

10 New Subdivision; Multi-Town School Districts; Additional Polling Places for Second Session Voting. Amend RSA 40 by inserting after section 14 the following new subdivision:

Additional Polling Places for Second Session Voting

40:15 Additional Polling Place for Second Session Voting.

I. Any multi-town school district adopting the provisions of RSA 40:13 may vote to use additional polling places for the second session of the annual meeting. The additional polling places shall be the regular polling places for town or city elections in each member town and city of the district. The school district moderator shall supervise the election process and appoint an assistant moderator for each additional polling place. The school district clerk shall appoint an assistant clerk for each additional polling place. Each assistant moderator and assistant clerk shall be domiciled in the town covered by the additional polling place served by such assistant moderator or assistant clerk. The powers and duties of the assistant moderator and the assistant clerk shall be the same as those of the moderator and the clerk at the central polling place except as otherwise provided in the election laws. The inspectors of elections appointed as provided in RSA 658:2 shall be sworn in by the assistant moderator before entering upon their duties. All additional costs resulting from the establishment of additional polling places shall be borne by the school district.

II. Paragraph I of this section may be adopted by any multi-town school district simultaneously with adoption of RSA 40:13 or any time after the adoption of RSA 40:13.

III. The school district shall place the question on the warrant of the annual meeting under the procedures set out in RSA 197:6, and the question shall be voted on by official ballot in accordance with the procedures established in RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours.

IV. A public hearing shall be held by the school board on the question at least 15 days, but not more than 30 days, before the question is to be voted on. The public hearing shall be held in each town or city embraced by the district. Notice of the hearing shall be posted in at least 2 public places in each town or city of multi-town districts, and published in a newspaper of general circulation at least 7 days prior to the date of the hearing.

V. The wording of the question shall be: "Shall we adopt the provisions of RSA 40:15 to allow voting at additional polling places for the second session of the annual meeting?"

VI. If a majority of those voting on the question vote "yes," and RSA 40:13 has also been adopted then RSA 40:15 shall apply within the district at

the annual or special meeting next following. Only votes in the affirmative or negative shall be included in the calculation of the majority.

VII. Any multi-town school district which has adopted RSA 40:15 may consider rescinding its action in the manner described in RSA 40:15, III-VI. The wording of the question shall be: "Shall the provisions for additional polling places for the second session of the annual meeting under RSA 40:15 be rescinded so that the voting shall be held at a central location?" A majority of those voting on the question shall be required to rescind the provisions of this section. Only votes in the affirmative or negative shall be included in the calculation of the majority.

11 Timing for School District Meetings. Amend RSA 197:1 to read as follows:

197:1 Annual. A meeting of every school district shall be held annually between March 1 and March 25, inclusive, ***or in accordance with RSA 40:13 if that provision is adopted in the district,*** for raising and appropriating money for the support of schools for the fiscal year beginning the next July 1, for the transaction of other district business and, in those districts not electing their district officers at town meeting, for the choice of district officers.

12 New Paragraph; Special Meeting Concerning Negotiated Cost Items. Amend RSA 197:3 by inserting after paragraph II the following new paragraph:

III. In the event that the legislative body at an annual meeting amends or rejects the cost items or fact finder's report as submitted pursuant to RSA 273-A, notwithstanding paragraphs I and II, the school board may call one special meeting for the sole purpose of addressing negotiated cost items without petitioning the superior court for authorization.

13 Repeal. RSA 40:13, V relative to the public hearing held after the deliberative session, is repealed.

14 Applicability. This act shall apply to all local political subdivisions, as defined in RSA 40:12, which adopt RSA 40:13 on or after June 30, 1995.

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

AMENDED ANALYSIS

This bill makes adjustments to town meeting and election laws to facilitate the use and operation of the new official ballot voting options commonly known as SB 2.

1997-1478h

Floor Amendment to SB 109

Proposed by the Committee on Municipal and County Government

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

1 New Paragraph; Special Meeting Concerning Negotiated Cost Items. Amend RSA 31:5 by inserting after paragraph II the following new paragraph:

III. In the event that the legislative body at an annual meeting amends or rejects the cost items or fact finders report as submitted pursuant to RSA 273-A, notwithstanding paragraphs I and II, the selectmen may call one special meeting for the sole purpose of addressing negotiated cost items without petitioning the superior court for authorization.

2 Expenditures Prior to Budget Adoption. Amend RSA 32:13, II to read as follows:

II. This subdivision shall not be construed to affect the authority of the local governing body, in towns with a March annual meeting and a January through December fiscal year, to make expenditures between January 1 and the [~~annual meeting~~] ***date a budget is adopted*** which are reasonable in light of prior year's appropriations and expenditures for the same purposes during the same time period.

3 Optional Provisions. Amend RSA 39:2-a to read as follows:

39:2-a Optional Provisions.

I. Any town may at an annual meeting vote to conduct the choice of town officers elected by an official ballot and other action required to be inserted on said official ballot on the second Tuesday of March or on the second Tuesday of May if the town has adopted the provisions of RSA 31:94-a and authorize the selectmen to choose another day for the second session of the town meeting for the transaction of all other town

business. Upon written application of [~~10~~] ***25*** or more voters, addressed to the selectmen, the following question shall be submitted to the voter at such annual meeting: "Do you approve of having 2 sessions for the annual town meeting in this town, the first session for choice of town officers elected by an official ballot and other action required to be inserted on said official ballot and the second session, on a date set by the selectmen, for transaction of other business?" This question shall appear upon the official ballot in towns having such a ballot, otherwise upon a special ballot prepared by the town clerk. Proper provision shall be made on the ballot to permit the voter clearly to indicate his choice on the question If a majority of the legal voters present and voting on the question vote in the affirmative, the provisions of this section shall be declared adopted. In any town adopting the provisions hereof the warrant for an annual meeting held hereunder shall prescribe the place, day and hours of each session of said meeting and said warrant shall be posted as required for any town meeting. In a town which has adopted the provisions of this section no business other than the election of town officers elected by an official ballot and other action required to be inserted on said official ballot shall be taken up at the first session of said meetings. A town which has adopted the provisions hereof may rescind such action in the same manner as provided for its adoption. The question in this case shall be: "Shall the provisions for having 2 sessions of the annual town meeting be declared no longer in effect in this town?"

II. Alternatively, a town may conduct its meetings and the election of officers through use of the official ballot by adoption of the provisions of RSA 40:13.

4 Preparation for and First Session of Annual Meeting. Amend RSA 40:13, I-IV to read as follows:

I. Notwithstanding RSA 39:3-d, RSA 40:4-e, or any other provision of law, any local political subdivision as defined in RSA 40:12 which has adopted this subdivision shall utilize the official ballot for voting on all issues before the voters.

II. The warrant for any annual meeting shall prescribe the place, day and hour for each of 2 separate sessions of the meeting, and notice shall be given in accordance with [~~RSA 39:5 and RSA 197:6~~] ***paragraph II-a***.

II-a. Notwithstanding any other provision of law, all local political subdivisions which adopt this subdivision shall comply with the following schedule pertaining to notice, petitioned articles, hearings, and warrants for the annual meeting:

(a) The final date for posting notice of budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a shall be the first Tuesday in January.

(b) The "budget submission date" as defined in RSA 273-A:1, III and the final date for submission of petitioned articles under RSA 39:3 and RSA 197:6 shall be the second Tuesday in January.

(c) Budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a and RSA 675:3 shall be held on or before the third Tuesday in January.

(d) Warrants under RSA 39:5 and RSA 197:7 and budgets shall be posted and copies available to the general public on or before the last Monday in January.

III. The first session of the annual meeting, which shall be for the transaction of all business other than voting by official ballot shall be held between the [~~second Tuesday of March and the Saturday following the second Tuesday of March~~] ***first and second Saturdays following the last Monday in January, inclusive of those Saturdays***, at a time prescribed by the local political subdivision's governing body. [~~The second Tuesday in March shall be deemed the annual meeting date for purposes of all applicable statutes pertaining to hearings, notice, petitioned articles, and warrants, including, but not limited to, RSA 31:95-d, 32:5, 32:16, 33:8-a, 39:3, 39:5, 195:12, 197:6, and 197:7.~~]

IV. [~~The first session of the meeting, governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-10, shall consist of explanation, discussion, and debate of each warrant article.~~] ***The first session of the meeting shall consist of explanation, discussion, and debate of each warrant article, and shall be governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-40:10; provided, however, that RSA 40:10, II shall not apply, and a vote to restrict reconsideration pursuant to RSA 40:10, I shall be deemed to prohibit any further action on the restricted article until the second session.*** Warrant articles may be amended ***at the first session***, subject to the following limitations:

(a) [~~Warrant articles whose~~] ***Questions, the*** wording ***of which*** is prescribed by law***,*** shall not be amended.

(b) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

5 Second Session of Annual Meeting; Special Meetings. Amend RSA 40:13, VI-XVI to read as follows:

VI. All warrant articles shall be placed on the official ballot for a final vote. ***All special warrant articles shall be accompanied on the ballot by recommendations as required by RSA 32:5, V, concerning any appropriation or appropriation as amended.***

VII. The second session of the annual meeting, to elect officers of the local political subdivision by official ballot, to vote on questions required by law to be inserted on said official ballot, and to vote on all warrant articles from the first session on official ballot, shall be held on the second Tuesday in [~~April~~] ***March***. Notwithstanding RSA 669:1, 670:1, or 671:2, the second session shall be deemed the annual election date for purposes of all applicable election statutes including, but not limited to, RSA 669:5, 669:19, 669:30, 670:3, 670:4, 670:11, 671:15, 671:19, and 671:30-32; and votes on zoning ordinances, historic district ordinances, and building codes under RSA 675.

VIII. The clerk of the local political subdivision shall prepare an official ballot, which may be separate from the official ballot used to elect officers, for all warrant articles. Wording shall be substantively the same as the main motion, as it was made or amended at the first session, with only such minor textual changes as may be required to cast the motion in the form of a question to the voters.

IX. "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved.

XI. ***The amount of the previous year's operating budget, as adjusted pursuant to paragraph X, shall be disclosed to the voters at the first session. This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, acting on relevant new information at any time before the ballots are printed.*** The wording of the [~~article on~~] ***second session ballot question concerning*** the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles, the amounts set forth on the budget posted with the warrant ***or as amended by vote of the first session***, for the purposes set forth therein, totaling $.....? Should this article be defeated, the operating budget shall be $....., which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law***;*** or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

XII. Voting at the second session shall conform to the procedures for the nonpartisan ballot system as set forth in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling place, and polling hours.

XIII. Approval of all warrant articles shall be by simple majority except for questions which require a 2/3 vote by law, contract, or written agreement.

XIV. Votes taken at the second session shall be subject to recount under RSA 669:30-33 and RSA 40:4-c.

XV. Votes taken at the second session shall not be reconsidered [~~except by warrant article at a subsequent annual or special meeting~~].

XVI. The warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than 28 days nor more than 60 days following the first session. The first and second sessions shall conform to the provisions of this subdivision pertaining to the first and second sessions of annual meetings. Special meetings shall be subject to RSA 31:5, 39:3, 195:13, 197:2, and 197:3, provided that no more than one special meeting may be held to raise and appropriate money ***for the same question or issue*** in any one calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to paragraphs X and XI shall not be subject to RSA 31:5 and RSA 197:3 and shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.

6 Vote Necessary to Adopt Official Ballot Referendum. Amend RSA 40:14, I to read as follows:

I. This subdivision may be adopted by any local political subdivision as defined in RSA 40:12. A 3/5 [~~vote~~] ***majority*** of those voting ***on the question*** shall be required to adopt this subdivision. ***Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority.***

7 Vote Necessary to Adopt Official Ballot Referendum. Amend RSA 40:14, VI to read as follows:

VI. If ***a*** 3/5 ***majority*** of those voting on the question vote "yes," RSA 40:13 shall apply within the local political subdivision at the annual or special meeting next following. ***Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority.***

8 Vote Necessary to Rescind Official Ballot Referendum. Amend RSA 40:14, VII to read as follows:

VII. Any local political subdivision which has adopted RSA 40:13 may consider rescinding its action in the manner described in RSA 40:13, III-VI. The wording of the question shall be: "Shall the provisions for voting by official ballot on all issues before the (local political subdivision) under RSA 40:13 be limited to election of officers and certain other questions?" A 3/5 [~~vote~~] ***majority*** of those voting ***on the question*** shall be required to rescind the provisions of this subdivision, except in the case of repeal by charter enactment under RSA 49D. ***Only votes in the affirmative or negative shall be included in the calculation of the 3/5 majority.***

9 New Subdivision; Multi-Town School Districts; Additional Polling Places for Second Session Voting. Amend RSA 40 by inserting after section 14 the following new subdivision:

Additional Polling Places for Second Session Voting

40:15 Additional Polling Place for Second Session Voting.

I. Any multi-town school district adopting the provisions of RSA 40:13 may vote to use additional polling places for the second session of the annual meeting. The additional polling places shall be the regular polling places for town or city elections in each member town and city of the district. The school district moderator shall supervise the election process and appoint an assistant moderator for each additional polling place. The school district clerk shall appoint an assistant clerk for each additional polling place. Each assistant moderator and assistant clerk shall be domiciled in the town covered by the additional polling place served by such assistant moderator or assistant clerk. The powers and duties of the assistant moderator and the assistant clerk shall be the same as those of the moderator and the clerk at the central polling place except as otherwise provided in the election laws. The inspectors of elections appointed as provided in RSA 658:2 shall be sworn in by the assistant moderator before entering upon their duties. All additional costs resulting from the establishment of additional polling places shall be borne by the school district.

II. Paragraph I of this section may be adopted by any multi-town school district simultaneously with adoption of RSA 40:13 or any time after the adoption of RSA 40:13.

III. The school district shall place the question on the warrant of the annual meeting under the procedures set out in RSA 197:6, and the question shall be voted on by official ballot in accordance with the procedures established in RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours.

IV. A public hearing shall be held by the school board on the question at least 15 days, but not more than 30 days, before the question is to be voted on. The public hearing shall be held in each town or city embraced by the district. Notice of the hearing shall be posted in at least 2 public places in each town or city of multi-town districts, and published in a newspaper of general circulation at least 7 days prior to the date of the hearing.

V. The wording of the question shall be: "Shall we adopt the provisions of RSA 40:15 to allow voting at additional polling places for the second session of the annual meeting?"

VI. If a majority of those voting on the question vote "yes," and RSA 40:13 has also been adopted then RSA 40:15 shall apply within the district at the annual or special meeting next following. Only votes in the affirmative or negative shall be included in the calculation of the majority.

VII. Any multi-town school district which has adopted RSA 40:15 may consider rescinding its action in the manner described in RSA 40:15, III-VI. The wording of the question shall be: "Shall the provisions for additional polling places for the second session of the annual meeting under RSA 40:15 be rescinded so that the voting shall be held at a central location?" A majority of those voting on the question shall be required to rescind the provisions of this section. Only votes in the affirmative or negative shall be included in the calculation of the majority.

10 Timing for School District Meetings. Amend RSA 197:1 to read as follows:

197:1 Annual. A meeting of every school district shall be held annually between March 1 and March 25, inclusive, ***or in accordance with RSA 40:13 if that provision is adopted in the district,*** for raising and appropriating money for the support of schools for the fiscal year beginning the next July 1, for the transaction of other district business and, in those districts not electing their district officers at town meeting, for the choice of district officers.

11 New Paragraph; Special Meeting Concerning Negotiated Cost Items. Amend RSA 197:3 by inserting after paragraph II the following new paragraph:

III. In the event that the legislative body at an annual meeting amends or rejects the cost items or fact finder's report as submitted pursuant to RSA 273-A, notwithstanding paragraphs I and II, the school board may call one special meeting for the sole purpose of addressing negotiated cost items without petitioning the superior court for authorization.

12 Repeal. RSA 40:13, V relative to the public hearing held after the deliberative session, is repealed.

13 Applicability. This act shall apply to all local political subdivisions, as defined in RSA 40:12, which adopt RSA 40:13 on or after June 30, 1995.

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

AMENDED ANALYSIS

This bill makes adjustments to town meeting and election laws to facilitate the use and operation of the new official ballot voting options commonly known as SB 2.

1997-1448h

Floor Amendment to SB 109

Proposed by Reps. Robert K. Dodge and Robert M. Fesh

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

AN ACT relative to the official ballot voting option and authorizing the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997, and April 14, 1998, respectively.

Amend the bill by replacing all after section 13 with the following:

14 Applicability. Sections 1-13 of this act shall apply to all local political subdivisions, as defined in RSA 40:12, which adopt RSA 40:13 on or after June 30, 1995.

15 Election Day for 1997 and 1998 Annual Town Meetings. To facilitate voting for 1997 and 1998 annual meetings only, to reduce costs, and to best accommodate the voters, the governing body of a town which has not adopted the official ballot referendum form of meeting, but which is in a school district which has adopted the official ballot referendum form of meeting, may authorize coordination of the 1997 and 1998 town elections with the school district elections on April 8, 1997 and April 14, 1998. The joint elections shall be held at a time and place determined by, and shall be supervised by, the election officials of the town, as provided in RSA 671:26. The town and the school district shall allocate the costs of the joint elections in the same manner as in previous years, or as mutually agreed upon by the governing bodies of the town and school district.

16 Effective Date.

I. Sections 1-14 of this act shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill makes adjustments to town meeting and election laws to facilitate the use and operation of the new official ballot voting options commonly known as SB 2.

The bill also allows the governing bodies of towns which have not adopted the official ballot referendum form of meeting, but which are in school districts which have adopted the official ballot referendum form of meeting, to move the election day of the 1997 and 1998 annual meetings of those towns to April 8, 1997 and April 14, 1998, respectively.

1997-1277h

Amendment to SB 116-FN

Proposed by the Committee on Science, Technology and Energy

Amend RSA 301:57 as inserted by section 2 of the bill by replacing it with the following:

301:57 Jurisdiction of Public Utilities Commission.

I. A rural electric cooperative which has had a certificate of regulation on file with the public utilities commission for a period of not less than 5 consecutive years, or which has not at any previous time had a certificate of deregulation on file with the public utilities commission, may elect to

become exempt from regulation by the commission and be removed from the definition of "public utility" as provided in RSA 362:2. Any election shall be approved by an affirmative vote of at least 60 percent of those members voting by mail ballot, initiated by petition of not less than 100 members of the cooperative and returnable to a regular meeting of the membership. The first election shall be made no sooner than 120 days after the effective date of this paragraph. Subsequent elections may be held not less than one year after the most recent previous election conducted under this paragraph. The election shall be conducted pursuant to the requirements of the cooperative's bylaws. Within 10 days following the regular meeting of the membership to which the results of the election are returned, the cooperative shall, if the vote is in the affirmative, file a certificate of deregulation with the public utilities commission, and, if the vote is in the negative, file a certificate of regulation with the public utilities commission.

II. A rural electric cooperative which has had a certificate of deregulation on file with the public utilities commission for a period of not less than 5 consecutive years may elect to become subject to regulation by the public utilities commission, and become a "public utility" as provided in RSA 362:2. The election shall be approved by an affirmative vote of at least 60 percent of those members voting by mail ballot initiated by petition of not less than 100 members of the cooperative and returnable to a regular meeting of the membership. The election shall be conducted pursuant to the requirements of the cooperative's bylaws and may be held no sooner than one year after the most recent previous election conducted under this paragraph. Within 10 days following the regular meeting of the membership to which the results of the election are returned, the cooperative shall, if the vote is in the affirmative, file a certificate of regulation with the public utilities commission, and, if the vote is in the negative, file a certificate of deregulation with the public utilities commission.

III. Every rural electric cooperative shall maintain on file with the public utilities commission either a certificate of regulation or a certificate of deregulation. Certificates of regulation and deregulation shall be certified by a duly authorized representative of the rural electric cooperative and shall contain the full text of the ballot question voted upon as provided in paragraph I or II, a certification of the vote results, and a certification that the ballot was initiated by a petition meeting the requirements set forth in paragraphs I-II. Certificates of regulation and deregulation shall remain on file with the public utilities commission unless and until replaced by a certificate of regulation or deregulation resulting from a subsequent election.

Amend the bill by inserting after section 3 the following and renumbering the original sections 4-7 to read as 6-9, respectively:

4 Definition of Member Changed. Amend RSA 301-A:1, III to read as follows:

III. "Member" means any [~~natural person, family unit, household, association or incorporated or unincorporated group organized on a cooperative basis, or any nonprofit group,~~] ***ultimate consumer*** which has made full payment of the membership fee or minimum membership capital.

5 Definition of Ultimate Consumer Changed. Amend RSA 301-A:1, VIII to read as follows:

VIII. "Ultimate consumer" means a natural person, family, household, or [~~a nonprofit organization or~~] ***an*** association***, organization, corporation, partnership, sole proprietorship, or other entity, whether organized on a nonprofit or for-profit basis,*** that uses the goods, services, or facilities provided by an [~~organization~~] ***association*** primarily for purposes other than for resale [~~or for carrying on a for-profit trade or business activity~~].

Amend RSA 362:2, II as inserted by section 6 of the bill by replacing it with the following:

II. For the purposes of this title only, rural electric cooperatives for which a certificate of deregulation is on file with the public utilities commission pursuant to RSA 301:57 shall not be considered public utilities; provided, however, that the provisions of RSA 362-A, 363-B, 371, 374:2-a, 374:26, 374:26-a, 374-C, 374-F, and 378:37-39 shall be applicable to rural electric cooperatives, without regard to whether a certificate of regulation or deregulation is on file with the public utilities commission. The provisions of RSA 374-A shall apply to rural electric cooperatives for which a certificate of deregulation is on file with the public utilities commission to the same extent as municipal utilities.

AMENDED ANALYSIS

This bill authorizes members of a rural electric cooperative to determine if their cooperative shall be subject to regulation by the public utilities commission. This bill changes the definitions of member and ultimate consumer with respect to consumers' cooperative associations.

1997-1356h

Amendment to SB 122

Proposed by the Committee on Commerce

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

AN ACT establishing a committee to study health care issues related to managed care.

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

1 Committee Established. There is established a committee to study health care issues related to managed care.

2 Membership and Compensation.

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

(a) Three members of the senate, appointed by the president of the senate.

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

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

3 Duties. The committee shall study the following issues:

I. The accessibility and availability of specialists and special needs providers in managed care health plans.

II. Issues relating to the impact of managed care upon new populations now being served, especially medicare and medicaid recipients.

III. Issues relating to the availability and affordability of health insurance in the small group and individual markets subsequent to the health insurance reforms established in RSA 420G.

IV. Whether there exists a need for a mechanism to provide external grievance procedures regarding consumer's complaints.

4 Chairperson; Quorum. The first meeting of the study committee shall be called by the first-named senator. The first meeting shall be held within 30 days after the effective date of this section. Four members of the committee shall constitute a quorum.

5 The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

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

AMENDED ANALYSIS

This bill establishes a committee to study health care issues related to managed care.

1997-1314h

Amendment to SB 130

Proposed by the Committee on Commerce

Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 11:

10 Application. Neither RSA 420-G:2, XII(b) nor RSA 420-G:2, XVI(b) shall be applied so as to alter the current classification of any employer before January 1, 1999.

AMENDED ANALYSIS

This bill repeals the current chapter concerning health coverage for employees of small employers and individuals and replaces it with a chapter which more broadly covers the portability, availability, and renewability of health coverage for individuals and for employees of large and small employers.

1997-1288h

Amendment to SB 135

Proposed by the Committee on Commerce

Amend RSA 563-C:2 as inserted by section 1 of the bill by replacing it with the following:

563-C:2 Definitions. In this chapter:

I. "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

II. "Person" means an individual, corporation, organization, or other legal entity.

III. "POD" means "pay on death."

IV. "Register", including its derivatives, means to issue a certificate showing the ownership of a certified security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

V. "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

VI. "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

VII. "TOD" means "transfer on death."

VIII. "Security account" means:

(a) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or

(b) A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

Amend RSA 563-C:9 as inserted by section 1 of the bill by replacing it with the following:

563-C:9 Protection of Registering Entity.

I. A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this chapter.

II. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this chapter.

III. A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with RSA 563-C:8 and does so in good faith reliance:

(a) On the registration;

(b) On this chapter; and

(c) On information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity.

IV. The protections of this chapter do not extend to a registration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this chapter. The protection provided by this chapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

Amend RSA 563-C:11, II(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Multiple owners-primary and secondary (substituted) beneficiaries: John S Brown Mary B Brown JT TEN TOD John S Brown Jr SUB Peter Q Brown; or John S Brown Mary B Brown JT TEN TOD John S. Brown Jr LDPS.

1997-1286h

Amendment to SB 139

Proposed by the Committee on Commerce

Amend RSA 384:65 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Notwithstanding paragraphs I-IV, no bank authorized to exercise trust powers in this state which is acting as a fiduciary shall purchase for the fiduciary estate any bond or other security issued by such bank or an affiliate thereof, unless the bank is expressly authorized to do so by the terms of the instrument creating the trust, a court order, the written consent of the grantor of the trust, or the written consent of the beneficiaries of the trust.

1997-1359h

Amendment to SB 149

Proposed by the Committee on Executive Departments and Administration

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

AN ACT relative to the requirements that state agencies administering federal programs may impose on activities of the private sector.

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

1 New Chapter; State Agencies Administering Federal Programs. Amend RSA by inserting after chapter 124-A the following new chapter:

CHAPTER 124-B

STATE AGENCIES ADMINISTERING FEDERAL PROGRAMS

124-B:1 Authority of Agency Limited.

I. A state agency, as defined in RSA 541-A:1, II, responsible for administering a federal program, shall not impose any requirements on private sector entities through the adoption or enforcement of administrative rules or any other method in addition to those requirements authorized under federal law or regulation unless:

(a) The agency has statutory authority to do so; or

(b) The agency finds that imminent peril to the public health or safety requires adoption of such additional requirements and states its reasons in writing.

II. Any such requirements contained in proposed administrative rules shall be subject to review by the joint legislative committee on administrative rules pursuant to RSA 541-A.

III. If an agency adopts an emergency rule under RSA 541-A pursuant to the standard in subparagraph I(b) and the committee determines that the standard has not been met, the committee may vote to disapprove the rule as being beyond the authority of the agency and contrary to the intent of the legislature. Notwithstanding RSA 541-A:18, the rule shall expire on the day following the committee's vote.

IV. Upon request to the state agency responsible for administering a federal program, any private sector entity shall be provided with copies of the specific state or federal statutory provisions or federal regulatory provisions authorizing the adoption or enforcement of any rule or other requirement under this section.

2 Applicability. Any administrative rule adopted, readopted, or amended after the effective date of this act shall comply with the provisions of this act. All administrative rules shall be brought into compliance with this act no later than July 1, 2000.

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

AMENDED ANALYSIS

This bill requires that a state agency responsible for administering a federal program shall not impose any requirements on private sector entities through the adoption or enforcement of administrative rules, or any other method, that are in addition to those authorized under federal law or regulation except in certain circumstances.

The bill requires that upon request to any state agency administering a federal program, any private sector entity shall be provided with copies of the specific state or federal statutory provisions or federal regulatory provisions authorizing the adoption or enforcement of any rule or other requirement under this section.

1997-1382h

Amendment to SB 154

Proposed by the Committee on Education

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

1 New Section; Statement of Purpose Added. Amend RSA 194-B by inserting after section 1 the following new section:

194-B:1-a Statement of Purpose. It is the purpose of this chapter to:

I. Promote and encourage the establishment and operation of charter and open enrollment schools in New Hampshire.

II. Encourage school districts to allow public charter and open enrollment schools.

III. Encourage the establishment of public charter schools with specific or focused curriculum, instruction, methods, or target pupil groups.

IV. Improve pupil learning and increase opportunities for learning.

V. Exempt charter schools from state statutes and rules, other than where specified, to provide innovative learning and teaching in a unique environment.

VI. Enhance professional opportunities for teachers.

VII. Establish results-driven accountability for public charter schools and require the measurement of learning.

VIII. Make school improvement a focus at the school level.

2 "Application" Substituted for "Contract." Amend the introductory paragraph of RSA 194B:3, II to read as follows:

II. Except as expressly provided in this chapter, the duty and role of the local school board relative to the establishment of a charter school shall be in good faith to approve or disapprove the proposed charter school [~~contract~~] ***application*** based upon whether or not the proposed [~~contract~~] ***application*** contains and appropriately addresses these required elements:

3 Description of Proposed Location of Charter School Facility. Amend RSA 194-B:3, II (d) to read as follows:

(d) ***General*** description and ***proposed or potential*** location of facilities to be used, ***if such information is available.***

4 Location of Charter School. Amend RSA 194-B:3, II(1) to read as follows:

(1) Pupil transportation plan, including reasonable provision from the charter school's own resources for transportation of pupils residing outside [~~that school's~~] ***the*** district ***in which the charter school is physically located***.

5 "Application" Substituted for "Contract." Amend RSA 194-B:3, II(y) to read as follows:

(y) Severability provisions and statement of assurance that any provision of the charter school [~~contract~~] ***application*** found by competent authority to be contrary to applicable law, rule, or regulation shall not be enforceable.

6 New Subparagraph; Charter School Contract. Amend RSA 194-B:3, II by inserting after subpargraph (bb) the following new subpargraph:

(cc) In addition to an application, each charter school applicant, in consultation with the local school board, shall prepare a proposed contract. The contract shall include, but shall not be limited to, the following elements:

(1) Purpose.

(2) Written policies.

(3) Authority of trustees.

(4) Reporting and financial requirements.

(5) Contract agreements.

(6) Indemnification.

(7) Secular orientation.

(8) Non-discrimination.

(9) Health and safety.

(10) Enrollment.

(11) Attendance.

(12) Availability of services.

(13) Assessment of pupils.

(14) Tuition and funding.

(15) Property ownership.

(16) Records.

(17) Severability in accordance with subpargraph (y) above.

(18) Assignment.

(19) Insurance.

(20) Revocation.

(21) Amendment.

(22) Renewal.

(23) Entire agreement.

(24) Location, which shall be identified prior to submission to the legislative body.

7 "Application" Substituted for "Contract." Amend RSA 194-B:3, III(b)-(g) to read as follows:

(b) ***Proposed*** applications ***and contracts*** to establish a charter school [~~shall take the form of a proposed contract and~~] shall be presented by [~~April~~] ***July*** 1 of the year preceding intended operation of the charter school by its prospective board of trustees to the school board of the district in which the charter school intends to be located.

(c) By [~~July 1~~] ***September 15*** of the given year, the school board shall have completed its review of the proposed [~~contract~~] ***application*** and shall have granted or denied its approval. In its review the school board shall grant or deny the proposed [~~contract~~] ***application***, using as its criteria whether or not the proposed ***application and*** contract [~~contains and addresses~~] ***contain and address*** the elements required under RSA 194-B:3, II.

The school board reserves the right to suggest amendments or additions to the proposed [~~contract~~] ***application*** as it deems necessary to assure its completeness and compliance with this chapter. The school board shall forward the proposed ***application and*** contract, along with its approval or denial and a written statement specifying any areas deemed deficient, to the state board and to the applicant's prospective board of trustees.

(d) By [~~October 1~~] ***December 31*** of the given year, the state board shall have reviewed the proposed [~~contract~~] ***application*** and shall grant or deny the proposed [~~contract~~] ***application***, using as its criteria whether or not the proposed [~~contract~~] ***application*** contains and addresses the elements required under RSA 194-B:3, II. The state board reserves the right to suggest amendments or additions to the proposed [~~contract~~] ***application*** as it deems necessary to assure its completeness and compliance with this chapter. [~~Contract~~] ***Application*** disapprovals shall include a written statement specifying areas deemed deficient. The state board shall promptly notify the prospective board of trustees and the school board of its decision in writing. For any applicant charter school whose proposed [~~contract~~] ***application*** is deemed complete and is approved by the state board, the state board shall issue a charter enabling the formation and operation of the charter school.

(e) [~~The school board shall promptly execute the state board approved contract within one month of the school board's receipt of notice of approval from the state board.~~

~~(f) The executed contract shall be submitted to the school district legislative body for subsequent~~] ***The state board shall submit 2 copies of the approved contract to the clerk of the school district who shall make the contract available for inspection by the voters of the school district. The school board shall submit a warrant article to the school district legislative body for*** ratification or denial without amendment[~~, which decision shall be final~~]. The ratification question shall be placed on the warrant of the next special or annual school district meeting. In districts without annual meetings, the legislative body shall have final authority to ratify or deny the state board approved contract. A ratified contract grants final authority for the charter school to operate for the life of its contract and to receive school district funds.

[(g)] ***(f)*** The school's [~~charter and~~] contract shall become effective July 1 immediately following ratification by the legislative body. Upon approval by the legislative body, [~~charters~~] ***contracts*** shall be [~~granted~~] for a 5-year term beginning on July 1 immediately following ratification by the legislative body.

8 "Application" Substituted for "Contract." Amend RSA 194-B:3, IV(a) and (b) to read as follows:

(a) The charter school's prospective board of trustees may appeal a denial by a school board under RSA 194-B:3, III(c) to the state board by [~~August 1~~] ***September 30*** of the given year.

(b) The state board shall conduct a review of the proposed charter school [~~contract~~] ***application***, using review standards as specified under RSA 194-B:3, II. The state board shall be authorized to suggest amendments or additions to the proposed [~~contract~~] ***application*** to both parties including, but not limited to, deficiencies identified by the local school board and the trustees, as the state board deems necessary to assure its completeness and compliance with this chapter. [~~Contract~~] ***Application*** disapprovals by the state board shall include a written statement specifying areas deemed deficient or in the case of approval on appeal, the reasons for such action to both parties. The state board shall promptly notify the prospective board of trustees and the school board of its decision in writing.

9 "Grantee" Substituted for "School"; "Application" Added. Amend RSA 194-B:3, XI and XII to read as follows:

XI.(a) A charter [~~school~~] ***grantee*** may apply to the school board for amendment to its ***application and*** contract, which shall be granted or denied within 30 days at the school board's discretion. The school board shall notify the school in writing of the decision to grant or deny the proposed amendment, providing reasons for the decision. An approved amended contract shall be promptly signed by the school board within one month of approval.

(b) A charter [~~school~~] ***grantee*** may appeal the denial of a proposed ***application and*** contract amendment to the state board. The state board shall review the proposed amendment and within 30 days shall notify the school and the school board in writing of the decision to grant or deny the amendment, providing reasons for the decision.

(c) Within one month of receipt of a notice of approval from the state board on appeal from a school board denial, the school board shall promptly execute the proposed amended contract.

(d) When executed by the school board, an appealed amended ***application and*** contract shall be submitted promptly to the school district legislative body for subsequent ratification or denial without amendment, which decision shall be final. The ratification question shall be placed on the warrant of the next special or annual school district meeting. In districts without annual meetings, the legislative body shall have final authority to ratify or deny the proposed amended ***application and*** contract.

XII. [~~For specific periods of time and for good cause shown, a school board and the state board may waive any deadlines applying in this section to their respective actions to shorten or speed a charter school's approval process.~~] A school board and the state board may provide technical assistance to improve a charter school's application or to speed the approval process. An applicant whose proposed [~~contract~~] ***application*** is not approved by a

school board or by the state board shall be granted the opportunity to present a revised [~~contract~~] ***application*** for reconsideration.

10 New Paragraph; Acquisition of Real Property. Amend 194-B:3 by inserting after paragraph XII the following new paragraph:

XIII. The board of trustees of a charter school may acquire real property by lease, purchase, lease with purchase option, gift, or otherwise at any time prior to receiving a charter.

11 Changing Limitation Percentages. Amend RSA 194-B:4, I(d) and (e) to read as follows:

(d) The wording of the required adoption and limitation questions shall be either or both:

(1)***(A)*** "Shall we adopt the provisions of RSA 194-B, [~~implementing a~~] ***enabling*** charter and open enrollment [~~school program~~] ***schools***?"; and

(B) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend charter and open enrollment schools located outside the school district?"; and

(C) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend charter and open enrollment schools located inside the school district?"; or

(2)***(A)*** "Shall we adopt the provisions of RSA 194-B, [~~implementing an~~] ***regarding*** open enrollment [~~school program~~] ***schools***?"; and

(B) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend open enrollment schools located outside the school district?"; and

(C) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend open enrollment schools located inside the school district?"

(e) For all limitation questions, the school board shall propose a percentage limitation number. The number may also be proposed by petition. ***To change limitation percentages, a district need only act upon the relevant limitation questions***.

12 New Paragraphs; Consolidation for Purposes of Admissions Lottery; Location of Charter School. Amend RSA 194-B:4 by inserting after paragraph III the following new paragraphs:

IV. Upon approval by each of the district's legislative bodies and after a public hearing, 2 or more school districts may consolidate otherwise eligible resident pupils into one applicant pool for the purposes of an admissions lottery for designated charter or open enrollment schools.

V. A charter school may be physically located outside the district establishing it, but shall be deemed within the school district for purposes of RSA 194-B:4, I(d).

13 Suspension and Expulsion from Charter School. Amend RSA 194-B:9, III to read as follows:

III. A pupil may be suspended or expelled from a charter school based on criteria determined by the board of trustees consistent [~~with its charter contract,~~] with the advice of the principal and teachers and in conformance with RSA 193:13[~~, and in accordance with RSA 189:1-a~~]. No public school shall be obligated to enroll an expelled pupil.

14 Charter Schools; Pupil Residency. Amend RSA 194-B:9, IV to read as follows:

IV. For the purpose of this chapter, any resident pupil enrolled in a charter school is to be considered reassigned to the charter school [~~in accordance with RSA 193:3~~] ***for purposes of school attendance***.

15 "Application" Added. Amend RSA 194-B:10, III to read as follows:

III. To ensure compliance with its ***application and*** contract and applicable law, a charter school shall be subject to a first year and periodic subsequent program audits by the department of education or its agent.

16 Funding; Schedule of Payments. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that

district's prior fiscal year's average cost per pupil ***as determined by the department of education***. [~~In calculating the cost per pupil, the district's expenditures for all added services for special education and for services provided under individual education plans, plus any federal or other funds identified under RSA 194-B:11, IV, shall be deducted from the school district's total education expenditures. The 80 percent minimum amount shall be as determined by the department of education.~~] Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. ***To the extent permitted by law, funding for a pupil attending a charter or open enrollment school shall be paid on the same time schedule as the resident district, or on such other terms as the school and the funding source may find mutually acceptable.***

17 "Application" Added. Amend RSA 194-B:15, I to read as follows:

I. Individuals or groups may complain to a charter school's board of trustees concerning any claimed violation of the provisions of the school's ***application and*** contract.

18 "Application" Added. Amend RSA 194-B:16, II(a) to read as follows:

(a) The school commits a material violation of any of the conditions, standards, or procedures set forth in its charter ***application and*** contract.

19 "Application" Added. Amend RSA 194-B:16, II(d) to read as follows:

(d) The school makes a material misrepresentation in its ***application or*** contract application.

20 "Application" Added. Amend RSA 194-B:16, VI and VII to read as follows:

VI. By the end of its final contract year, the charter school shall meet or exceed the objective academic test results or standards and goals as set forth in its [~~contract~~] ***application***. If the school does not meet these results or standards and goals, it shall not be eligible for renewal of its charter.

VII. If a school's charter expires or is revoked, the school shall be dissolved under the provisions of its charter ***application and*** contract. If the contract provisions are silent or ambiguous as to disposition of any asset of the school, such asset shall revert to the school district in which the charter school is located at no cost to that district, subject to the school district's acceptance of the asset. Under no circumstances shall the school district be liable for any obligations of the dissolved charter school.

21 Geographic Dispersion Deleted. Amend RSA 194-B:20, I to read as follows:

I. Prior to January 1, 1997, the state board shall grant no more than 5 charter school applications. During calendar year 1997 and each calendar year thereafter, no more than 10 charter school applications shall be granted by the state board. [~~To ensure geographic dispersion of charter schools throughout the state, no more than one charter school and one charter conversion school application shall be granted in any one calendar year in each executive council district. The physical location of the charter or charter conversion school shall be used to determine its executive council district. Denial by a legislative body for a state board approved charter school's authority to operate under the provisions of RSA 194-B:3, III(f) shall allow an alternate charter school application to be granted by the state board. Final authority to operate fewer than the maximum number of permitted charters in any executive council district in any year shall not increase the maximum number of permitted charters in that district in any subsequent year.~~]

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

1997-1372h

Amendment to SB 162-FN-A-LOCAL

Proposed by the Majority of the Committee on Public Works and Highways

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

1 Statement of Purpose. The purpose of this act is to make funds available to the department of resources and economic development for the purchase of a certain tract of land located in Piermont, New Hampshire on Lake Tarleton. The tract consists of 6 lots totalling approximately 38 acres, including conservation easements, on the western shore of Lake Tarleton. Lake Tarleton is a water body that encompasses approximately 315 acres, and is located in an area that is currently targeted by the federal government for expansion of the White Mountain National Forest; under this federal plan, Lake Tarleton would become the largest lake in the White Mountain National Forest. The acquisition by the state of this tract in Piermont would secure state access to and assure future state participation in the White Mountain National Forest. Such acquisition would also keep the shores of Lake Tarleton, which have been targeted for development, in the public domain. The purchased property would be managed by the department of resources and economic development.

2 Authority.

I. The commissioner of the department of resources and economic development may, in the name of and on behalf of the state, purchase real estate and conservation easements in Piermont, New Hampshire consisting of approximately 38 acres along the western shore of Lake Tarleton. The final sale price of the property shall be determined by appraisal, but may not exceed $865,500. The commissioner may expend up to an additional $84,500 for development purposes.

II. The commissioner shall develop, with appropriate public input, a master plan for the development and use or development or use of the property. Such master plan may include the operation of a state park. Any costs arising from the development of the master plan may be paid for by the development appropriation in this bill.

III. The department of resources and economic development may enter into cooperative agreements for the operation of a park, a visitors' center, or a park and visitors' center. If, after 3 years, such cooperative agreements are not renewed or in the opinion of commissioner, do not prove to be successful, then the commissioner is authorized to resell the property or any portion thereof.

IV. The department shall not be required to operate a park or any facility on the property unless an appropriation has been made for such operation or to use any state park fund money for the purposes of development or maintenance of the Lake Tarleton property.

3 Appropriation. The sum of $950,000 is hereby appropriated to the department of resources and economic development for the purchase and development of a certain tract of land located in Piermont, New Hampshire on Lake Tarleton.

4 Bonds Authorized. To provide funds 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 the sum of $950,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6A.

5 Contingency. The issuance of the bond contemplated in section 4 of this act is contingent upon the donation to the state of an additional 43.23 acres of land and 5-acre conservation easement to the south of the land to be purchased under paragraph I of section 2 of this act, and the acquisition by the United States Forest Service of 3400 acres in the vicinity of Lake Tarleton for the purpose of expansion of the White Mountain National Forest.

6 Effective Date. This act shall take effect July 1, 1997.

1997-1147h

Amendment to SB 165

Proposed by the Majority of the Committee on Commerce

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

AN ACT relative to Medicare and health maintenance organizations and relative to the disclosure by insurers of test results for the presence of an antibody or antigen to a human immunodeficiency virus.

Amend RSA 420-B:1, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Sales talks, presentations and material prepared by insurers for use by agents and brokers, and representations made by agents and brokers in accordance therewith.

Amend section 4 of the bill by replacing it with the following:

4 Unfair Methods, Acts, and Practices Defined; Human Immunodeficiency Virus. Amend RSA 417:4, XIX(c) to read as follows:

(c) In the event of a [~~serologic~~] positive test result ***on a blood, urine, or oral specimen, or a positive test result on an FDA approved test***, a person who tests for the presence of an antibody or antigen to a human immunodeficiency virus shall disclose the test results, but only to:

(1) The individual tested;

(2) Such other person or entity as the individual tested may authorize by written consent to receive the test results, which consent shall be clearly identifiable as part of the form described in subparagraph (a) of this paragraph.

AMENDED ANALYSIS

This bill:

I. Requires that advertising by health maintenance organizations be approved by the insurance commissioner.

II. Exempts Medicare risk policies from certain state requirements and provides for alternative coverage in the event the contract between a health maintenance organization and the Health Care Financing Administration is terminated.

III. Expands the applicability of restrictions on disclosure by insurers of test results for the presence of a human immunodeficiency virus to positive test results on blood, urine, or oral specimens or positive test results on FDA approved tests.

1997-1444h

Amendment to SB 165

Proposed by the Minority of the Committee on Commerce

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

AN ACT relative to Medicare and health maintenance organizations and relative to the disclosure by insurers of test results for the presence of an antibody or antigen to a human immunodeficiency virus.

Amend RSA 420-B:1, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Sales talks, presentations and material prepared by insurers for use by agents and brokers, and representations made by agents and brokers in accordance therewith.

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

2 Approval of Advertising. Amend RSA 420-B:8, VI to read as follows:

VI. All advertising intended for use in this state whether through written, radio, or television medium shall be submitted to the commissioner of this state for review prior to use.

[VI.]***VII.*** The commissioner may, at any time, after a hearing, if one is requested, withdraw his approval of any evidence of coverage or amendment thereto on any of the grounds stated as material to approval. It shall be unlawful for any health maintenance organization to issue any evidence of coverage or amendment thereto after the effective date of such withdrawal of approval.

3 New Section; Medicare Risk Contracts. Amend RSA 420-B by inserting after section 8-j the following new section:

420-B:8-k Medicare Risk Contracts.

I. The requirements of RSA 417-E, RSA 420-B:8-b, RSA 420-B:8-e, RSA 420B:8-f, and RSA 420-B:8-ff shall not apply to a Medicare risk policy issued pursuant to a contract under section 1876 or section 1833 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.) as amended.

II. In the event of termination of the contract between the Health Care Financing Administration (HCFA) and the contractor, all current enrollees of the contractor who will lose their coverage as a result of this contract termination, shall be given an opportunity to enroll, without evidence of insurability, in any Medicare Supplement policy approved for sale in this state which is then being offered by the contractor.

4 Unfair Methods, Acts, and Practices Defined; Human Immunodeficiency Virus. Amend RSA 417:4, XIX(c) to read as follows:

(c) In the event of a [~~serologic~~] positive test result ***on a blood, urine, or oral specimen, or a positive test result on an FDA approved test***, a person who tests for the presence of an antibody or antigen to a human immunodeficiency virus shall disclose the test results, but only to:

(1) The individual tested;

(2) Such other person or entity as the individual tested may authorize by written consent to receive the test results, which consent shall be clearly identifiable as part of the form described in subparagraph (a) of this paragraph.

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

AMENDED ANALYSIS

This bill:

I. Requires that advertising by health maintenance organizations be submitted to the insurance commissioner for review prior to use.

II. Exempts Medicare risk policies from certain state requirements and provides for alternative coverage in the event the contract between a health maintenance organization and the Health Care Financing Administration is terminated.

III. Expands the applicability of restrictions on disclosure by insurers of test results for the presence of a human immunodeficiency virus to positive test results on blood, urine, or oral specimens or positive test results on FDA approved tests.

1997-1331h

Amendment to SB 172

Proposed by the Committee on Labor, Industrial and Rehabilitative Services

Amend the bill by replacing section 2 with the following:

2 Temporary Alternative Work. Amend RSA 281-A:23-b to read as follows:

281-A:23-b Alternative Work Opportunities. All employers with 5 or more employees shall develop temporary alternative work opportunities for injured employees. ***If the employee fails to accept temporary alternative work, the employer or the employer's insurance carrier may petition the commissioner pursuant to RSA 281-A:48, to reduce or end compensation. Notwithstanding RSA 281-A:22, if an injured employee returns to temporary alternative work within 5 days of sustaining the injury, such employee shall be paid workers' compensation from the first date of the injury.*** The commissioner shall adopt rules under RSA 541-A relative to the administration of this section.

Amend the bill by replacing all after section 5 with the following:

6 Reinstated Employees; Cross Reference. Amend RSA 281-A:54, IX to read as follows:

IX. Employers who incur costs for job modification for the purposes of retaining individuals***, including those reinstated under RSA 281-A:25-a,*** for which a plan for modification has been approved by the commissioner shall be reimbursed 50 percent of the cost for such job modifications from the special fund for second injuries under RSA 281-A:55. Such reimbursement shall not exceed $5,000 per employer per year. Before reimbursement shall be authorized, the employer shall submit the plan for modification to the commissioner for approval.

7 New Paragraph; Reinstated Employees. Amend RSA 281-A:54 by inserting after paragraph IX the following new paragraph:

X. An employer who reinstates an employee under RSA 281-A:25-a shall not be eligible for reimbursement from this fund should the employee become injured.

8 Self-Insureds to Utilize Licensed Claims Adjuster. Amend RSA 281-A:63, I to read as follows:

I. Any insurance carrier***, self-insured,*** or claims adjusting company handling workers' compensation claims in this state shall utilize a claims adjuster licensed in New Hampshire**,** and such claims adjuster shall maintain suitable facilities in this state.

9 Safety Provisions. Amend RSA 281-A:64, II to read as follows:

II. All employers with 10 or more employees shall prepare, with the assistance of the commissioner, a current written safety program. The programs shall be filed [~~annually~~] ***biennially*** with the commissioner on January 1. Employer programs shall, in addition to the specific rules and regulations regarding worker safety, include the process of warnings, job suspension, and job termination for violations of the safety rules and regulations set forth in the program.

10 Administrative Penalty. Amend RSA 281-A:64, VIII to read as follows:

VIII. [~~Except upon a finding of exceptional mitigating circumstances meriting a lesser penalty,~~] The commissioner [~~shall~~] ***may*** assess an administrative penalty of ***up to*** $1,000 a day on any employer not in compliance with the written safety program required under paragraph II of this

section, the joint loss management committee required under paragraph III of this section, or the directives of the department under paragraph IV of this section. Each violation shall be subject to a separate administrative penalty. All penalties collected under this paragraph shall be forwarded to the state treasurer for deposit in the special fund called the workers' compensation safety inspection fund established in paragraph IX.

11 Repeal. The following are repealed:

I. RSA 281-A:24, III and IV, relative to peer review.

II. RSA 281-A:60, I(h) and (i), relative to the fee schedule and a peer review panel, respectively.

12 Effective Date.

I. Sections 3 and 4 of this act shall take effect July 1, 1997.

II. The remainder of this act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill:

1. Adds a penalty for doing business with an unlicensed third party administrator.

2. Deletes the medical and rehabilitation fee schedule and replaces it with a requirement for payment for reasonable value of services.

3. Declares that employers who reinstate an employee shall not be reimbursed from the fund established under RSA 281-A:54 should such employee become injured.

4. Makes the administrative penalty on employers not in compliance with the written safety program requirement discretionary.

1997-1451h

Amendment to SB 177-FN

Proposed by the Committee on Finance

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

1 Delinquent Children; Prospective Adoptive Parent; Adoptive Parent; Liability for Expenses. Amend RSA 169-B:40, VIII to read as follows:

VIII.***(a)*** [~~Upon request by~~] ***For*** the adoptive parent ***or prospective adoptive parent*** of a child ***in the custody of the state*** whose birth parents ***have consented to the adoption,*** relinquished their parental rights to the department***,*** or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, ***authorized agency, or foster parent, pursuant to RSA 170-C:4,*** the state[~~, acting through the commissioner, may waive its~~] ***shall have no*** right of action against such adoptive parent ***or prospective adoptive parent*** for [~~all or a portion of~~] the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C***,*** or 169-D after the adoption. [~~The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.~~]

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

2 Abused or Neglected Children; Prospective Adoptive Parent; Adoptive Parent; Liability for Expenses. Amend RSA 169-C:27, VIII to read as follows:

VIII.***(a)*** [~~Upon request by~~] ***For*** the adoptive parent ***or prospective adoptive parent*** of a child ***in the custody of the state*** whose birth parents ***have consented to the adoption,*** relinquished their parental rights to the department***,*** or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, ***authorized agency, or foster parent, pursuant to RSA 170-C:4,*** the state[~~, acting through the commissioner, may waive its~~] ***shall have no*** right of action against such adoptive parent ***or prospective adoptive parent*** for [~~all or a portion of~~] the expenses of services, placements***,*** and programs provided pursuant to RSA 169-B, 169-C***,*** or 169-D after the adoption. [~~The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.~~]

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

3 Children In Need of Services; Prospective Adoptive Parents; Adoptive Parents; Liability for Expenses. Amend RSA 169-D:29 to read as follows:

VIII.***(a)*** [~~Upon request by~~] ***For*** the adoptive parent ***or prospective adoptive parent*** of a child ***in the custody of the state*** whose birth parents ***have consented to the adoption,*** relinquished their parental rights to the department***,*** or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, ***authorized agency, or foster parent, pursuant to RSA 170-C:4,*** the state[~~, acting through the commissioner, may~~] ***shall*** waive its right of action against such adoptive parent ***or prospective adoptive parent*** for [~~all or a portion of~~] the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. [~~The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.~~]

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

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

AMENDED ANALYSIS

This bill provides that the state has no right of action against adoptive or prospective adoptive parents for the expenses of court-ordered services, placements, and programs, unless the adoptive parent has been convicted of sexual or physical abuse of the adopted child or has misappropriated adoption subsidy moneys.

1997-1425h

Amendment to SB 178-FN

Proposed by the Committee on Commerce

Amend RSA 420-J:1 as inserted by section 1 of the bill by replacing it with the following:

420-J:1 Purpose and Intent. The purpose and intent of this chapter is to provide standards for certain fundamental operations of licensed entities providing health insurance through a managed care system of health care delivery and reimbursement. The establishment of these standards will ensure regulatory and quality consistency among the several and various licensees offering managed care type benefit plans and will enable consumers to make informed decisions in their relationships with managed care insurers. This chapter is intended to apply only to those insurers offering managed care plans. It is not intended to apply to traditional indemnity systems of reimbursement and fee-for-service forms of health care expense coverage. Health insurers which do not significantly limit covered persons' choices of providers shall not be subject to this chapter.

Amend RSA 420-J:3, XVI as inserted by section 1 of the bill by replacing it with the following:

XVI. "Emergency services" means health care services that are provided to an enrollee, insured, or subscriber in a licensed hospital emergency facility by a provider after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity that the absence of immediate medical attention could be expected to result in any of the following:

(a) Serious jeopardy to the patient's health.

(b) Serious impairment to bodily functions.

(c) Serious dysfunction of any bodily organ or part.

Amend RSA 420-J:5, II as inserted by section 1 of the bill by inserting after subparagraph (b) the following new subparagraphs:

(c) Upon written denial of a requested medical service or claim by the health carrier, a statement of the covered person's right to access the internal grievance process.

(d) Staff assistance in filing a grievance.

Amend RSA 420-J:5, V(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. Upon concurrence of the covered person, a copy of the decision shall be forwarded to the insurance department. The decision shall include the titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance, including issues raised by the covered person, and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA 420-J:5, VIII.

Amend RSA 420-J:5, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. An external process at the department shall be available to ensure that the health carrier has provided to the covered person grievance procedures consistent with this section and any additional procedures of the health carrier described pursuant to RSA 420-J:5, II. A written decision following the external review process shall be made available to the covered person.

1997-1428h

Amendment to SB 182-FN

Proposed by the Committee on Finance

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

AN ACT relative to the administration, operation, and maintenance of the New Hampshire state veterans cemetery, extending the reporting dates and the prospective repeal date for the state veterans cemetery oversight committee, and making appropriations therefor.

Amend the bill by replacing all after section 5 with the following:

6 Appropriation; Adjutant General. The sum of $150,000 for the fiscal year ending June 30, 1998, and the sum of $200,000 for the fiscal year ending June 30, 1999, are appropriated to the adjutant general for operating costs of the state veterans cemetery. Of the total sum appropriated for fiscal year 1998, $97,500 shall be from general funds and $52,500 shall be from other funds. Of the total sum appropriated for fiscal year 1999, $95,000 shall be from general funds and $105,000 shall be from other funds. Operating costs for which these appropriations shall be expended shall include full-time permanent and part-time temporary personnel, equipment, maintenance, and other expenses for startup of the state veterans cemetery. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

7 Effective Date.

I. Sections 1 and 6 of this act shall take effect July 1, 1997.

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

AMENDED ANALYSIS

This bill designates the adjutant general to administer, operate, and maintain the New Hampshire state veterans cemetery, which shall be located in Boscawen.

This bill appropriates funds to make up a shortfall in the state matching share necessary to receive federal funds for the construction of the state veterans cemetery. The bill also appropriates funds for operating costs of the cemetery.

The bill also extends the final reporting date and the prospective repeal date for the state veterans cemetery oversight committee to June 30, 1998.

1997-1464h

Amendment to SB 202-FN-A-LOCAL

Proposed by the Majority of the Committee on Education

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

AN ACT relative to the certification and recertification of teachers, supervisors, and administrators, high school graduation examinations and making an appropriation therefor, school building aid, and establishing a committee to study school discipline and manifest educational hardship.

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

1 New Section; Tests of Academic Knowledge; Prerequisite to Teacher Certification. Amend RSA 189 by inserting after section 13-a the following new section:

189:13-b Tests of Academic Knowledge; Prerequisite to Teacher Certification.

I. The state board of education and the department of education shall establish, from preexisting resources, suitable tests of academic knowledge to be administered as a prerequisite for certification and recertification of teachers, supervisors, and administrators in New Hampshire.

II. Such tests shall be germane to the subject matter and major field of study in which a prospective teacher seeks certification or recertification.

III. Costs of such tests shall be incorporated into the cost of the certification or recertification fee.

2 Application of Section 1. The testing requirements for applicants under section 1 of this act shall apply to teachers, supervisors, and administrators seeking initial certification for grades K - 12 beginning with the 1999-2000 school year.

3 Failure to Meet Time Frames; Hearings Relative to Failure to be Renominated or Reelected. Amend RSA 189:14-a, I(b) to read as follows:

(b) Any such teacher who has taught for 3 consecutive years or more in the same school district and who has been so notified may request in writing within 10 days of receipt of said notice a hearing before the school board and may in said request ask for reasons for failure to be renominated or reelected. For purposes of this section only, a leave of absence shall not interrupt the consecutive nature of a teacher's service, but neither shall such a leave be included in the computation of a teacher's service. Computation of a teacher's service for any other purposes shall not be affected by this section. The notice shall advise the teacher of all of the teacher's rights under this section. The school board, upon receipt of [~~said~~] ***such*** request, shall provide for a hearing on the request to be held within [~~15~~] ***30*** days. The school board shall issue its decision ***to the teacher*** in writing ***by certified mail*** within [~~15~~] ***30*** days of the close of the hearing.

4 Failure to Meet Time Frames; Review by State Board. Amend RSA 189:14-b to read as follows:

189:14-b Review by State Board. A teacher aggrieved by such decision may request the state board of education for review thereof. Such request must be in writing and filed with the state board within 10 days after the [~~issuance~~] ***receipt*** of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The state board shall issue its decision within [~~15~~] ***60*** days after the request for review is filed[~~, and~~]**.** The decision of the state board shall be final and binding upon both parties.

5 Statement of Purpose. The purpose of sections 6-10 of this act is to:

I. Identify, encourage, and provide recognition to students who excel academically by awarding them a New Hampshire certificate of advanced academic achievement.

II. Establish the high school graduation assessment as a widely accepted and meaningful indicator of educational achievement.

III. Develop and maintain the academic assessment in concert with the statewide education improvement and assessment program.

6 Advocates for Educationally Disabled to be Consulted. Amend the introductory paragraph of RSA 193-C:3 to read as follows:

There is established within the department of education a statewide education improvement and assessment program. The commissioner shall develop and implement this program in conjunction with the state board of education and the legislative oversight committee. In carrying out this program, the commissioner shall consult widely with educators at all levels, ***representatives of educationally disabled pupils,*** business people, government officials, community representatives, and parents.

7 New Section; High School Graduation Assessment Required. Amend RSA 193-C by inserting after section 6 the following new section:

193-C:6-a High School Graduation Assessment.

I. The high school graduation assessment shall measure what pupils know and are able to do in terms of high standards required for success in postsecondary education, the work place, and the community. The New Hampshire standards shall be comparable to the standards of the world's top

performing nations.

II. High school graduation assessment results shall be reported at the individual pupil, school, and district levels in a manner consistent with that employed at the other 3 grades assessed. Performance levels shall be benchmarked, to the extent possible according to the achievement demonstrated by pupils from the world's top performing nations.

III. A New Hampshire certificate of advanced achievement shall be awarded to those otherwise qualifying for high school graduation who perform at the advanced level in each of the academic areas assessed.

IV. Notwithstanding any other provision of law, no public school, public academy, or charter school pupil shall be awarded a high school diploma by a local school board or board of trustees unless such pupil has taken the high school graduation assessment. In no case shall a pupil's level of performance on the high school graduation assessment be cause to deny a diploma to such pupil.

V. The high school graduation assessment shall be administered annually at state expense to all public school, public academy, and charter school twelfth grade pupils with suitable provision for taking a make-up assessment by pupils who are unavoidably absent. A pupil may take the high school graduation assessment at an earlier grade level when it is administered at his or her school if granted permission to do so by the school principal or administrator. A pupil who has graduated from a New Hampshire public secondary school, public academy, or charter secondary school and has not reached the age of 21 may take the high school graduation assessment when it is administered at any convenient location provided that he or she makes suitable arrangements with the principal or administrator of the school or academy in advance of taking the assessment.

VI. New Hampshire certificates of advanced academic achievement shall be signed by the governor and awarded to the pupil.

8 Pilot Program; High School Graduation Assessment. The high school graduation assessment shall be piloted during the school year beginning in 1999 as funded in section 10 of this act. The department of education shall determine the school districts in which the pilot assessment shall be administered.

9 Statewide Implementation; High School Graduation Assessment. Annual statewide administration of the high school graduation assessment shall be implemented during the school year beginning in 2000.

10 Appropriation. The sum of $300,000 is appropriated to the department of education for the biennium ending June 30, 1999, for the development and piloting of the high school graduation assessment. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. These funds shall be nonlapsing.

11 Statement of Purpose. It is the purpose of section 12 of this act that the legislature encourage year round schooling.

12 School Building Aid. Amend RSA 198:15-b, I to read as follows:

I.***(a)*** The amount of the annual grant to any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, or any receiving district operating an area school as defined in RSA 195-A:1, shall be a sum equal to 30 percent of the amount of the annual payment of principal on all outstanding borrowings of the school district, city, cooperative school district or receiving district, heretofore or hereafter incurred, for the cost of construction or purchase of school buildings and school administrative unit facilities, to the extent approved by the state board of education, provided that any school district may receive an annual grant in the amount of 40 percent for the construction of an educational administration building for school administrative unit, and provided that the amount of the annual grant in the case of a cooperative school district, or a receiving district operating an area school, shall be 40 percent plus 5 percent for each pre-existing district in excess of 2 and each sending district in excess of one, and provided further that no cooperative school district, or receiving district operating an area school, shall receive an annual grant in excess of 55 percent.

(b) For any district, the added cost of renovating equipment necessary for air conditioning, to make new or existing buildings suitable and used for year round schooling shall be entitled to aid at 75 percent of the cost of such renovations for so long as the district maintains a year round school program in the building receiving aid. Fifty percent of the aid shall be reimbursed if a town abandons year round schooling within 5 years of the first year of receipt of such aid.

13 Application. Section 12 of this act shall apply only to school building aid grants approved on or after July 1, 1997.

14 Committee Established.

I. There is established a committee to study issues relating to school discipline and manifest educational hardship.

II. The members of the committee shall be as follows:

(a) Three members of the senate, 2 of whom shall be members of the senate education committee, appointed by the president of the senate.

(b) Three members of the house, 2 of whom shall be members of the house education committee, appointed by the speaker of the house.

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

IV. The committee shall examine issues relating to school discipline and manifest educational hardship.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. Four members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

15 Effective Date.

I. Sections 1-4 of this act shall take effect January 1, 1998.

II. Section 14 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

I. Requires the state board and the department of education to establish, from preexisting resources, suitable tests of academic knowledge to be administered as a prerequisite for certification and recertification of teachers, supervisors, and administrators in New Hampshire

II. Establishes a high school graduation assessment program and makes an appropriation for such program.

III. Revises the provisions relative to the amount of annual grants for school building aid.

IV. Establishes a committee to study issues relating to school discipline and manifest educational hardship.

1997-1289h

Amendment to SB 207-FN

Proposed by the Committee on Executive Departments and Administration

Amend RSA 294-D:4 as inserted by section 1 of the bill by replacing it with the following:

294-D:4 Verification of Digital Signature; Certificates; Rulemaking.

I. The secretary of state shall be a certification authority and a repository operator.

II. The secretary of state shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Control processes and procedures to be used by state agencies to insure the integrity, security, confidentiality, and auditability of transactions conducted with and involving state agencies using electronic commerce;

(b) Procedures and criteria for certification by the secretary of state of private certification authorities;

(c) Fees charged to the public for products or services administered by the secretary of state under this section, consistent with fees charged for similar products and services in the open market; and

(d) Application fee for certification by the secretary of state of private certification authorities.

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

2 Repeal. RSA 294-D:4, relative to verification of digital signatures, is repealed.

3 Effective Date.

I. Section 2 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 the New Hampshire Digital Signature Act which is to be administered by the secretary of state. The secretary of state is granted rulemaking authority for the purposes of this bill.

1997-1415h

Amendment to SB 213-FN-A

Proposed by the Committee on Finance

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

AN ACT establishing a revolving fund for loans to rehabilitate class III railroads and cog railroads.

Amend the bill by replacing all after section 2 with the following:

3 New Section; Rehabilitating Class III Railroads and Cog Railroads; Revolving Loan Fund; Bonds Authorized. Amend RSA 228 by inserting after section 66 the following new section:

228:66-a Rehabilitating Class III Railroads and Cog Railroads; Revolving Loan Fund; Bonds Authorized.

I. There is established in the office of the state treasurer a fund to be known as the class III railroad and cog railroad capital rail line rehabilitation and equipment revolving loan fund which shall be kept separate and distinct from all other funds. Moneys in the fund shall be nonlapsing and shall be continually appropriated to the bureau of rail and transit, department of transportation, and shall be spent on rehabilitating the rail lines and the purchasing of equipment of class III railroads and cog railroads, which rail lines, equipment, and railroads shall meet the requirements of the benefit/cost analysis prepared by the department of transportation's bureau of rail and transit. Loans provided to operators of class III railroads and cog railroads for rehabilitating the rail lines and equipment purchases shall be approved by the governor and council.

II. The operator of the class III railroad or cog railroad provided a loan under this section shall be required to furnish assurance by signed agreement with the state to continue utilization of the line involved on an annual basis at a tonnage level of at least 80 percent of their annual tonnage average over the 3 years preceding the agreement, provided that enforcement of such assurance shall be preceded by a finding by the commissioner that any shipping rate increases during such period are reasonable, or a continued utilization of the line involved on an annual basis at a passenger level of at least 80 percent of their prior 3 years preceding the agreement.

III. The operator of the class III railroad or cog railroad shall repay any loan funded pursuant to paragraph I on such terms and conditions as are recommended by the bureau of rail and transit, department of transportation. 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 operator of the class III railroad or cog railroad and shall be sufficient to fully reimburse the state for the principal and interest payments on that portion of the bonds authorized to fund the loan. All money received through reimbursement shall be deposited by the state treasurer in the class III railroad and cog railroad capital rail line rehabilitation and equipment revolving loan fund.

IV. A lien on the property and equipment of the class III railroad or cog railroad including the improved property or equipment shall be created in favor of the state in an amount which equals the sum of principal and interest to be repaid by the operator of the class III railroad or cog railroad. The lien shall be recorded in the registry of deeds of the county or counties in which the improved property is situated and shall not supersede any pre-existing lien created by a mortgage affecting such property. The lien shall expire only when the loan has been fully repaid.

V. To provide funds for the revolving loan fund established pursuant to this section, the state treasurer, as may be requested from time to time by the bureau of rail and transit, department of transportation, is authorized to borrow from time to time upon the credit of the state such amounts so that the total state obligation shall at no time exceed $4,000,000 and for said purposes may issue bonds and notes at such time in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The department shall request and the treasurer shall issue bonds only

for such amounts from time to time as are required for the purposes of this section and provided that the principal and interest payments can be satisfied from existing sums in the fund established in paragraph I.

VI. The payments of principal and interest on the bonds issued under paragraph V shall be made when due from the special fund established by paragraph I.

VII. For the purpose of this section, a "class III railroad" shall be a freight railroad or an intrastate passenger excursion railroad.

4 Transfer of Funds. All funds remaining in the fund established under 1994, 338:3 and 4 shall be transferred to the fund established under RSA 228:66-a.

5 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill establishes a fund to be used for loans to operators of class III railroads and cog railroads for rehabilitation of such railroads. The bill transfers funds from the class III railroad capital rehabilitation revolving loan fund to the class III railroads and cog railroad capital rail line rehabilitative fund and authorizes bonds to be issued by the treasurer with principal and interest paid for from the fund for the purpose of the revolving loan program. It also changes the name of the bureau of railroads and public transportation to the bureau of rail and transit.

1997-1284h

Amendment to SB 216-FN-A

Proposed by the Committee on Local and Regulated Revenues

Amend the bill by replacing section 2 with the following:

2 New Section; Pari-Mutuel Commission; Rulemaking. Amend RSA 284 by inserting after section 11 the following new section:

284:11-a Discretionary Rulemaking. The pari-mutuel commission may adopt rules, pursuant to RSA 541-A and after a public hearing, to allow pari-mutuel licensees to utilize existing and developing technologies to accept pari-mutuel wagers such as account wagering and telephone wagering. Such wagering shall be on pari-mutuel races and pari-mutuel race meets permitted under this chapter.

Amend the bill by deleting sections 4 and 5 and renumbering the original sections 6-8 to read as 4-6, respectively.

Amend RSA 284:23 as inserted by section 4 of the bill by inserting after paragraph VI the following new paragraph:

VII. For the purposes of this chapter, "racing program" means live racing with any number of individual races as determined by the pari-mutuel commission. A live race or racing program may include a combined live and simulcast race where the combination contains at least one more live race to simulcast in the same combination. Any such live racing program or combined racing program upon which a separate tax is paid may constitute a live racing performance day.

AMENDED ANALYSIS

This bill:

I. Revises the commission structure on pari-mutuel pools and the tax on contributions to pari-mutuel pools. The new structure of the tax lowers and standardizes the overall rate of tax for running horse races, harness horse races, and dog races.

II. Authorizes the pari-mutuel commission to adopt rules to allow pari-mutuel wagering through account wagering, telephone wagering, and computer wagering.

III. Repeals a number of prospective amendments to the tax and commission structure which are no longer appropriate in light of this bill.

NOTICE

MONDAY, JUNE 23

The Bill White Memorial Golf Tournament is scheduled for Monday, June 23 at Plausawa Valley Country Club, Pembroke. Entry fee for the 24th Annual Tourney is $47 per person and includes green fees, cart, dinner (barbecue) and prizes. Shot-gun start at 9:00 a.m. Format: Captain and crew. Sign-up as foursomes or sign-up by yourself and be placed in a foursome. Please include payment with entry by June 16th to Sandy Wheeler at the LOB Lobby desk. (Checks should be made payable to David Saltmarsh.)

Names (1)_____(2)_____

(3)_____(4)_____

Reps. Robert L. Wheeler and Peter Hoe Burling