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HOUSE RECORD

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Contains: Amendments for Thursday, March 5

HOUSE CALENDAR

**LEGISLATORS ARE ASKED TO KEEP THIS CALENDAR
FOR FLOOR USE ON**

MARCH 5

THURSDAY, MARCH 5

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

1998-0888h

Amendment to HB 1011-FN

Proposed by the Committee on Criminal Justice and Public Safety

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

AN ACT making it a felony to operate certain gambling businesses and prohibiting possession of gambling machines unless specifically authorized under state law.

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

1 Gambling. RSA 647:2 is repealed and reenacted to read as follows:

647:2 Gambling.

I. A person is guilty of a misdemeanor if such person knowingly and unlawfully:

(a) Permits gambling in any place under the person's control.

(b) Gambles, or loans money or any thing of value for the purpose of aiding another to gamble.

II.(a) A person is guilty of a class B felony if such person conducts, finances, manages, supervises, directs, or owns all or part of a business and such person knowingly and unlawfully permits gambling on the premises of the business.

(b) A person is guilty of a class B felony if such person knowingly and unlawfully conducts finances, manages, supervises, or directs all or part of any proprietary interest operated for the purpose of gambling which:

(1) Has had gross revenue of \$2,000 in any single day; or

(2) Has been or remains in substantially continuous operation for a period in excess of 10 days.

III. For purposes of this section:

(a) "Gambling" means to risk something of value upon a future contingent event not under one's control or influence, upon an agreement or understanding that something of value will be received in the event of a certain outcome.

(b) "Unlawfully" means not specifically authorized by law.

IV. Any property including money, proceeds, all implements, equipment, and apparatus used in violation of this section shall be forfeited.

2 New Section; Gambling Machines. Amend RSA 647 by inserting after section 2 the following new section:

647:3 Gambling Machines.

I. A person is guilty of a class B felony if such person knowingly possesses any gambling machine. Any person having any interest in a gambling machine, who knowingly receives any money or proceeds from such machine, shall also be guilty of a class B felony. Liability under this section shall not require any showing that the machine was actually used, or that the person was aware or believed that the machine was being used, for gambling as defined in RSA 647:2, III(a).

II. For purposes of this section "gambling machine" means any machine or device, whether or not it is in working order or requires some act of manipulation, repair, adjustment, or modification to render it operational, which, upon the insertion of cash or tokens, or upon the payment of any consideration to another, is available to play or simulate the play of any game of chance. As used in this paragraph, a game of chance is any game the result of which is determined totally or predominantly by chance, including but not limited to poker, keno, line-up, or blackjack.

III. Any gambling machine as defined in this section shall be seized upon detection by any police officer, sheriff, constable or deputy, and shall be forfeited.

IV. This section shall not apply to:

(a) Any machine the use or possession of which is authorized pursuant to RSA 287-C, RSA 287-D, RSA 287-E, or RSA 287-F.

(b) Any machine or device at least 25 years old which is maintained for nostalgic reasons, monetary investment, or historical interest, and which is not operated for gambling purposes.

(c) Cruise ships which are equipped with gambling machines whose primary purpose is touring. Any such cruise ship shall be allowed to temporarily enter New Hampshire coastal waters and ports for up to 48 hours, provided that all gambling machines on board are not in use or capable of being used while in New Hampshire coastal waters and ports. For the purposes of this paragraph "cruise ship" means any vessel which is capable of providing overnight accommodations for 500 or more people.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill makes it a felony for a person to operate certain gambling businesses. This bill also requires persons convicted of gambling or operating an illegal gambling business to forfeit any property used in furtherance of the crime to the state. Current law limits such forfeiture to implements, equipment, and apparatus.

The bill makes it a class B felony to knowingly possess a gambling machine, except for antique gambling machines which are not operated for gambling purposes, gambling machines on cruise ships, and gambling machines which are licensed or otherwise specifically authorized under state law.

1998-0820h

Amendment to HB 1025-FN

Proposed by the Committee on Criminal Justice and Public Safety

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

1 Statement of Policy. It is the intent of the legislature that the provisions of this act shall apply not only to the principal actor, but also to any person who is legally responsible for such conduct of the principal actor which amounts to murder, under the law of accomplice liability.

2 Capital Murder. Amend RSA 630:1 to read as follows:

630:1 Capital Murder.

I. A person is guilty of capital murder if ~~[he]~~ **such person** knowingly causes the death **or serious bodily injury that results in the death** of:

(a) A law enforcement officer or a judicial officer acting in the line of duty or when the death is caused as a consequence of or in retaliation for such person's actions in the line of duty;

(b) Another before, after, while engaged in the commission of, or while attempting to commit kidnapping as that offense is defined in RSA 633:1;

(c) Another by criminally soliciting a person to cause said death ~~[or after having been criminally solicited by another]~~ for ~~[his]~~ personal pecuniary **or other tangible** gain;

(d) Another after having been criminally solicited by another for personal pecuniary or other tangible gain;

~~[(d) Another after being sentenced to life imprisonment without parole pursuant to RSA 630:1-a, III;]~~

(e) Another before, after, while engaged in the commission of, or while attempting to commit aggravated felonious sexual assault as defined in RSA 632-A:2;

(f) Another when the person previously was convicted of first degree or second degree murder in this state, or a reasonably equivalent offense in this state, any other state, any territory or possession of the United States, or the District of Columbia;

~~[(g)]~~ **(g)** Another before, after, while engaged in the commission of, or while attempting to commit an offense punishable under RSA 318-B:26, I(a) or (b);

(h) A witness or informer in a criminal investigation or case, and the death is caused as a consequence of or in retaliation for anything done by the victim as a witness or informer;

(i) A person under the age of 13 years;

(j) More than one person, and the deaths, or serious bodily injuries resulting in death, are caused by a course of conduct of the actor that is part of a common scheme or plan or part of a related series of acts;

(k) More than one person, and the deaths, or serious bodily injuries resulting in death, are the result of conduct which created a substantial risk of death to one or more persons in addition to the victims of the offense.

II. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, a state police officer, a constable or police officer of any city or town, an official or employee of any prison, jail or corrections institution, a probation-parole officer, or a conservation officer.

II-a. As used in this section, a "judicial officer" is a judge of a district, probate, superior or supreme court; ***a juror; the attorney general or an attorney employed by the department of justice [or a municipal prosecutor's office]; or a county attorney; or an attorney employed by [the] a county [attorney] attorney's office or a municipal prosecutor's office.***

III. A person convicted of [a] capital murder [may] ***shall*** be punished by death ***or life imprisonment without parole in accordance with the procedures set forth in RSA 630:5.***

IV. As used in this section and RSA 630:1-a, 1-b, 2, 3 and 4, the meaning of "another" ***and of "victim" and of "person"*** does not include a [fetus] ***fetus.***

V. ~~[In no event shall any]~~ A person under ~~[the age of]~~ 17 years ***of age shall not*** be culpable of [a] capital murder.

3 First Degree Murder. Amend RSA 630:1-a to read as follows:

630:1-a First Degree Murder.

I. A person is guilty of murder in the first degree if ~~[he]~~ ***such person:***

(a) Purposely causes the death ***or serious bodily injury that results in the death*** of another; or

(b) Knowingly causes the death ***or serious bodily injury that results in the death*** of:

(1) Another before, after, while engaged in the commission of, or while attempting to commit felonious sexual assault as defined in RSA 632-A:3;

(2) Another before, after, while engaged in the commission of, or while attempting to commit robbery or burglary while armed with a deadly weapon, the death being caused by the use of such weapon;

(3) Another in perpetrating or attempting to perpetrate arson as defined in RSA 634:1, I, II, or III; ***or***

(4) The president or president-elect or vice-president or vice-president-elect of the United States, the governor or governor-elect of New Hampshire or any state or any member or member-elect of the Congress of the United States, or any candidate for such office after such candidate has been nominated at his party's primary, when such killing is motivated by knowledge of the foregoing capacity of the victim.

II. For the purpose of RSA 630:1-a, I(a), "purposely" shall mean that the actor's conscious object is the death of another, and that his act or acts in furtherance of that object were deliberate and premeditated.

III. A person convicted of a murder in the first degree shall be sentenced to life imprisonment and shall not be eligible for parole at any time.

4 Second Degree Murder. Amend RSA 630:1-b to read as follows:

630:1-b Second Degree Murder.

I. A person is guilty of murder in the second degree if:

(a) ~~[He]~~ *Such person* knowingly causes the death ***or serious bodily injury that results in the death*** of another; ~~[or]~~

(b) ~~[He]~~ *Such person* causes such death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor causes the death by the use of a deadly weapon ~~[in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.];~~
or

(c) *Such person causes the death of another in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.*

II. Murder in the second degree shall be punishable by imprisonment for life or for such term as the court may order.

5 Effective Date. This act shall take effect January 1, 1999.

1998-0868h

Amendment to HB 1109
Proposed by the Committee on Local and Regulated Revenues

Amend RSA 80:52-a as inserted by section 1 of the bill by replacing it with the following:

80:52-a Prepayment. Any town by vote at a town meeting under a proper article in the warrant or by vote of the board of selectmen or the town council and any city by vote of its governing board may authorize the prepayment of taxes and authorize the collector of taxes to accept payments in prepayment of taxes. If a town or city so votes, any person, firm or corporation owning taxable property ~~[on April 1]~~ may, ~~[after April 1 and]~~ ***at any time*** before notice of the amount of taxes assessed against said property ~~[for that year]~~ has been received, make payments on account of such taxes ***as will be due*** and the collector shall receive such payments and give a receipt therefor and credit the amounts paid toward the amount of the taxes eventually assessed against said property. In any town or city which shall vote to authorize the prepayment of taxes the collector of taxes shall give such bond in the form and amount which the commissioner of revenue administration shall require, and ~~[he]~~ ***the collector*** shall pay over all sums so received to the town treasurer under the provisions of RSA 41:35. ***No taxpayer shall be allowed to prepay taxes more than 2 years in advance of the due date of the taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.***

AMENDED ANALYSIS

This bill allows property taxpayers to make prepayments on their taxes up to 2 years in advance of the due date of the taxes. No interest shall accrue on any prepayment, nor shall interest be paid to the taxpayer on any prepayment which is later subject to refund or rebate.

1998-0784h

Amendment to HB 1111
Proposed by the Committee on Municipal and County Government

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

1 County Treasurers. Amend RSA 29:1 to read as follows:

29:1 Duties. The county treasurer shall have custody of all moneys belonging to the county, and shall pay out the same only upon orders of the commissioners. The county treasurer shall deposit the same in participation units in the public deposit investment pool established pursuant to RSA 383:22 or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to a third party custodial bank or the regional federal reserve bank collateral security for such deposits, United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The county treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the county treasury, and of all notes given by the county, with the particulars thereof. At the close of each fiscal year, the county treasurer shall make a report to the county, giving a particular account of all the treasurer's financial transactions during the

year. The treasurer shall furnish to the commissioners statements from the books, and submit the books and vouchers to them and to the county auditors for examination, whenever so requested. Whenever the county treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the treasurer shall, with the approval of the commissioners, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits **and repurchase agreements** of banks incorporated under the laws of the state of New Hampshire or in ~~[national]~~ banks ~~[located within this state or the commonwealth of Massachusetts]~~ **recognized by the state treasurer**. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. At least yearly, the county treasurer, with the approval of the county commissioners, shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

2 Town Treasurers. Amend RSA 41:29, IV to read as follows:

IV. Whenever the town treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the town treasurer shall, with the approval of the selectmen, invest the same in obligations of the United States government, in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits **and repurchase agreements** of banks incorporated under the laws of the state of New Hampshire or in ~~[national]~~ banks ~~[located within this state or the commonwealth of Massachusetts]~~ **recognized by the state treasurer**. At least yearly, the selectmen shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

3 City Treasurers. Amend RSA 48:16, III to read as follows:

III. Whenever the city treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the city treasurer shall, with the approval of the mayor and a majority of the city council, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits **and repurchase agreements** of banks incorporated under the laws of the state of New Hampshire or in ~~[national]~~ banks ~~[located within this state or the commonwealth of Massachusetts]~~ **recognized by the state treasurer**. At least yearly, the city council or board of aldermen shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

4 School District Treasurers. Amend RSA 197:23-a to read as follows:

197:23-a Treasurer's Duties. The treasurer shall have custody of all moneys belonging to the district and shall pay out the same only upon orders of the school board or upon orders of the 2 or more members of the school board empowered by the school board as a whole to authorize payments. The treasurer shall deposit the moneys in participation units in the public deposit investment pool established pursuant to RSA 383:22, or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to a third party custodial bank or the regional federal reserve bank collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the district treasury, and of all notes given by the district, with the particulars thereof. At the close of each fiscal year, the treasurer shall make a report to the district, giving a particular account of all of the treasurer's financial transactions during the year. The treasurer shall furnish to the school board statements from the books, and submit the books and vouchers to them and to the auditors for examination, whenever so requested. Whenever the treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the treasurer shall, with the approval of the school board, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits **and repurchase agreements** of banks incorporated under the laws of the state of New Hampshire or in ~~[national]~~ banks ~~[located within this state or the commonwealth of Massachusetts]~~ **recognized by the state treasurer**. Any person who directly or indirectly receives any such funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having a value at

least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the district. Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. At least yearly, the school board shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

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

AMENDED ANALYSIS

This bill allows county, town, city, and school district treasurers to invest excess funds in repurchase agreements and removes certain restrictions on the location of banks in which such funds may be invested.

1998-0872h

Amendment to HB 1113

Proposed by the Committee on Municipal and County Government

Amend RSA 21-J:34, IV-a as inserted by section 1 of the bill by replacing it with the following:

IV-a. For municipalities which have elected to vote by official ballot either through adoption of a charter or through the adoption of RSA 40:12-14, the minutes of any meeting or any deliberative session of a municipality’s legislative body at which any appropriations may be amended, voted, or rescinded shall be certified by the clerk. Such minutes shall be filed within 20 days after the date of the close of the meeting of the municipality’s legislative body at which appropriations may be amended, voted, or rescinded.

1998-0724h

Amendment to HB 1118

Proposed by the Committee on Health, Human Services and Elderly Affairs

Amend the bill by replacing section 1 with the following:

- 1 Contact Lens Prescription; Definition Changed; Expiration. RSA 327-A:1, IV is repealed and reenacted to read as follows:
- IV. "Prescription for contact lenses" means a dated and signed, written direction specifying that it is for contact lenses and which shall include at least the power, size, curvature, color, and material composition of the contact lenses. A prescription for contact lenses may also include, at the prescriber’s professional discretion, other parameters or instructions such as lens manufacturer, prescription expiration date, number of permitted refills, and a statement prohibiting substitutions. Such parameters or instructions shall be honored by a person filling the prescription. Unless otherwise specified by the prescriber for health reasons, a contact lens prescription shall expire one year from the date of issue.

AMENDED ANALYSIS

This bill changes the definition of a contact lens prescription under the law governing ophthalmic dispensing and changes the expiration term to match the one year term under the law regulating optometrists.

1998-0866h

Amendment to HB 1121

Proposed by the Committee on Election Law

Amend the bill by replacing section 3 with the following:

- 3 Voter Checklists; Session for Correction; Notice. Amend RSA 654:27 to read as follows:
- 654:27 Session for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed; provided that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m. *Notice of the day, hour, and place of each session of the board of*

supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.

Amend the bill by deleting sections 4-7 and renumbering the original sections 8-9 to read as 4-5, respectively.

Amend the bill by replacing section 4 with the following:

4 Town Elections; Voters and Checklists; Session Time Changed. Amend RSA 669:5 to read as follow:

669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post, and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25-654:31, ***provided, however, that the session for correction shall be held on Saturday 6 to 13 days prior to the election.*** The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from 7 p.m. to 9 p.m.

AMENDED ANALYSIS

This bill modifies the time frame for checklist correction sessions for town elections and makes other technical changes to election laws.

1998-0606h

Amendment to HB 1122

Proposed by the Committee on Local and Regulated Revenues

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

AN ACT relative to the licensure of charitable organizations to conduct bingo games or sell lucky 7 tickets in towns and cities in which the organizations have been conducting charitable activities.

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

1 Definition; Charitable Organization. Amend the introductory paragraph of RSA 287-E:1, V and subparagraphs (a) and (b) to read as follows:

V. "Charitable organization" means any bona fide religious, charitable, civic, veterans or fraternal organization which shall have been in existence ***and organized under the laws of this state*** for at least 2 years in ~~the~~ ***a*** town or city ~~[in which the bingo games are to be conducted, which is organized under the laws of this state]~~, and to which contributions are exempt from federal income tax. To be eligible for licensure under this chapter, a charitable organization shall do all of the following:

(a) Document that ~~[it is]~~ ***contributions to the organization are*** exempt from federal income tax.

(b) Establish that the religious, civic, fraternal, veterans, or charitable purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the ~~[bingo games are conducted]~~ ***charitable organization is organized.***

2 License Eligibility; Charitable Organization. Amend RSA 287-E:5, VII(b) to read as follows:

(b) Establish that the religious, civic, fraternal, veterans, or charitable purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the ~~[bingo games are conducted; provided that any charitable organization which was licensed to play bingo games outside of the town or city in which it is organized on June 1, 1997 shall be eligible to be licensed to continue to play bingo games outside of the town or city in which it is organized until July 1, 1998]~~ ***charitable organization is organized.***

3 Issuance of Licenses; Charitable Organizations. Amend RSA 287-E:6, II(a) to read as follows:

(a) No more than one license shall be issued to a charitable organization per calendar month, and the license shall permit no more than 10 game dates of bingo in one calendar month, ***and in no more than one town or city which has authorized***

bingo games under RSA 287-E:27. The license shall expire on the last game date authorized under said license.

4 Application Fee; Lucky 7. Amend RSA 287-E:19, I to read as follows:

I. The lucky 7 license application fee shall be \$10 per month ***or any part of a month.***

5 Lucky 7 Licenses; Charitable Organizations. Amend RSA 287-E:20, I to read as follows:

I. The license shall specify where the tickets may be offered for sale, provided that the license shall not authorize a charitable organization to sell lucky 7 tickets except at a place where a bingo game has been authorized, or in ~~[the town or city where the organization has existed for at least 2 years prior to the date the tickets are sold]~~ ***a town or city which has authorized the sale of lucky 7 tickets under RSA 287-E:27.***

6 New Paragraph; Organization Eligible for Lucky 7 Licensing. Amend RSA 287-E:20 by inserting after paragraph V the following new paragraph:

VI. Only charitable organizations as defined in RSA 287-E:1, V shall be eligible for licensing.

7 Sale of Lucky 7 Tickets; Locations. Amend RSA 287-E:21, II to read as follows:

II. Lucky 7 tickets may only be sold at the location specified in the license issued by the commission, which ~~[may]~~ ***shall*** include either:

(a) The regular meeting place of or a facility owned, leased or utilized by the charitable organization for its activities; or

(b) Any other location where the sale of lucky 7 tickets is conducted in conjunction with and at the same time as an event sponsored ***or co-sponsored*** by the charitable organization, ***to be held once a year, and will be held for no more than 4 consecutive days.***

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

AMENDED ANALYSIS

This bill modifies the definition of "charitable organization" for the purposes of eligibility to conduct bingo games and sell lucky 7 tickets.

1998-0387h

Amendment to HB 1131

Proposed by the Committee on Local and Regulated Revenues

Amend RSA 178:20, V(j) as inserted by section 5 by replacing it with the following:

(j) Golf Facility. An operator or designee of a golf facility may be entitled to a cocktail lounge license for the sale of liquor and beverages to patrons in rooms ***or any clearly defined area under the licensee's control*** approved by the commission.

Amend RSA 179:10 as inserted by section 8 of the bill by replacing it with the following:

179:10 Unlawful Possession. Except as provided in RSA 179:23, any person under the age of 21 years who has in his possession any liquor or alcoholic beverage shall be guilty of a violation and shall be fined a minimum of ~~[\$50]~~ ***\$250***. Any second and subsequent offense shall be fined at least ~~[\$250]~~ ***\$500***. No portion of this mandatory minimum fine shall be waived, continued for sentencing or suspended by the court. Any person under the age of 21 years convicted of unlawful possession of liquor or beverage shall forfeit the same, and it shall be disposed of as the court directs. The proceeds, if any, shall be paid into the treasury of the county in which the proceedings were determined.

1998-0877h

Amendment to HB 1145

Proposed by the Committee on Environment and Agriculture

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

1 Livestock; Definition; Humane Slaughter. Amend RSA 427:33, II to read as follows:

II. The term "livestock" means cattle, horses, swine, sheep, goats, *as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (cervus elephus canadensis), fallow deer (dama dama), red deer (cervus elephus), reindeer (Rangifer taradus)*, and other species of animals susceptible of use in the production of meat and meat products;

2 Livestock; Definition; Livestock Auction. Amend RSA 427:38, III to read as follows:

III. "Livestock" shall mean all cattle, goats, sheep, swine, horses[,] or other equidae, *as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (cervus elephus canadensis), fallow deer (dama dama), red deer (cervus elephus), reindeer (Rangifer taradus)*.

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

AMENDED ANALYSIS

This bill expands the definition of "livestock" to include domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk, fallow deer, red deer, and reindeer.

1998-0816h

Amendment to HB 1147

Proposed by the Committee on Commerce

Amend the bill by replacing section 2 with the following:

2 New Subparagraph; Annual Report. Amend RSA 293-A:16.22(a) by inserting after subparagraph (5) the following new subparagraph:

(6) The signature of an officer, director, or any other person authorized by the board of directors to execute the annual report.

AMENDED ANALYSIS

This bill allows an annual report to be executed by an officer, director, or any other person authorized by the board of directors of a corporation.

The bill also repeals an obsolete provision concerning the registration of trade names.

1998-0697h

Amendment to HB 1149

Proposed by the Committee on Criminal Justice and Public Safety

Amend the introductory paragraph of RSA 597:7-a, I(a) as inserted by section 1 of the bill by replacing it with the following:

I.(a) A peace officer, including a probation or parole officer, may detain an accused person without a warrant until such accused person can be brought before a justice if the peace officer has:

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Probation or Parole Officer; Authority to Detain Accused Person Without Warrant. Amend RSA 504-A:12 by inserting after paragraph V the following new paragraph:

V-a. To detain an accused person without a warrant until such accused person can be brought before a justice in accordance with RSA 597:7-a.

AMENDED ANALYSIS

This bill authorizes a peace officer, including a probation or parole officer, to detain, without a warrant, an accused person who

has been released on bail; if the officer views a breach of conditions of release or if the officer has probable cause to believe there was a breach of conditions of release within the 6 hours prior to the detention.

1998-0654h

Amendment to HB 1150

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

AN ACT establishing a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services, department of health and human services.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study all aspects of the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services, department of health and human services.

AMENDED ANALYSIS

This bill establishes a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services, department of health and human services.

1998-0878h

Amendment to HB 1160

Proposed by the Committee on Environment and Agriculture

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

1 Statement of Intent. The purpose of this act is to modernize the definition of "farming" and "agriculture" to more accurately reflect the scope of agriculture as practiced today in New Hampshire. This definition shall not be construed as a regulation, or as an exemption from any regulation, except to the extent that the defined terms are actually used in other statutes, including but not limited to RSA 432:32 through 432:35, RSA 672:1, and RSA 674:32-a through 674:32-c.

2 Definitions; "Farm," "Agriculture," and "Farming." RSA 21:34-a is repealed and reenacted to read as follows:

21:34-a Farm, Agriculture, Farming.

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.

II. The words "agriculture" and "farming" mean all operations of a farm, including:

- (a)(1) The cultivation, conservation, and tillage of the soil.
- (2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, sludge and biosolids.
- (3) The use of and application of agricultural chemicals.
- (4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef

- animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (cervus elephus canadensis), fallow deer (dama dama), red deer (cervus elephus), and reindeer (Rangifer tarandus).
- (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
 - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.
 - (7) The raising, breeding, or sale of poultry or game birds.
 - (8) The raising of bees.
 - (9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.
 - (10) The production of greenhouse crops.
 - (11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
- (b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:
- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
 - (2) The transportation to the farm of supplies and materials.
 - (3) The transportation of farm workers.
 - (4) Forestry or lumbering operations.
 - (5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.
 - (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
- III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided, that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.
- IV. Practices on the farm shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, and other appropriate agencies of the United States Department of Agriculture.
- 3 Motor Vehicles; Definitions; "Agriculture" and "Farming." RSA 259:3 is repealed and reenacted to read as follows:
- 259:3 Agriculture and Farming. The words "agriculture" and "farming" mean all operations of a farm, including:
- I.(a) The cultivation, conservation, and tillage of the soil.
 - (b) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, sludge and biosolids.
 - (c) The use and application of agricultural chemicals.
 - (d) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (cervus elephus canadensis), fallow deer (dama dama), red deer (cervus elephus), and reindeer (Rangifer tarandus).
 - (e) The breeding, boarding, raising, training, riding instruction, and selling of equines.

(f) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.

(g) The raising, breeding, or sale of poultry or game birds.

(h) The raising of bees.

(i) The raising, breeding, or sale of domesticated strains of fur-bearing animals.

(j) The production of greenhouse crops.

(k) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

II. Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(a) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(b) The transportation to the farm of supplies and materials.

(c) The transportation of farm workers.

(d) Forestry or lumbering operations.

(e) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.

(f) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

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

1998-0873h

Amendment to HB 1165

Proposed by the Committee on Commerce

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

1 New Section; Change in Control of Nondepository Financial Institution. Amend RSA 383:9 by inserting after section 9-g the following new section:

383:9-h Change in Control of Nondepository Financial Institution. No change in control of a nondepository financial institution shall occur without the prior approval of the bank commissioner. The term "change of control" shall mean the direct or indirect acquisition by a person or group of persons acting in concert of 10 percent or more of the beneficial ownership or control of the voting shares. The person or group seeking to acquire control of the nondepository financial institution shall submit an application to the bank commissioner for approval which shall contain such financial, business, experience and other information as the bank commissioner shall require to determine whether such person or group is suitable to exercise control of a nondepository financial institution. Upon receipt of a complete application, the bank commissioner may hold a hearing on such application and shall make a decision within 60 days after receipt of the application.

2 Payment of Cost of Examination. Amend RSA 383:11, II(a) as follows:

(a) From banks and credit unions. Each state-chartered savings bank, commercial bank, trust company, cooperative bank, building and loan association, credit union, Morris Plan bank, or similar institution required to be examined under the provisions of RSA 383:9 shall be charged and pay such proportion of said balance applicable to such institutions under the banking department's program appropriation unit designation, as its total assets bear to the total assets of all such institutions as shown by their reports to the commissioner as of June 30 preceding such charges, except that only ~~50~~ 25 percent of the

fiduciary assets shall be used in the calculation of the total assets of each institution and all such institutions.

3 Responsibilities of Directors or Trustees and Officers; Qualifications; Elections. RSA 384:3 is repealed and reenacted to read as follows:

383:3 Responsibilities of Directors or Trustees and Officers; Qualifications; Elections.

I. The governance of a state-chartered bank or savings association shall be the responsibility of the board of directors or trustees. The board shall establish the policies and procedures for the conduct of the affairs of the bank or savings association and shall supervise the affairs of the bank or savings association to ensure that such policies and procedures are being adhered to by its officers and employees and that its operations are in compliance with federal and state laws and regulations. Neither the board nor individual directors or trustees may delegate their duty to govern the bank or savings association.

II. Each director or trustee of a state-chartered bank or savings association shall discharge his or her duties under the same standards that exist for a director of a business corporation under RSA 293-A:8.30 and RSA 293-A:8.31, except that:

(a) A director or trustee of a bank or savings association which serves as a fiduciary shall be subject to a fiduciary duty when he or she is acting on matters related to the bank or savings association's fiduciary activities; and

(b) A trustee of a mutual savings bank or savings association shall be subject to a fiduciary duty when he or she is acting on matters related to the proprietary interests of depositors.

III. The president shall be responsible for carrying out the policies and procedures of the board and managing the day-to-day affairs of the bank or savings association and shall be accountable to the board of directors or trustees in the performance of his or her duties. Each officer with discretionary authority shall discharge his or her duties under the same standards that exist for an officer of a business corporation under RSA 293-A:8.42, except that any such officer of a bank or savings association which serves as a fiduciary shall be subject to a fiduciary duty when he or she is acting on matters related to the bank or savings association's fiduciary activities.

IV. Notwithstanding any other provision of law to the contrary, a state-chartered bank or savings association shall have at least 5 directors or trustees. A majority of the directors or trustees shall be required to be citizens of and residents in the state of New Hampshire, except that this requirement shall not be applicable to the directors or trustees of a bank or savings association which is wholly owned by an out-of-state bank holding company within the meaning of RSA 384:57, VI.

4 Oath of Office. RSA 384:5 is repealed and reenacted to read as follows:

384:5 Election; Oath. Officers, directors and trustees shall be elected as frequently as the charter or bylaws of the bank or savings association may require, but not less than once every 3 years, and they shall hold office until others are elected and qualified. All officers, directors and trustees, upon election, shall be sworn to the faithful discharge of their duties, except that they shall be required to take an oath of office only on the first occasion of their election or appointment and shall not be required to take any such oath thereafter.

5 Limitation. Amend the introductory paragraph of RSA 384:5-a, I to read as follows:

I. No person shall at the same time serve as a trustee, director, or ~~officer~~ **senior executive officer who exercises significant influence over, or participates in, major policy decisions**, of more than one of the following types of financial institutions **if such financial institutions are doing business in the same assessment area as delineated under the federal Community Reinvestment Act, 12 USC 2901 et. seq., and regulations adopted thereunder:**

6 Limitation. Amend RSA 384:5-a, II to read as follows:

II. The provisions of paragraph I shall not apply:

(a) With respect to any persons who hold such positions in more than one of such financial institutions as of July 1, 1971, except where such persons are elected, appointed, re-elected or re-appointed subsequent to June 30, 1971;

(b) With respect to any person serving as trustee, director, or officer of more than one affiliate of a bank holding company as defined in RSA 384-B:1, IV and V; ~~or~~

(c) With respect to any person serving as a trustee, director, or officer of:

- (1) ~~[Any one of a mutual savings bank, a guaranty savings bank, or a cooperative bank,]~~ ***An institution which does not engage in a trust business;*** and
- (2) A ~~[limited]~~ trust company which does not make ~~[real estate mortgage]~~ loans and does not accept ~~[savings]~~ deposits ~~[from natural persons.]; or~~

(d) With respect to any person who is serving in a capacity that is permitted under federal laws or regulations governing depository institution management interlocks.

7 Meetings; Records. Amend RSA 384:7 to read as follows:

384:7 Meetings; Records. The trustees or directors shall meet ***on a regular basis*** as often as ~~[once each month]~~ ***necessary but not less than 9 times per year***; and at such ~~[monthly]~~ meetings the work for the preceding ~~[month]~~ ***period*** of the investment committee, and of all other committees appointed by the trustees or directors, shall be submitted to the board for examination. A record of the meeting shall be kept, showing the names of the trustees or directors present. A majority of the board of trustees or directors shall be a quorum for the transaction of business. ***The board of trustees or directors shall adopt a policy providing standards for determining the number of absences by a director or trustee from meetings of the board or the committees which shall result in a declaration of dereliction of duty by the board and its removal of the director or trustee from office.***

8 New Sections; Action Without Meeting; Participation in Meetings. Amend RSA 384 by inserting after section 7 the following new sections:

384:7-a Action Without Meeting.

I. Unless the charter or bylaws provide otherwise, any action to be taken at a meeting of the board of directors or trustees or committee may be taken without a meeting if the action is taken by unanimous consent of all members of the board or committee. The action shall be evidenced by one or more written consents describing the action taken, signed by each director or trustee or other committee member, and included in the minutes or filed with the corporate records reflecting the action taken.

II. Action taken under this section is effective when the last director or trustee or committee member signs the consent, unless the consent specifies a different effective date.

III. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

384:7-b Participation in Meetings. Unless the charter or bylaws provide otherwise, a board of directors or trustees may permit any or all directors or trustees to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all of the directors or trustees participating may simultaneously hear each other during the meeting. A director or trustee participating in a meeting by this means is deemed to be present in person at the meeting. However, a director or trustee shall be physically present at a majority of the meetings such director or trustee attends.

9 Branch Offices. RSA 384-B:2, IV is repealed and reenacted to read as follows:

IV. In making the decision on each application, the board shall take into consideration the following factors:

- (a) The financial history and condition of the bank or banks concerned including the adequacy of its or their capital funds;
- (b) Its or their prospects; and
- (c) The character of the management.

10 New Section; Exceptions. Amend RSA 384-B by inserting after section 2-d the following new section:

384-B:2-e Exceptions. Notwithstanding any provision to the contrary in RSA 384-B:2, I, III, IV and V and 384-B:2-c, II, a bank which is well-capitalized under applicable federal rules and regulations and has a composite camel rating of at least 2 as a result of its most recent examination by either its federal regulatory authority or the bank commissioner, may open a new branch if it does not exceed 20 percent of the dollar volume of the total deposits, time and savings, and demand of all banks, national banks, and federal savings banks and loan associations in the state as determined by the board as provided in RSA 384-B:2, I, by giving written notice to the bank commissioner at least 30 days in advance of the opening of the new branch and by paying the fee required by RSA 384-B:2, III.

11 Incorporators. RSA 386-A:1 is repealed and reenacted to read as follows:

386-A:1 Incorporators. Except as provided in this paragraph, 10 persons may subscribe to articles of agreement in writing for the purpose of forming a mutual savings bank or a guaranty savings bank and may, upon compliance with the provisions of this chapter, become a corporation with all the powers and privileges and subject to all the duties, restrictions, and liabilities of either a mutual savings bank or a guaranty savings bank, as set forth in the general laws now or hereafter in force relating to such corporations. If the bank is being organized by a bank holding company as defined by the federal Bank Holding Act of 1956, as amended, or by a savings and loan holding company as defined by the federal Savings and Loan Holding Company Act, as amended, or in connection with a reorganization of a bank into a holding company structure, then only the holding company is required to subscribe to the articles of agreement.

12 Considerations. RSA 386-A:6 is repealed and reenacted to read as follows:

386-A:6 Considerations. Before acting on any petition, the board shall consider such evidence as may be presented by the petitioners and all other interested persons, firms and corporations, including members of the general public and shall keep a permanent record of such evidence. The petitioners shall submit to the board full information as to the identity and background of each person, firm, or corporation who has subscribed to 3 percent or more of the initial capital of the proposed bank, including information on whether such person, firm, or corporation held an equity interest of 3 percent or more in or served as a director or officer of a bank which has failed. In making its decision on each petition, the board shall not take favorable action unless it determines that the following are adequate:

I. The proposed bank's capital structure.

II. The earning prospects of the proposed bank.

III. The character and general standing in the community of subscribers, the prospective directors, proposed officers and other employees, and other persons connected with the petition or to be connected with the proposed bank.

IV. The banking ability and experience of proposed officers and other employees.

13 Limitations of Investments. RSA 387:3, I is repealed and reenacted to read as follows:

I. Except as otherwise provided in this chapter, not exceeding 15 percent of capital funds shall be invested in the obligations or stock of any individual, partnership or corporation except public obligations, obligations of agencies of the United States as are designated by written ruling of the bank commissioner, loans authorized by RSA 387:4, IV and V, and liabilities for money borrowed to the extent that they shall be secured, covered, underwritten or protected as to principal and interest by guaranties, or by commitments or agreements to take over or purchase the same, made by or on behalf of any federal reserve bank, or the United States or the state of New Hampshire, or any other state, or any department, bureau, board, commission or establishment of the United States, the state of New Hampshire, or any other state including any corporation wholly owned directly or indirectly by the United States, the state of New Hampshire, or any other state, for the performance of which guaranties, commitments or agreements the faith of the United States, the state of New Hampshire, or any other state is pledged. Notwithstanding the foregoing a bank having deposits of \$1,500,000 or less may invest, in loans authorized by RSA 387:4, I, an amount to any one borrower not exceeding 2-1/2 percent of deposits or 15 percent of capital funds, whichever is greater, but in no case in excess of \$22,500, unless in such case 15 percent of capital funds exceeds said latter sum, in which case the limit shall be 15 percent of capital funds for such bank.

14 General Lending Authority. RSA 387:26 is repealed and reenacted to read as follows:

387:26 General Lending Authority. Notwithstanding any other provision of law to the contrary, a savings bank shall be authorized to make any type of secured or unsecured loan to any person, including without limitation any business or governmental entity. With respect to secured loans, a savings bank shall adopt prudent policies establishing loan-to-value ratios suitable for the type of property securing the loans. With respect to all loans, a savings bank shall adopt prudent policies establishing the creditworthiness of borrowers. The total liabilities of any person for money borrowed from a savings bank which is insured by the Federal Deposit Insurance Corporation shall not exceed the limitation prescribed for national banks under federal laws and regulations. The bank commissioner may adopt rules, pursuant to RSA 541-A, interpreting the applicability of such federal rules and regulations to savings banks. This limitation shall not apply to securities described in RSA 387:6, I-IV nor to liabilities for money borrowed to the extent that they shall be secured, covered, underwritten, or protected as to principal and interest by guaranties, or by commitments or agreements to take over or purchase the same, made by or on behalf of any federal reserve bank, or the United States or the state of New Hampshire, or any other state, or any department, bureau, board,

commission, or establishment of the United States or the state of New Hampshire or any other state including any corporation wholly owned directly or indirectly by the United States or the state of New Hampshire or any other state, for the performance of which guaranties, commitments, or agreements the faith of the United States or the state of New Hampshire or any other state is pledged.

15 Fiduciary Powers. Amend RSA 390:13 to read as follows:

390:13 Power to Act as Fiduciary.

I. Any trust company ~~[or similar corporation]~~, **bank, or savings association** incorporated under the laws of this state, or any national bank **or federally chartered savings association** duly authorized and located within the state, may be appointed trustee or executor in any case where an individual can be appointed, upon the same conditions and subject to the same control, requirements, and penalties.

II. Any trust company ~~[or similar corporation]~~, **bank, or savings association** incorporated under the laws of any other state, or any national bank **or federally chartered savings association** having its principal place of business in any other state may be appointed trustee or executor as provided in this section if the state in which such trust company ~~[or similar corporation]~~, **bank, or savings association** incorporated under the laws of that state, or any national bank **or federally chartered savings association** duly authorized and having its principal place of business in that state similarly allows any trust company ~~[or similar corporation]~~, **bank, or savings association** incorporated under the laws of this state, and any national bank **or federally chartered savings association** duly authorized and located within this state to serve as appointed trustees or executors in that state.

III. Any trust company **bank, or savings association** organized under the laws of New Hampshire may be authorized and empowered to act as receiver, assignee, or agent for any person, firm, association, or corporation, public or private; and in all proceedings in court or elsewhere in relation to such trusts or agencies, all accounts and other papers may be signed and sworn to in behalf of the ~~[corporation]~~ **trust company, bank, or savings association** by any officer duly authorized.

IV. Nothing contained in this section shall affect the rights of religious, charitable, and eleemosynary corporations organized under the laws of New Hampshire to act in fiduciary capacities, or extend to corporations **or other forms of business entities** other than trust companies ~~[and similar corporations]~~ **banks, and savings associations**, or ~~[any]~~ national ~~[bank]~~ **banks and federally chartered savings associations** duly authorized and located within the state, power to act in a fiduciary capacity.

16 Limitation on Fiduciary Powers. Amend RSA 390:15 to read as follows:

390:15 Limitation. The exercise of the powers granted herein is limited to ~~[the specified corporations located]~~ **trust companies, banks and savings associations incorporated under the laws of this state and national banks and federally chartered savings associations duly authorized and having their principal place of business** in this state, except as otherwise expressly provided in RSA 390:13.

17 Establishment and Use of Common Trust by Holding Company Affiliates. Amend RSA 391:1-a to read as follows:

391:1-a Establishment and Use of Common Trust by Bank Holding Company Affiliates. Any such bank or trust company which is an affiliate of a bank holding company, as defined by ~~[RSA 384-B:1, IV and V]~~ **the federal Bank Holding Act of 1956, as amended, or of a savings and loan company as defined by the federal Savings and Loan Holding Company Act, as amended**, may establish common trust funds for the purpose of furnishing investments to itself as fiduciary, to other affiliates of the same bank holding company qualified to act as fiduciary in this state as fiduciary, or to itself and others as co-fiduciaries, or to such other affiliates and others as co-fiduciaries. Subject to the limitations upon the investment of funds held in a fiduciary capacity in common trust funds contained in RSA 391:1, the bank or trust company affiliate of a bank holding company establishing such common trust funds and other affiliates of the same bank holding company qualified to act as fiduciary in this state may, as such fiduciary or co-fiduciary, invest funds which it lawfully holds for investment in interest in such common trust funds. The bank or trust company establishing, maintaining, or so utilizing any such common trust fund shall comply with and be subject to all of the provisions of this chapter as though such bank or trust company and the other banks or trust companies participating in such common trust fund or funds were one and the same corporate entity. Any person acting as a co-fiduciary with any such bank or trust company is hereby authorized to consent to the investment in interest in a common trust fund or funds created hereunder.

18 Incorporators. RSA 392:2 is repealed and reenacted to read as follows:

392:2 Incorporators. Except as provided in this paragraph, 10 persons may subscribe to articles of agreement in writing for the

purpose of forming a trust company and may, upon compliance with the provisions of this chapter, become a corporation with all the powers and privileges and subject to all the duties, restrictions and liabilities of a trust company, as set forth in the general laws now or hereafter in force relating to such corporations. If a trust company is being organized by a bank holding company as defined by the federal Bank Holding Act of 1956, as amended, or by a savings and loan holding company as defined by the federal Savings and Loan Holding Company Act, as amended, or in connection with a reorganization of a trust company into a holding company structure, then only the holding company is required to subscribe to the articles of agreement.

19 General Powers. RSA 392:33 is repealed and reenacted to read as follows:

‘ 392:33 In General. Such corporation may be authorized and empowered to receive on deposit, storage or otherwise, money, securities, jewelry, documents, evidences of debt, and other personal property of a similar character, for safekeeping, upon such terms or conditions as may be agreed upon, which said deposits may be made by corporations and persons acting individually or in any fiduciary capacity; to collect and disburse the income and principal of said property when due; to negotiate, purchase, and sell stocks, bonds, and other evidences of debt; to do a general banking business; and to conduct a savings bank business. Notwithstanding any other provision of law to the contrary, a trust company shall be authorized to make any type of secured or unsecured loan to any person, including without limitation any business or governmental entity. With respect to secured loans, a trust company shall adopt prudent policies establishing loan-to-value ratios suitable for the type of property securing the loans. With respect to all loans, a trust company shall adopt prudent policies establishing the creditworthiness of borrowers.

20 Limitations on Loans, and Holdings of Corporate Securities. RSA 392:39 is repealed and reenacted to read as follows:

392:39 Limitations of Loans, and Holdings of Corporate Securities. The total liabilities of a person for money borrowed from a state-chartered trust company which is insured by the Federal Deposit Insurance corporation shall not exceed the limitation prescribed for national banks under federal laws and regulations. The bank commissioner may adopt rules, pursuant to RSA 541-A, interpreting the applicability of such federal rules and regulations to trust companies. This limitation shall not apply to securities described in RSA 387:6, I-IV nor to liabilities for money borrowed to the extent that they shall be secured, covered, underwritten, or protected as to principal and interest by guaranties, or by commitments or agreements to take over or purchase the same, made by or on behalf of any federal reserve bank, or the United States, the state of New Hampshire, or any other state, or any department, bureau, board, commission or establishment of the United States or the state of New Hampshire including any corporation wholly owned directly or indirectly by the United States, the state of New Hampshire, or any other state, for the performance of which guaranties, commitments, or agreements the faith of the United States or the state of New Hampshire is pledged.

21 Repeal. The following are repealed:

- I. RSA 384:8, relative to absences.
- II. RSA 384:9, relative to exceptions.
- III. RSA 386:3, relative to report of stock ownership.
- IV. RSA 386:5, relative to eligibility as affected by occupation.
- V. RSA 392:8, III, relative to decision based on consideration of the convenience and need of the community.
- VI. RSA 392:40, relative to limitations qualified.

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

AMENDED ANALYSIS

This bill makes technical corrections to the banking laws, most specifically with regard to incorporation and management of banks. The bill changes provisions governing the lending authority and holdings of corporate securities by banks.

The bill establishes criteria for the board of trust incorporation to consider when deciding on applications for branch offices.

1998-0628h

Amendment to HB 1166

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

1 Composition Changed; Duty Added. Amend RSA 126-A:13 and RSA 126-A:14 to read as follows:

126-A:13 Oversight Committee; Establishment.

I. There shall be an oversight committee on health and human services consisting of ~~[13]~~ 8 members as follows:

(a) 3 members of the senate, at least one of whom shall be a member of the senate public institutions/health and human services committee, appointed by the president of the senate; *and*

(b) 5 members of the house appointed by the speaker of the house from the health, human services and elderly affairs committee~~;~~*and*

~~[(c) 5 members from the department of health and human services, appointed by the commissioner].~~

II. ~~[For the members appointed under subparagraphs I(a) and (b);]~~ Membership on the oversight committee shall be for the biennium and shall be coterminous with membership in the general court.

126-A:14 Organization and Compensation. The oversight committee shall have a chairperson who shall be chosen by vote from among the committee membership. The chairperson's term of office shall be for the biennium. The committee shall have a clerk who shall be chosen by vote by the members of the committee. The clerk's term of office shall be for the biennium. ~~[The committee shall meet immediately upon the close of each legislative session.]~~ The ~~[legislative]~~ members of the committee shall receive legislative mileage when in performance of their duties.

2 Duties of Oversight Committee. RSA 126-A:15 is repealed and reenacted to read as follows:

126-A:15 Duty of Oversight Committee.

I. The committee shall provide legislative oversight of the programs, policies, and rules of the department of health and human services as brought to its attention by committee members, legislators, department personnel, or others. The committee's work may include, but is not limited to, analyzing the efficacy of selected programs, studying the characteristics of target populations, researching trends affecting program costs and participation and reviewing alternate approaches to programmatic and administrative concerns. The committee shall maintain communications with the department of health and human services, and any other departments, as necessary to accomplish its work.

II. The committee shall meet at the call of the chair but in no case less than every 2 months.

III. The committee shall report no later than the first day of November of the second year of the biennium as to its activities and recommendations to the speaker of the house and the president of the senate.

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

1998-0827h

Amendment to HB 1178

Proposed by the Committee on Commerce

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

1 Retail Installment Sales; Motor Vehicle Leasing; Restriction on Liability for Early Termination; Lessee Termination Rights Expanded. Amend RSA 361-D:17, I to read as follows:

I.*(a)* The lessee shall have the right to terminate the lease at any time:

(1) After the lessee has made 12 full periodic lease payments for which lease charges have been accrued by the holder~~[-or];~~:

(2) In the case of a single payment lease, at the expiration of 12 months from the consummation of the lease; *or*

(3) Upon payment of an insurance settlement as a result of the total loss of the vehicle.

(b) Nothing in this section shall be deemed to prohibit the holder from *terminating the lease pursuant to its terms or from* permitting the lessee to terminate the lease before the expiration of 12 months.

2 Retail Installment Sales; Motor Vehicle Leasing; Restriction on Liability for Early Termination; Credits at Termination.
Amend RSA 361-D:17, V to read as follows:

V. Any refundable security deposit ~~[or]~~, advance lease payment, *or single payment* held by the holder may be retained by the holder and shall be credited against the lessee's early termination obligation to the extent it has not been applied against other obligations. The amount of such *refundable* security deposit ~~[or]~~, advance lease payment, *or single payment* in excess of the amount of the lessee's early termination obligation shall be returned to the lessee. The holder is not obligated to pay interest to the lessee on ~~[the security deposit]~~ *such excess amounts returned to the lessee.*

AMENDED ANALYSIS

This bill modifies certain provisions relative to liability for early termination of a motor vehicle lease.

1998-0867h

Amendment to HB 1189-FN

Proposed by the Committee on Local and Regulated Revenues

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

1 Beverage Manufacturer; Off-Premises Sales. Amend RSA 178:10, V to read as follows:

V. The holder of a beverage manufacturer license may sell beverages to the general public for off-premises consumption, in quantities not to exceed ~~[72 fluid ounces]~~ *the equivalent of one case of 12 ounce containers per person per day*. Package sizes shall be approved, pursuant to RSA 179:33, I and II. Such beverages shall not be sold to retail licensees for resale. Each beverage manufacturer shall pay a fee as required by RSA 178:30, I for each gallon of beverage sold under this paragraph.

2 Brew Pub; Off-Premises Sales. Amend RSA 178:10-a, II to read as follows:

II. Brew pub licenses shall authorize the licensee to manufacture and sell beer to individuals for on-sale consumption, for off-sale consumption; and additionally to sell the beer it manufactures to wholesale distributors for distribution within the state and to transport the beer the brew pub manufactures to the state line for sale outside the state. A brew pub, as a functional part of its premises, shall maintain a full service restaurant and may subsequently serve beverage and liquor as permitted by RSA 178:19, II(a)(1) and RSA 178:20, V(q). Off-sales of beer brewed by a brew pub, not to exceed ~~[180 fluid ounces]~~ *the equivalent of one case of 12 ounce containers* per person per day shall be made in containers ordinary and customary to the industry which shall be approved by the commission.

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

1998-0862h

Amendment to HB 1196

Proposed by the Majority of the Committee on Wildlife and Marine Resources

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

AN ACT relative to coordinating and compiling studies and establishing a lead education program concerning the effects of lead on water birds and other wildlife.

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

1 Findings. The legislature finds that the loon population of New Hampshire is increasing and further finds that this unique and popular threatened species is an integral part of the economic and social fabric of our citizenry. However, a preliminary review of research and literature on the toxicity of lead to loons and other waterbirds indicates that ingestion of lead fishing sinkers may pose a significant hazard to waterbirds. Therefore, the legislature finds a need to educate the public, acquire additional information, and review research on the effects of waterbird ingestible lead fishing gear on this important segment of our wildlife resource, and to authorize the executive director to regulate waterbird ingestible lead fishing gear if found

hazardous to waterbird populations.

2 Lead Studies and Reports.

I. The executive director of the department of fish and game, in consultation with the commissioners of the department of health and human services and the department of environmental services, shall coordinate and compile studies, in partnership with appropriate agencies and organizations, detailing the causative effects of lead poisoning in waterbirds.

II. The executive director shall prepare a report that makes recommendations on protecting waterbirds from the effects of lead in New Hampshire. The report shall specifically address alternatives to waterbird ingestible lead fishing gear and shall include a determination, based upon scientific studies, as to whether lead fishing gear poses a hazard to the state's waterbirds. The final report shall be submitted no later than January 1, 2003, to the governor, the speaker of the house, the senate president, the house wildlife and marine resources committee, the senate wildlife and recreation committee, and the state library. Until the final report is issued, annual interim reports shall be submitted by January 1 to these entities.

3 New Subdivision; Lead Education Program. Amend RSA 207 by inserting after section 57 the following new subdivision:

Lead Education Program

207:58 Lead Education Program.

I. To discourage the use of lead, the fish and game department, in consultation with the department of health and human services and in partnership with the department of environmental services, the Loon Preservation Committee, the New Hampshire Audubon Society, and the New Hampshire Wildlife Federation, shall institute an educational program consisting of, but not limited to, press releases or articles for all news media, an informational brochure for distribution by licensing agents and at department sponsored training programs, videos for use by television outlets, posters for boat access kiosks and other bulletin boards, and a mobile display for use at public events.

II. The purpose of the educational program is to inform the public about adverse, though unintentional, effects of lead on wildlife, and how to reduce the introduction of lead into the environment through personal action.

4 New Section; Rulemaking; Restrictions on Lead Fishing Gear. Amend RSA 211 by inserting after section 13-a the following new section:

211:13-b Rulemaking; Restrictions on Lead Fishing Gear. The executive director may adopt rules, pursuant to RSA 541-A, relative to restrictions on the use or sale of waterbird ingestible lead fishing gear. This rulemaking authority may be exercised with reference to the state as a whole or for any specified county or part thereof.

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

AMENDED ANALYSIS

This bill requires the department of fish and game to coordinate and compile studies detailing the causative effects of lead poisoning in waterbirds and report by January 1, 2003. This bill also establishes a lead education program and allows the executive director of fish and game to adopt rules restricting waterbird ingestible lead fishing gear.

1998-0463h

Amendment to HB 1209

Proposed by the Committee on Education

Amend RSA 186-C:7-a, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The commissioners of education and health and human services shall submit a copy of the initial interagency agreement for special education to the appropriate standing committees of each house of the general court on or before September 1, 1985, **and shall submit a revision to the agreement no later than January 1, 1999.** Any subsequent proposed amendments or revisions to the agreement shall be submitted to the appropriate standing committees of the house and senate.

Amend the bill by replacing section 2 with the following:

2 Interagency Agreement for Special Education; Guidelines for Revision.

I. The department of education and the department of health and human services shall review the interagency agreement between the 2 departments dated August 23, 1985, and subsequently amended July 14, 1987 and April 20, 1990 executed pursuant to RSA 186-C:7-a. The department of education and the department of health and human services shall report the results of their review and any recommendation for legislative change necessary to the house education committee on or before January 1, 1999.

II. The review shall include, but not be limited to, the following issues:

(a) The population covered by the agreement.

(b) The roles and responsibilities of each department for services provided to the population covered by the agreement.

(c) The costs of room and board and its relationship to the provision of special education.

(d) The costs of educationally related services which have a medical component.

(e) The administration of the Medicaid to Schools Program.

(f) Establishment of rates for educationally related services for which local school districts seek reimbursement, in whole or in part, from either department.

(g) Provisions for monitoring delivery of special education and educationally related services.

(h) Provisions to resolve disputes between the departments and school districts or state agencies.

III. This review is not intended to limit the responsibility and authority of local school districts to identify and provide services needed by educationally disabled students.

IV. The commissioner of the department of education and the commissioner of the department of health and human service shall, within 30 days of the effective date of this paragraph, designate 2 or more representatives to participate in this review. The designated staff shall meet on or before March 15, 1998, and as often as necessary thereafter to complete the review.

1998-0894h

Amendment to HB 1217

Proposed by the Committee on Finance

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

1 Gender-Neutral; Governor's Budget; Transmission to the Legislature. Amend RSA 9:2 to read as follows:

9:2 Transmission to the Legislature. Not later than February 15 of the year of each biennial legislative session, the governor shall transmit to the legislature a document to be known as a budget setting forth ~~[his]~~ **the governor's** financial program for each of the fiscal years of the ensuing biennium and having the character and scope hereinafter set forth.

2 Governor's Budget; Form and Contents. Amend RSA 9:3 to read as follows:

9:3 Form and Contents. The budget shall consist of 3 parts, the nature and contents of which shall be as follows:

I. Part I shall consist of the governor's budget message, in which ~~[he]~~ **the governor** shall set forth:

~~[(1) His]~~ **(a) The governor's** program for meeting all the expenditure needs of the government for each of the years of the biennium to which the budget relates, indicating the classes of funds, general or special, from which such appropriations are to be made and the means through which such expenditures shall be financed;

~~[(2)]~~ **(b)** Financial statements giving in summary form:

~~[(a)]~~ **(1)** The condition of the treasury at the end of the last completed fiscal year, the estimated condition of the treasury at the end of the year in progress, and the estimated condition of the treasury at the end of each of the 2 years to which the budget

relates if ~~[his]~~ **the governor's** budget proposals are put into effect;

~~[(b)]~~ **(2)** Statements showing the bonded indebtedness of the state, debt authorized and unissued, debt redemption and interest requirements, and condition of the sinking funds, if any;

~~[(c)]~~ **(3)** A summary of appropriations recommended for each of the years of the biennium to which the budget relates for each department and for the state as a whole in comparison with actual expenditures for the last completed fiscal year and estimated expenditures for the year in progress;

~~[(d)]~~ **(4)** A summary of the revenue estimated to be received by the state during each of the 2 years of the biennium to which the budget relates, classified according to sources in comparison with the actual revenue received by the state during the last completed fiscal year and estimated income during the year in progress, and

~~[(e)]~~ **(5)** Such other financial statements, data, and comments as in ~~[his]~~ **the governor's** opinion are necessary or desirable in order to make known in all practicable detail the financial condition and operations of the state and the effect that the budget as proposed by ~~[him]~~ **the governor** will have on such condition and operations. If the estimated revenues of the state for the ensuing biennium as set forth in the budget on the basis of existing laws, plus the estimated amounts in the treasury at the close of the year in progress available for expenditure in the ensuing biennial period is less than the aggregate recommended for the ensuing biennial period as contained in the budget, the governor shall make recommendations to the legislature in respect to the manner in which such deficit shall be met, whether by an increase in the state tax or the imposition of new taxes, increased rates on existing taxes, or otherwise; and if the aggregate of such estimated revenues, plus estimated balances in the treasury is greater than such recommended appropriations for the ensuing biennial period, ~~[he]~~ **the governor** shall make such recommendations in reference to the application of such surplus to the reduction of debt or otherwise, to the reduction in taxation, or to such other action as in ~~[his]~~ **the governor's** opinion is in the interest of the public welfare. ***The governor's operating budget shall not use bonded indebtedness to fund operating appropriations. Nothing contained herein shall prohibit the use of projected lapses in determining compliance with this section.***

II. Part II shall present in detail ~~[his]~~ **the governor's** recommendations for appropriations to meet the expenditure needs of the state from each general class of funds, classified by departments, and indicating for each the appropriations recommended for ~~[-(a)]~~ meeting the cost of administration, operation, and maintenance of such departments.

III. Part III shall embrace a draft or drafts of appropriation bills having for their purpose to give legal sanction to the appropriations recommended to be made in parts I and II. Such appropriation bills shall indicate the funds, general or special, from which such appropriations shall be paid, but such appropriations need not be in greater detail than to indicate the total appropriation to be made for ~~[-(a)]~~ administration, operation, and maintenance of each department for each fiscal year of the biennium.

3 New Section; Legislature; Adoption of Operating Budget. Amend RSA 9 by inserting after section 8-a the following new section:

9:8-b Adoption of Operating Budget. The general court shall not adopt an operating budget for any fund, or any other legislation which provides for appropriations, which exceed the state's total estimated revenues from existing, increased, or new taxes, fees, operating income and other sources. If the estimated revenues of the state for the ensuing biennium as set forth in the budget on the basis of existing laws, plus the estimated amounts in the treasury at the close of the year in progress available for expenditure in the ensuing biennial period is less than the aggregate recommended for the ensuing biennial period as contained in the budget, the general court shall adopt a budget in which such deficit shall be met, whether by an increase in the state tax or the imposition of new taxes, increased rates on existing taxes, or otherwise; and if the aggregate of such estimated revenues, plus estimated balances in the treasury is greater than such recommended appropriations for the ensuing biennial period, the general court shall adopt a budget applying such surplus to the reduction of debt or otherwise, to the reduction in taxation, or to such other action as is in the interest of the public welfare. Such operating budget shall not use bonded indebtedness to fund operating appropriations. Nothing contained herein shall prohibit the use of projected lapses in determining compliance with this section.

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

AMENDED ANALYSIS

This bill prohibits the governor from proposing and the legislature from adopting an operating budget for any fund or any other legislation which provides for appropriations which exceed the total estimated revenues from taxes, fees, operating income, and

other sources. The bill also prohibits the use of bonded indebtedness to fund operating appropriations.

1998-0774h

Amendment to HB 1225

Proposed by the Committee on Environment and Agriculture

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

AN ACT restricting the land application of solid wastes within certain distances of natural, rural, rural-community, and community rivers and exempting certain uses allowed under prior interpretations of the law.

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

1 Findings and Intent.

I. The general court recognizes that land application of septage and sludge within 250 feet of the rivers designated under the rivers management and protection program was allowed under rules adopted by the department of environmental services, and that the practice has recently been prohibited due to the department reinterpreting portions of the rivers management and protection program statute.

II. The general court finds that this prohibition may create an economic hardship for those farmers who have been land applying septage and sludge in accordance with the department's rules and who are now forced to discontinue use of these materials. This prohibition will also halt a valuable research project being conducted by the University of New Hampshire concerning the land application of sludge.

III. The general court finds that it is reasonable to allow such farmers, for a 5-year period, and research scientists, for an indefinite period, to continue applying septage and sludge within 250 feet of these designated rivers, and that such allowances will not create an undue risk of harm to the public or the environment. Furthermore, the general court intends to reexamine this issue at the end of the 5-year period, taking into account all creditable scientific information concerning the safety and environmental effects of land applying septage and sludge near rivers.

2 Natural Rivers Protection; Application of Solid Waste. RSA 483:9, VI(c) is repealed and reenacted to read as follows:

(c) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

3 Rural River Protection; Application of Solid Waste. RSA 483:9-a, VII(b) is repealed and reenacted to read as follows:

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

4 Rural-Community Rivers Protection; Application of Solid Waste. RSA 483:9-aa, VII(b) is repealed and reenacted to read as follows:

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

5 Community Rivers Protection; Application of Solid Waste. Amend RSA 483:9-b, VII(b) is repealed and reenacted to read as follows:

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

6 Temporary Use Authorization. The septage and sludge land application restrictions contained in RSA 483:9, VI(c), RSA 483:9-a, VII(b), RSA 483:9-aa, VII(b), and RSA 483:9-b, VII(b) shall not apply until 5 years after the effective date of this act to

any land upon which septage or sludge has been spread in accordance with all applicable rules adopted by the federal Environmental Protection Agency and the New Hampshire department of environmental services, during any portion of the 3-year period prior to January 1, 1998. In addition, there shall be no termination of this restriction exemption for qualifying land that is used for scientific research on septage or sludge. Any continued application of septage and sludge pursuant to this section shall comply with all applicable federal and state laws and any best management practices published by the university of New Hampshire cooperative extension.

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

AMENDED ANALYSIS

This bill restricts the land application of solid wastes within certain distances of natural, rural, rural-community, and community rivers.

The bill also allows current septage and sludge application practices which have been used by farmers and researchers to continue, for the next 5 years for farmers and indefinitely for researchers.

1998-0863h

Amendment to HB 1229

Proposed by the Committee on Environment and Agriculture

Amend RSA 430:37, II as inserted by section 1 of the bill by replacing it with the following:

II. For nematodes and beneficial insects used as biological control agents, and which are also exempt from regulation by the United States Environmental Protection Agency under 40 CFR chapter 1, subpart B, section 152.20, provided that such nematodes and beneficial insects are under a permit issued by the United States Department of Agriculture pursuant to 7 CFR 330.

1998-0839h

Amendment to HB 1236-LOCAL

Proposed by the Committee on Municipal and County Government

Amend the bill by replacing section 1 with the following:

1 Limitations on the Amendment of Warrant Articles. Amend RSA 40:13, IV(b) to read as follows:

(b) Cost items in collective bargaining agreements shall not be amended.

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

AMENDED ANALYSIS

This bill adds cost items in collective bargaining agreements to the types of warrant articles that cannot be amended in the first session of an annual meeting in a local political subdivision that votes by official ballot.

1998-0773h

Amendment to HB 1238

Proposed by the Committee on Environment and Agriculture

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

AN ACT establishing a committee to study ways to manage land use and to preserve and protect the state's farmland, rural and community character, and environmental quality against low density sprawl and the loss of sense of place.

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

1 Statement of Intent.

- I. Population forecasts indicate that growth and development will continue to be a part of New Hampshire's future. Development patterns in less developed areas have historically sprawled across the landscape, often disrupting the traditional, rural character of New Hampshire's communities. This low density sprawl has contributed significantly to the loss of any sense of place by disconnecting new development from the established, village-type growth patterns of many New Hampshire communities.
- II. While this type of sprawl may not seem significant one subdivision at a time, the net result can have major impacts. The subtle conversion of a 50-acre wood lot into 10 5-acre backyards, or the conversion of a hay field into 10 5-acre lawns often results in the unnecessary consumption of land. The productive nature of this formerly rural land has been lost forever as it is converted to low density residential uses.
- III. Preserving rural and community character is a goal endorsed by many New Hampshire communities in their master plans. This character relates not only to the visual quality of the undeveloped open space, but to the traditional, productive, growing trees, crops, livestock, or wildlife. Village, town, and urban center patterns are based on commerce and exchange, with open space scattered inside and along the edges.
- IV. These distinctions are important pieces on New Hampshire's heritage and continue to make sense today. Development patterns, which concentrate activity in village, town, and urban centers, have the dual benefit of making it easier to provide municipal services (school busing, snow plowing, rubbish collection) and keeping infrastructure costs lower while still protecting open space, water quality, wildlife habitat, and recreational uses.

2 Committee Established. There is established a committee to study ways to manage land use and to protect and preserve the state's farmland, rural character, and environmental quality against low density sprawl, urban as well as rural, and the loss of sense of place. Such management strategies include, but are not limited to, creating a village plan alternative to municipal subdivision procedures.

3 Membership.

- I. The committee shall be comprised of the following voting members:
- (a) Five members of the house of representatives, one of whom shall be from the resources, recreation, and development committee, 2 of whom shall be from the environment and agriculture committee, and 2 of whom shall be from the municipal and county government committee, all appointed by the speaker of the house.
 - (b) Three members of the senate, appointed by the senate president.
- II. The following shall serve as nonvoting members of the committee:
- (a) The director of the office of state planning, or designee.
 - (b) The commissioner of the department of environmental services, or designee.
 - (c) The president of the New Hampshire Farm Bureau, or designee.
 - (d) The director of the New Hampshire Timberland Owners Association, or designee.
 - (e) The president of the New Hampshire Municipal Association, or designee.
 - (f) The president of the New Hampshire Home Builders Association, or designee.
 - (g) The president of the New Hampshire Association of Realtors, or designee.
 - (h) One member of the regional planning commission, appointed by the governor.
 - (i) The commissioner of the department of cultural affairs, or designee.

4 Duties. The committee shall examine the laws of states that provide mechanisms for local management of residential, commercial, and industrial development proposals and shall explore alternative approaches to protect and preserve the farmlands, rural and community character, and environmental quality of New Hampshire.

5 Meetings and Mileage. The first-named representative shall call the first meeting of the committee within 45 days after the

effective date of this section. At the first meeting the committee shall elect a chairperson from among the voting members of the committee. All subsequent meetings shall be at the call of the chairperson. Five voting members shall constitute a quorum. Legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

6 Report. The committee shall report its findings and any recommendations for legislation to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1998.

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

AMENDED ANALYSIS

This bill establishes a committee to study ways to manage land use and to preserve and protect the state’s farmland, rural and community character, and environmental quality against low density sprawl and the loss of sense of place.

1998-0849h

Amendment to HB 1252

Proposed by the Committee on Municipal and County Government

Amend RSA 674:32-a as inserted by section 3 of the bill by replacing it with the following:

674:32-a Presumption. In accordance with RSA 672:1, III-d, whenever agricultural activities are not explicitly addressed with respect to any zoning district or location, they shall be deemed to be permitted there, as either a primary or accessory use, so long as conducted in accordance with best management practices adopted by the commissioner of agriculture, markets, and food and with federal and state laws, regulations, and rules.

Amend RSA 674:32-b, II(a) as inserted by section 3 of the bill by replacing it with the following:

(a) Any new establishment, re-establishment after disuse, or significant expansion of an operation involving the keeping of livestock, poultry, or other animals may be made subject to special exception or other permit, and may be regulated to the extent necessary to prevent demonstrated adverse impacts on adjacent property.

Amend RSA 674:32-c, II as inserted by section 3 of the bill by replacing it with the following:

II. Nothing in this subdivision shall exempt agricultural operations from generally applicable building and site requirements such as dimensional standards, setbacks, driveway and traffic regulations, parking requirements, noise restrictions or sign regulations; provided, however, that in circumstances where their literal application would effectively prohibit an agricultural use allowed by this subdivision, or would otherwise be unreasonable in the context of an agricultural use, the building inspector, administrative officer, or board of adjustment or building code board of appeals acting on appeal, shall grant a waiver from such requirement to the extent necessary to reasonably permit the agricultural use, unless such waiver would have a demonstrated adverse effect on public health or safety, or the value of adjacent property.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect July 1, 1999.

AMENDED ANALYSIS

This bill provides protections for agricultural activities by creating a presumption that unless explicitly addressed through zoning such activities are deemed permitted if conducted in accordance with best management practices adopted by the commissioner of agriculture, markets, and food and all applicable laws and regulations.

1998-0435h

Amendment to HB 1280-LOCAL

Proposed by the Committee on Education

Amend RSA 189:13-a as inserted by section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. It shall be the responsibility of the local school board or other appropriate governing body in every school administrative

unit, school district, and charter school in the state to identify the circumstances under which volunteers who are designated as having regular contact with pupils are required to undergo criminal background checks, and formulate an appropriate procedure to govern such circumstances. Such procedure shall be implemented within one year of the effective date of this paragraph.

1998-0825h

Amendment to HB 1281

Proposed by the Committee on Commerce

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

AN ACT requiring managed care plans to permit a woman to select an obstetrician-gynecologist as a primary care physician or to obtain access for certain obstetrical or gynecological services.

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

1 New Section; Obstetrical-Gynecological Coverage. Amend RSA 420-J by inserting after section 6 the following new section:

420-J:6-a Obstetrical-Gynecological Coverage.

I.(a) A health carrier shall permit a covered person to designate a participating in-network obstetrician-gynecologist as the covered person's primary care physician if:

- (1) The obstetrician-gynecologist meets the standards established by the plan for primary care physicians;
 - (2) The obstetrician-gynecologist requests that the carrier make the obstetrician-gynecologist available for designation as a primary care provider;
 - (3) The obstetrician-gynecologist agrees to accept the payment terms applicable under the plan to primary care physicians for services other than obstetrical-gynecological services; and
 - (4) The obstetrician-gynecologist agrees to abide by all other terms and conditions applicable to primary care physicians under the plan generally.
- (b) This paragraph shall not be construed to require an individual obstetrician-gynecologist to accept primary care physician status if the obstetrician-gynecologist does not wish to be designated as a primary care physician. This paragraph shall also not be construed to interfere with the credentialing and other selection criteria usually applied by a health benefit plan with respect to other physicians in its network.

II. If a covered person does not select an obstetrician-gynecologist as a primary care physician, the covered person shall be permitted to receive obstetrical-gynecological care from a network obstetrician-gynecologist without being required to first visit a primary care physician for covered services including but not limited to:

- (a) Maternity care;
- (b) Annual visits; and
- (c) Followup gynecological care for conditions diagnosed during maternity care or annual visits.

III. Following each visit for gynecological care under paragraph II, the obstetrician-gynecologist shall communicate with the covered person's primary care physician concerning any diagnosis or treatment rendered. The obstetrician-gynecologist shall confer with the primary care physician before performing any diagnostic procedure that is not a covered obstetrical-gynecological service rendered during an annual visit.

2 New Paragraph; Explanation of Benefits. Amend RSA 420-H:4 by inserting after paragraph V the following new paragraph:

VI. An explanation of a covered person's option to select an obstetrician-gynecologist as the covered person's primary care physician or receive direct access to limited obstetrical-gynecological care, pursuant to RSA 420-J:6-a.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill allows an individual participating in a managed care plan to select an obstetrician-gynecologist as such individual's primary care physician.

1998-0663h

Amendment to HB 1298-FN-LOCAL

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

1 New Section; Identification Required. Amend RSA 151 by inserting after section 3-a the following new section:

151:3-b Identification Required.

I. Facilities licensed under this chapter shall require all persons, including volunteers, consulting doctors, and students, in contact with clients and residents to wear a form of identification which readily discloses the first name, licensure status, if any, and staff position. This section shall also apply to home health care providers and hospice staff.

II. Failure to comply with the requirements of paragraph I shall not result in a citation for deficiency, but shall result in a notice from the department of health and human services that such compliance is mandated by law.

2 Identification Required. Amend RSA 151:21, I to read as follows:

I. The patient shall be treated with consideration, respect, and full recognition of the patient's dignity and individuality, including privacy in treatment and personal care ***and including being informed of the name, licensure status, and staff position of all those with whom the patient has contact.***

3 Identification Required. Amend RSA 151:21-b, II(a) to read as follows:

(a) Be treated with consideration, respect, and full recognition of the client's dignity and individuality, including privacy in treatment and personal care and respect for personal property ***and including being informed of the name, licensure status, and staff position and employer of all persons with whom the client/resident has contact.***

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

1998-0907h

Amendment to HB 1300

Proposed by the Committee on Finance

Amend the bill by replacing section 1 with the following:

1 Budget and Appropriations; Deficit Control; Revenue Stabilization Reserve Account; Transfer of Surplus. Amend RSA 9:13-e, II to read as follows:

II. There is hereby established within the general fund general ledger a revenue stabilization reserve account. At the close of each fiscal biennium, any surplus, as determined by the official audit performed pursuant to RSA 21-I:8, I(h) shall be transferred by the comptroller ***in the following manner: 37.5 percent*** to a special nonlapsing revenue stabilization reserve account~~[-; provided, however, that in any single fiscal year such transfer shall not exceed 1/2 of the potential maximum balance allowable under paragraph V.];~~ ***37.5 percent to the health care fund established pursuant to RSA 167:70; and 25 percent to the general fund surplus account.*** The comptroller is hereby directed to establish ~~[said]~~ ***the*** revenue stabilization reserve account in which to deposit ~~[all]~~ ***any*** money received from ~~[any]~~ ***a*** general fund operating budget surplus. The state treasurer shall invest funds in this account as authorized by RSA 6:8. The interest so earned shall be deposited as unrestricted general fund revenue.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 6:

3 Public Assistance; Health Care Transition Fund Changed to Health Care Fund. Amend the subdivision heading following

RSA 167:68 to read as follows:

Health Care [~~Transition~~] Fund

4 Public Assistance; Health Care Transition Fund Changed to Health Care Fund. Amend RSA 167:69-70 to read as follows:

167:69 Definitions. In this subdivision:

- I. "Commissioner" means the commissioner of health and human services.
- II. "Department" means the New Hampshire department of health and human services.
- III. "Fund" means the health care [~~transition~~] fund established in RSA 167:70.

167:70 Health Care [~~Transition~~] Fund.

- I. There is hereby established in the office of the state treasurer a fund to be known as the health care [~~transition~~] fund.
- II. The state treasurer shall invest and reinvest the assets of the fund in accordance with law, and the principal assets and accumulated income in the fund shall be nonlapsing.

5 Public Assistance; Health Care Transition Fund Changed to Health Care Fund; \$100,000,000 Fund Maximum. Amend RSA 167:73-74 to read as follows:

167:73 Annual Health Care Initiatives Budget. Appropriations from the health care [~~transition~~] fund shall be consistent with the purposes of the fund. Any funds not obligated shall lapse to the health care [~~transition~~] fund.

167:74 Fund Limitations.

- I. Health care initiatives as established in RSA 167:71 shall be available for a limited time period which shall not exceed 4 years.
- II. The health care [~~transition~~] fund shall fund:
 - (a) Coverage for those groups established in RSA 167:68, I(a), (b), (c), (d), and (e) for those recipients who have incomes between 170 percent and 185 percent of the federal poverty level.
 - (b) Primary preventive health services under RSA 126-A:10-e.
 - (c) Health care grants, which are intended to support community-based health care initiatives, as established in RSA 167:71, necessary to promote access, improve the quality of health care services, evaluate service delivery and cost models, or improve the purchasing and cost effective utilization of health care services.

III. At the end of the fiscal biennium, all principal assets in the fund in excess of \$100,000,000 shall be transferred to the revenue stabilization reserve account.

AMENDED ANALYSIS

This bill requires that a balance in excess of an amount equal to 10 percent of the actual general fund unrestricted revenues for the most recently completed fiscal year in the revenue stabilization reserve account shall be transferred to the general fund surplus account. Current law requires such transfer when the amount is equal to 5 percent. This bill changes the name of the health care transition fund to the health care fund. This bill also provides that a budget surplus shall be transferred to the revenue stabilization reserve account, the health care fund, and the general fund surplus account, and places a limit on the principal assets in the health care fund at \$100,000,000.

1998-0812h

Amendment to HB 1303-FN-A-LOCAL

Proposed by the Committee on Finance

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

1 Purpose. Approximately \$2,000,000 is generated annually through boating registration fees and registration enforcement fines for use by the department of safety, division of safety services. The division of safety services is required to use this money to promote safe navigation and enforce the registration and uniform numbering requirements of vessels operating on inland public waters of the state of New Hampshire. Of the approximately \$2,000,000 generated, only approximately \$1,000,000 has actually been available to the division of safety services annually for these purposes. A nonlapsing and continual appropriation of these revenues will assure that these sums are appropriately expended on navigation safety and enforcement.

2 Administration of Motor Vehicle Laws; Road Tolls; Exception; Navigation Safety Fund Removed. Amend RSA 260:60 to read as follows:

260:60 Exception. Notwithstanding all other laws and rules to the contrary, annually, on or before June 1, the road toll administrator shall compare the number of gallons on which refunds have been made for the preceding calendar year for motor fuel used in the propulsion of boats on inland public waters of the state, with the number of gallons of such motor fuel sold and delivered directly into the fuel tanks, or supplementary fuel tanks, of boats or outboard motors upon the inland public waters for use in such boats or outboards, based on the number of boats registered in the state at 100 gallons usage per boat, and if there is any balance of unrefunded tolls so collected, the administrator shall report the same to the state treasurer who shall, on July 1, next following, credit 1/2 of said balance to ~~[a special navigation safety fund within the treasury, to be administered by the director of the division of safety services, which has jurisdiction over the navigation of such boats or motors]~~ **the general fund** and credit 1/2 of said balance to the fish and game department. ~~[Funds credited to the navigation safety fund shall be used by the division of safety services for the promotion of the safety of navigation, and]~~ The funds credited to the fish and game department shall be used by said department to carry out its program and be accounted for as the fish and game fund is accounted for. Any ~~[balances in the]~~ funds ~~[hereby]~~ **to the fish and game department** as above provided shall not lapse at the end of the fiscal year. ~~[Any funds in the navigation safety fund, not otherwise appropriated, may be used by the division of safety services for the promotion of the safety of navigation upon request from the commissioner of safety to the governor and council with the prior approval of the legislative fiscal committee.]~~ The department shall pay monthly to the state treasurer all revenue from the aircraft landing area toll.

3 Navigation; Vessel Registration and Numbering; Disposition of Revenues; Safety Services; Nonlapsing and Continual Appropriation. Amend RSA 270-E:7, I to read as follows:

I. Except as provided in paragraph II, all fines collected under this chapter~~[-all sums received from the state treasurer on account of the unrefunded motor vehicle road tolls,]~~ and the amount of fees generated by RSA 270-E:5, I and III shall be made available to the department of safety, division of safety services for the promotion of the safety of navigation and the administration and enforcement of this chapter. **Such sums shall be nonlapsing and shall be continually appropriated to the department of safety, division of safety services.**

4 Repeal. RSA 6:12, I(ppp), relative to the navigation safety fund general revenue exception, is repealed.

5 Effective Date. This act shall take effect July 1, 1999.

AMENDED ANALYSIS

This bill provides that fines and fees collected under RSA 270-E shall be nonlapsing and continually appropriated to the department of safety, division of safety services. This bill also credits the ½ of the unrefunded road tolls formerly credited to the navigation safety fund to the general fund.

1998-0627h

Amendment to HB 1307

Proposed by the Committee on Criminal Justice and Public Safety

Amend RSA 262:19, IV as inserted by section 1 of the bill by replacing it with the following:

IV. No conviction for an offense specified under RSA 259:39 shall be annulled until at least 7 years after the conviction date. **No court shall vacate, expunge, delete, cancel or otherwise remove such a conviction for at least 7 years subsequent to the conviction date, unless it is determined by a court of competent jurisdiction that the conviction was illegal or otherwise improper and invalid.**

1998-0886h

Amendment to HB 1310

Proposed by the Committee on Finance

Amend the bill by replacing sections 2 and 3 with the following:

2 New Paragraph; Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 From Any Non-State Source. Amend RSA 14:30-a by inserting after paragraph V the following new paragraph:

VI. Any non-state funds in excess of \$100,000, whether public or private, including refunds of expenditures, federal aid, local funds, gifts, bequests, grants, and funds from any other non-state source, which under state law require the approval of governor and council for acceptance and expenditure, may be accepted and expended by the proper persons or agencies in the state government only with the prior approval of the fiscal committee.

3 Fiscal Committee Approval Required for Expenditure of Federal Aid. Amend RSA 124:4 to read as follows:

124:4 Application for[;] and Administration of ***Federal Aid***. Notwithstanding any other provision of law, the governor and council are hereby authorized to designate from time to time, as they may deem in the best interest of the state, the proper persons or agencies in the state government to take all necessary action to apply for, receive and administer any federal benefits, facilities, grants-in-aid, or other federal appropriations or services made available to assist state activities, for which the state is, or may become eligible. ***All such moneys in excess of \$100,000 made available, after designation by the governor and council, may be expended by the proper persons or agencies in the state government only with the prior approval of the joint legislative fiscal committee.*** In addition to such other instruments, documents and agreements as may be executed [hereunder] ***under the authority of this section***, such persons or agencies may[, ~~whenever the same shall be required as a condition to the receipt of such federal assistance, with the approval of the governor and council~~] execute indemnification agreements, ***with the approval of governor and council***, in the name of the state with and for the benefit of the United States ***whenever such execution is required as a condition of receipt of such federal assistance.***

AMENDED ANALYSIS

This bill requires that acceptance and expenditures of federal aid and any other non-state funds in excess of \$100,000 be approved by the joint legislative fiscal committee.

1998-0858h

Amendment to HB 1311

Proposed by the Committee on Commerce

Amend the article title of RSA 382-A:8 as inserted by section 1 of the bill by replacing it with the following:

ARTICLE 8

INVESTMENT SECURITIES

Amend RSA 382-A:8-203-8-205 as inserted by section 1 of the bill by replacing them with the following:

382-A:8-203 staleness as notice of defect or defense. After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:

(1) requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; or

(2) is not covered by paragraph (1) and the purchaser takes the security more than 2 years after the date set for surrender or presentation or the date on which performance became due.

382-A:8-204 effect of issuer's restriction on transfer. A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless:

- (1) the security is certificated and the restriction is noted conspicuously on the security certificate; or
- (2) the security is uncertificated and the registered owner has been notified of the restriction.

382-A:8-205 effect of unauthorized signature on security certificate. An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

- (1) an authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates, or the immediate preparation for signing of any of them; or
- (2) an employee of the issuer, or of any of the persons listed in paragraph (1), entrusted with responsible handling of the security certificate.

Amend the bill by replacing section 7 with the following:

7 Definitions and Index of Definitions. Amend RSA 382-A:9-105(1)(h) and (i) to read as follows:

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9-313), but does not include money, documents, instruments, **investment property**, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) "Instrument" means a negotiable instrument (defined in Section 3-104), ~~[or]~~ a certificated-security (defined in Section 8-102), **a certificate of deposit (defined in Section 3-104(j))**, or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment.

Amend the bill by replacing section 9 with the following:

9 Definitions; Account; General Intangibles. Amend RSA 382-A:9-106 to read as follows:

382-A:9-106 Definitions: "Account"; "General Intangibles". "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, **investment property**, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

Amend the bill by replacing section 11 with the following:

11 Attachment and Enforceability of Security Interest; Proceeds; Formal Requisites. Amend the introductory language of RSA 382-A:9-203(1) and RSA 382-A:9-203(1)(a) to read as follows:

(1) Subject to the provisions of Section 4-210 on the security interest of a collecting bank, ~~[Section 8-321 on security interests in securities]~~ **Sections 9-115 and 9-116 on security interests in investment property**, and Section 9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, **the collateral is investment property and the secured party has control pursuant to agreement**, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

Amend the bill by replacing section 21 with the following:

21 Savings Clause.

I. This act does not affect an action or proceeding commenced before January 1, 1999.

II. If a security interest in a security is perfected at the date this act takes effect, and the action by which the security interest was perfected would suffice to perfect a security interest under this act, no further action is required to continue perfection. If a

security interest in a security is perfected at the date this act takes effect, but the action by which the security interest was perfected would not suffice to perfect a security interest under this act, the security interest remains perfected for a period of 4 months after the effective date and continues perfected thereafter if appropriate action to perfect under this act is taken within that period. If a security interest is perfected at the date this act takes effect, and the security interest can be perfected by filing under this act, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

1998-0837h

Amendment to HB 1314

Proposed by the Committee on Commerce

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

1 Retail Installment Sales of Motor Vehicles; Prohibitions as to Retail Installment Contracts; Acceleration of Principal Balance for Default; Exceptions Added. Amend RSA 361-A:7, IX(b) to read as follows:

- (b) Any provision permitting the holder to accelerate the principal balance under the contract for default for any cause other than:
- (1) Non-payment of any amount due under the terms of the contract~~[, or]~~.
- (2) Failure to insure the vehicle which secures the contract against loss, if such insurance is required by the terms of the contract ~~[and except where the contract provides for the holder to purchase such insurance and collect the premiums for the insurance from the borrower]~~. ***Provided, however, that the holder may not accelerate the principal balance solely as a result of the failure to insure until the holder gives the buyer written notice conspicuously stating that the buyer has the opportunity to cure the default under this subparagraph by submitting proof of insurance to the holder within 15 days of the mailing of the notice. If no proof of insurance is submitted to the holder within 15 days of mailing of notice, the holder may accelerate the principal balance. This subparagraph shall not apply if the contract obligates the holder to purchase such insurance and collect the premiums for the insurance from the buyer.***
- (3) Removal of the collateral from the United States or Canada without the holder's permission.***
- (4) Sale, rental, lease, or other transfer of an interest in the collateral without the holder's permission.***
- (5) Commencement of a proceeding in bankruptcy by or against the buyer.***
- (6) Other significant impairment of the realization of the collateral, limited to encumbrance of the vehicle, abandonment of the vehicle, or loss, theft, or destruction of the vehicle that is not covered by insurance.***

2 New Subparagraph; Retail Installment Sales of Motor Vehicles; Prohibitions as to Retail Installment Contracts; Waiver of Right Benefit, or Privilege. Amend RSA 361-A:7, IX by inserting after subparagraph (c) the following new subparagraph:

(d) Any provision under which a buyer waives any right, benefit, or privilege which is conferred upon the buyer under this chapter.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill expands the exceptions to the prohibition against acceleration of a motor vehicle retail installment contract by the holder to include transfer by the buyer and proceedings in bankruptcy against the buyer. This bill also adds provisions under which a buyer waives a right, benefit, or privilege to the motor vehicle retail installment contract prohibitions.

1998-0754h

Amendment to HB 1320

Proposed by the Committee on Education

Amend RSA 186-C:3-b, II (q) as inserted by section 1 of the bill by replacing it with the following:

(q) Parents of children/students with disabilities, appointed by the governor. A simple majority of the members of the committee shall be individuals with disabilities or parents of children/students with disabilities.

Amend RSA 186-C:3-b, IV as inserted by section 1 of the bill by inserting after subparagraph (d) the following:

(e) Advise the department of education in developing corrective action plans to address findings identified in federal monitoring reports.

(f) Advise the department of education in developing and implementing policies relating to the coordination of services for children/students with disabilities.

1998-0832h

Amendment to HB 1326-FN

Proposed by the Committee on Finance

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Hiring Delay; Quarterly Report by Administrative Services; Governor Added. Amend 1997, 351:45, IV to read as follows:

IV. The commissioner of the department of administrative services shall report quarterly to the ***governor and the*** fiscal committee concerning the savings realized under this section. The first report shall be submitted on or before November 1, 1997.

AMENDED ANALYSIS

This bill requires a department requesting an exemption to the hiring delay to seek approval from the governor as well as the legislative fiscal committee. Current law only requires approval of the legislative fiscal committee. This bill also requires that the commissioner of administrative services' quarterly report concerning savings realized by the hiring delay be submitted to the governor in addition to the fiscal committee.

1998-0583h

Amendment to HB 1341

Proposed by the Majority of the Committee on Resources, Recreation and Development

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Excavating and Dredging Permit; Exemptions; Temporary Seasonal Docks. Amend RSA 482-A:3 by inserting after paragraph IV the following new paragraph:

IV-a. Temporary seasonal docks constructed on any lake or pond shall be exempt from the permitting requirements of this section. To qualify for this exemption, temporary seasonal docks must:

- (a) Have a length of less than 50 feet;
- (b) Have a total surface area of less than 200 square feet;
- (c) Be removed from the water for at least 5 months of every calendar year;
- (d) Have a width of 8 feet or less;
- (e) Not obstruct navigation;
- (f) Be the only structure on the frontage;
- (g) Be on at least 60 feet of frontage owned by the owner of the dock;
- (h) Be at least 20 feet from any property line or the imaginary extension of any property line into the water;

(i) Not impact wetlands along or adjacent to the shoreline.

1998-0725h

Amendment to HB 1346

Proposed by the Committee on Environment and Agriculture

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

AN ACT relative to certain definitions under the solid waste management act.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Definition Added; Incineration. Amend RSA 149-M:4 by inserting after paragraph X the following new paragraph:

XI. "Incinerator" means a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

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

AMENDED ANALYSIS

This bill removes incineration from the definition of disposal under RSA 149-M, the solid waste management act and adds a definition of incinerator.

This bill is a request of the department of environmental services.

1998-0742h

Amendment to HB 1361

Proposed by the Committee on Executive Departments and Administration

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

1 New Subparagraphs; Civil Penalties; Retired Status. Amend RSA 310-A:6, I(p) to read as follows:

(p) Waiver of renewal fees for professional engineers 70 years of age or older under RSA 310-A:21[-];

(q) Procedural and substantive requirements for assessing, compromising, and collecting civil penalties against licensees as authorized by RSA 310-A:23, V(f);

(r) The requirements for retired status.

2 Subpoena Authority for Disciplinary Actions. RSA 310-A:23, II is repealed and reenacted to read as follows:

II(a). The board shall have the power to administer oaths or affirmations, preserve testimony, subpoena witnesses, and to compel, by subpoena duces tecum, the production of all books, records, files and documents, whether originals, copies, or in electronic or other form, and other materials, relevant to its investigation of any grievance, complaint, or disciplinary proceeding before the board.

(b) The board may issue subpoenas with the approval of the office of the attorney general.

(c) A minimum of 10 business days' notice shall be given for compliance with a subpoena under this chapter.

3 Disciplinary Action; Civil Penalties. RSA 310-A:23, V is repealed and reenacted to read as follows:

V. The board, upon making an affirmative finding under RSA 310-A:22, II, may take disciplinary action in any one or more of the following ways:

(a) By written reprimand.

(b) By suspension, refusal to renew, limitation or restriction of a license, or probation for a period of time determined to be reasonable by the board.

(c) By revocation of a license.

(d) By requiring the person to participate in a program of continuing education in the area or areas in which the person has been found deficient.

(e) By requiring the person to practice under the direct supervision of a licensed professional engineer for a period of time specified by the board.

(f) By assessing civil penalties in amounts established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$200 for each day the violation continues, whichever is greater.

4 Effective Date. This act shall take effect July 1, 1998.

AMENDED ANALYSIS

This bill adds new rulemaking authority to the board of professional engineers concerning assessing civil penalties and the requirements of retired status. The bill also expands the board's subpoena authority and grants new disciplinary authority to the board over licensees.

1998-0702h

Amendment to HB 1369

Proposed by the Committee on Education

Amend the introductory paragraph of RSA 187-A:13 as inserted by section 1 of the bill by replacing it with the following:

The general government of the university system and its constituent divisions and institutions shall be vested in a single board of ~~[25]~~ **26** trustees composed as follows and in accordance with the following conditions:

Amend RSA 187-A:13, III as inserted by section 2 of the bill by replacing it with the following:

III. ~~[One member shall be a student enrolled at the university of New Hampshire, Keene state college or Plymouth state college. The office of student trustee shall be rotated among the 3 schools in the order in which they are listed.]~~ ***Two members shall be students enrolled at institutions within the university system of New Hampshire as follows: one from the university of New Hampshire and one member chosen on a rotating basis from Keene state college and Plymouth state college, in the order in which they are listed.*** The student ~~[trustee]~~ **trustees** shall be elected by the student body at ~~[the]~~ **each** school responsible for providing the student ~~[trustee]~~ **trustees**. Said ~~[school]~~ **schools** shall provide for the election of the student ~~[trustee]~~ **trustees** in March of the year for which the student ~~[trustee]~~ **trustees** shall be elected. The ~~[student trustee's term]~~ **term of the student trustees** shall be for one year commencing ~~[June]~~ **July** 1 of the year for which the student was elected and ending ~~[May 31]~~ **June 30** of the next year. ***Student trustees shall be expected to serve the full duration of their elected term.*** In the event that a student trustee ceases for any reason to attend the school from which the student was elected, the chancellor of the university system shall declare a vacancy in ~~[the]~~ **that** student trustee position, and the ~~[next school in order]~~ **school causing the vacancy, or, in the case of the rotating member vacancy, the next school in order,** shall elect ~~[the]~~ **a replacement** student trustee who shall serve for the remainder of the predecessor's term and an additional one-year term, immediately following thereafter. ***Graduation of a student trustee shall not constitute a vacancy under this paragraph.***

AMENDED ANALYSIS

This bill revises the student membership on the university system of New Hampshire board of trustees from one rotating member to one permanent member from the university of New Hampshire, and one member chosen on a rotating basis from Keene state college and Plymouth state college.

1998-0861h

Amendment to HB 1371

Proposed by the Committee on Judiciary and Family Law

Amend the bill by replacing section 5 with the following:

5 Effective Date.

I. Section 2 of this act shall take effect October 1, 1998 at 12:01 a.m.

II. The remainder of this act shall take effect January 1, 1999.

1998-0899h

Amendment to HB 1384-FN-A

Proposed by the Committee on Finance

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

AN ACT making an appropriation for use by the New Hampshire Commission on the Smithsonian Festival of American Folklife.

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

1 Appropriation; New Hampshire Commission on the Smithsonian Festival of American Folklife. The sum of \$200,000 for the fiscal year ending June 30, 1999 is appropriated to the New Hampshire commission on the Smithsonian Festival of American Folklife for the purpose of funding the participation of the state in the Smithsonian Festival of American Folklife to be held on the National Mall in Washington DC in 1999 and featuring the state of New Hampshire.

2 Source of Funds for Appropriation. Notwithstanding any other provision of law, the appropriation made in section 1 of this act shall be funded from the general fund appropriation made to the department of resources and economic development for travel and tourism development in PAU 03, 03, 02, 03, class lines 90, 93, or 94, or any combination of these class lines within said PAU.

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

AMENDED ANALYSIS

This bill makes an appropriation for use by the New Hampshire Commission on the Smithsonian Festival of American Folklife.

1998-0906h

Amendment to HB 1399-FN

Proposed by the Committee on Finance

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

1 New Section; General Fund Accounts; Higher Education. Amend RSA 9 by inserting after section 4-d the following new section:

9:4-e General Fund Income Accounts for Higher Education. Beginning with fiscal year 2000, for the higher education fund (06-06) the state operating budget shall show only the class 90 general fund income accounts. Nothing in this section shall prevent a legislative or executive request for detailed budgets of the institutions included in higher education.

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

AMENDED ANALYSIS

This bill provides for the elimination of all but class 90 accounts in the higher education portions of the budget.

1998-0911h

Amendment to HB 1400-FN

Proposed by the Committee on Finance

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

AN ACT relative to the powers and duties of the commissioner of health and human services and relative to out-of-state trips by state officials or employees.

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

1 Statement of Intent. In 1995, the general court granted broad powers to the commissioner of health and human services to reorganize the department and institute budgetary efficiencies while maintaining citizen services. The general court recognizes that the increased authority has largely served its purpose with respect to reorganization. It is the intent of the general court to restore comparability in powers among state agencies and reestablish the traditional system of checks and balances among the branches of government.

2 Out-of-State Trips. Amend RSA 9:25 to read as follows:

9:25 Out-of-State Trips. Expenses for ~~[out-of-the-state]~~ **out-of-state** trips by **4 or more** state officials or employees shall not be a charge against the state, unless advance authorization for such trips has been procured from the governor and council.

3 Transfer Authority. Amend RSA 126-A:1(a) to read as follows:

(a) Make such transfer among any and all accounts and program appropriation units of the department as the commissioner shall deem necessary and appropriate to effect a reorganization of the department, address present or projected budget deficits, or respond to changes in federal laws, regulations or programs and otherwise as necessary for the efficient management of the department. ~~[At least 10 days prior to executing such transfer, the commissioner shall notify the legislative fiscal committee of such transfer and of the impact of such transfer on programs and services of the department. Within 10 days of the commissioner's notification to the legislative fiscal committee, the committee shall determine whether the transfer will eliminate or substantially reduce a departmental program or service. If the committee determines that the transfer eliminates or substantially reduces a departmental program or service, the committee shall inform the commissioner of its determination before the 10-day period lapses, and the commissioner shall not execute the transfer without obtaining the approval of the legislative fiscal committee and the governor. If the legislative fiscal committee makes a determination that the transfer does not eliminate or substantially reduce a departmental program or service, the committee shall notify the commissioner that the commissioner may execute the transfer. If the legislative fiscal committee does not make a determination on the transfer within the 10-day period, the commissioner may execute the transfer without the approval of the legislative fiscal committee and the governor.]~~ ***The commissioner shall not execute a transfer without obtaining the approval of the legislative fiscal committee and the governor and council.***

4 New Paragraph; Quarterly Reports on Grants Required. Amend RSA 126-A:5 by inserting after paragraph II the following new paragraph:

II-a. The commissioner shall produce a quarterly report, starting with the quarter ending September 30, 1998, which shall list the quarterly and fiscal year-to-date expenditures and payables for each of the separate class 90 grant accounts administered by the department exceeding \$1,000,000 for the fiscal year. The report shall be on an accrual basis. Payables shall be aged in standard 30-day increments and aging of payables shall start with the date the bill is received by the department without regard to whether the bill is subsequently adjusted. The report shall be submitted to the legislative budget assistant, the house and senate finance committees, the house speaker, senate president, and the governor.

5 Repeal. RSA 126-A:1(a), relative to the commissioner's transfer authority is repealed.

6 Repeals. The following are repealed:

I. RSA 9:26, relative to an exception to out-of-state trips.

II. RSA 126-A:16, III relative to departmental rules.

III. RSA 99:9, IV, relative to bumping privileges.

IV. 1995, 310:3, I, relative to the prospective repeal on December 31, 1998, of the commissioner's transfer authority.

7 Effective Date.

I. Section 5 of this act shall take effect June 30, 1999.

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

AMENDED ANALYSIS

This bill makes certain changes in the powers and duties of the commissioner of the department of health and human services. Specifically, this bill:

(1) Amends the provision of law authorizing broad transfer authority within program appropriation units.

(2) Repeals certain aspects of the commissioner's rulemaking authority.

(3) Repeals the provision of law limiting bumping privileges.

This bill requires out-of-state trips by 4 or more state officials or employees to be approved by the governor and council.

This bill also requires the commissioner of health and human services to produce certain quarterly reports.

1998-0800h

Amendment to HB 1408

Proposed by the Committee on Judiciary and Family Law

Amend the bill by replacing section 1 with the following:

1 New Section; Criminal Records and Central Registry Check of Child Day Care Providers Exempt From Licensing. Amend RSA 170-E by inserting after section 3 the following new section:

170-E:3-a Criminal Records and Central Registry Check of Child Day Care Providers Exempt From Licensing. Any child day care providers exempt from licensing under RSA 170-E:3 which receive state funds or subsidies in payment for the provision of child day care shall, as a condition of receiving state funds or subsidies, provide their names, birth names, birth dates and addresses, and the same information for any individual residing in the child day care provider's household who may be responsible for the care of, or is in regular contact with children, to the department prior to the receipt of state funds or subsidies on or before July 1, 1999, and every 3 years thereafter. The department shall conduct criminal records and central registry checks on these names in accordance with the provisions of RSA 170-E:7.

Amend RSA 170-E:7, I as inserted by section 2 of the bill by replacing it with the following:

I. Licensed child day care agencies ***and child day care providers exempt from licensing under RSA 170-E:4 but which receive state funds or subsidies in payment for the provision of child day care*** shall, within 30 days of adding new staff members responsible for care of or in regular contact with children, submit the names, birth names, birth dates, and addresses of such staff members to the department.

1998-0831h

Amendment to HB 1411

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 the feasibility of creating a nonprofit, public corporation to facilitate the availability of affordable health insurance for the uninsured and underinsured by organizing large purchasing groups of subsidized and non-subsidized subscribers and establishing the individual health insurance market mandatory risk sharing plan.

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

6 New Chapter; Individual Health Insurance Market Mandatory Risk Sharing Plan. Amend RSA by inserting after chapter

404-F the following new chapter.

CHAPTER 404-G
INDIVIDUAL HEALTH INSURANCE MARKET
MANDATORY RISK SHARING PLAN

404-G:1 Purpose of Provisions.

I. The purpose of this chapter is to protect the citizens of this state who participate in the individual health insurance market by providing a mechanism to equitably distribute the excessive risk associated with this market.

II. To provide this protection, an association of insurers is created to operate a mechanism for risk adjustment and subsidization whereby the risk of catastrophic claims experienced by writers of health insurance for individual policyholders is offset to a predetermined extent by a financial subsidy furnished by licensed writers of all health insurance on a proportional basis.

404-G:2 Definitions. In this chapter:

I. "Actively marketing" means currently accepting applications for insurance.

II. "Assessment" means the liability of the member insurer to the association.

III. "Association" means the entity created by this chapter.

IV. "Catastrophic claim" means an insurance liability that exceeds a certain amount.

V. "Commissioner" means the commissioner of insurance.

VI. "Covered lives" shall include all New Hampshire lives for which a carrier provides health insurance coverage. New Hampshire covered lives include those for which an individual policy or a group certificate, evidentiary of health insurance coverage, has been issued in New Hampshire. For group excess loss insurance, or other types of group health insurance for which no certificates are issued, covered lives shall mean those New Hampshire employees and their dependents who are protected, in part, by a policy, issued in New Hampshire, and purchased by a group health insurance plan subject to the Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA).

VII. "Group health insurance" means health insurance coverage other than individual health insurance coverage.

VIII. "Health insurance" means health insurance coverages issued in accordance with RSA 415, 420-A and 420-B. For the purposes of this chapter, health insurance shall not include accident only, credit, dental, vision, Medicare supplement, Medicare Risk, Managed Medicaid, long term care, disability income, coverage issued as a supplement to a liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, policies or certificates of specified disease, hospital confinement indemnity, limited benefit health insurance or short term, nonrenewable individual health insurance, coverage provided through the New Hampshire healthy kids association, coverage provided through the Federal Employees' Program. Non-profit health service corporations shall exclude coverage provided through national account policies originating outside of New Hampshire to the extent the non-profit health service corporation assumes no risk for the provision of such insurance. Health insurance does include group excess loss insurance.

IX. "Individual health insurance" means health insurance sold directly to an individual and not on a group remittance basis. Individual health insurance shall include franchise health insurance.

X. "Insurer" means any entity licensed pursuant to RSA 402, RSA 420-A, or RSA 420-B.

XI. "Order" means the insurance department findings and final order dated November 26, 1997, in the matter of the individual health insurance market in New Hampshire pursuant to RSA 404-C.

XII. "Writing" means engaged in the business of insurance.

XIII. "Writer" means a writing carrier.

404-G:3 Board of Directors.

- I. The board of directors of the association shall consist of 5 member insurers who are representative of categories of members of the association and the commissioner who shall be an ex-officio member.
- II. Two directors shall be representative of and elected by qualified writers of group health insurance; 3 directors shall be representative of and elected by qualified writers of individual health insurance.
- III. To be qualified to vote for the election of directors, a member must provide coverage for at least 500 covered lives or 5 percent of the total covered lives in either New Hampshire's individual health insurance market or New Hampshire's group health insurance market.
- IV. Members of the board of directors shall be elected to terms of one year.
- V. The initial board of directors shall be the same as that set forth in the order.
- VI. The board of directors shall take action by affirmative vote of 4 directors.
- VII. The board shall elect officers in accordance with the bylaws of the association. The bylaws of the association shall also govern the place and frequency of meetings of directors and their reimbursement for expenses incurred.

404-G:4 Association's Powers and Duties.

- I. The association shall be a not-for-profit, voluntary corporation under RSA 292 and shall possess all general powers as such and additional powers that are approved by the commissioner.
- II. The association shall:
 - (a) Prepare a plan of operation for approval by the commissioner;
 - (b) Conduct activities in accordance with the plan of operation as approved;
 - (c) Determine and collect assessments and to disburse subsidy payments, as provided in the plan of operation;
 - (d) Enter into contracts as necessary or proper to administer the plan of operation;
 - (e) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessments for, on behalf of, or against members of the association or other participating persons;
 - (f) Appoint from among members appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent legal consultants as necessary; and
 - (g) Perform any other functions within the authority of the association, as may be necessary or proper in carrying out the plan of operation.

404-G:5 Plan of Operation. The board of directors of the association shall prepare, adopt and submit to the commissioner a plan of operation which shall provide substantially the following:

- I. Description of risks to be shared. Sharing shall be implemented through a risk adjustment and subsidization mechanism whereby writers in the group market will subsidize losses of writers in the individual market, but only to the predetermined extent to which individual writers incur a disproportionate number of catastrophic claims based on an appropriate standard. The mechanism shall include parameters which will limit its costs and ensure proper claims management by the nongroup writers. Only those individual health insurance writers that are currently actively marketing individual health insurance, in accordance with the provisions of RSA 420-G, shall be eligible for a subsidy. The plan of operation shall include the basis by which catastrophic claims shall be determined and the standard to be used in evaluating whether the number of catastrophic claims incurred by the individual writers was excessive.
- II. Subsidy determination. Subsidies shall be determined on a calendar year basis. Subsidy calculations in a given calendar year shall be based on the experience of the prior year. Only those individual writers who are actively marketing individual health insurance, in accordance with the provisions of RSA 420-G, during the calendar year in which the subsidy calculation is made shall be eligible for a subsidy. The subsidy calculation shall be based on the risk characteristics of the eligible individual health insurance writers. The plan of operation shall include how the individual health writers' risk characteristics will be used in the subsidy determination. The use of risk characteristics in the subsidy calculation shall not violate the provisions of RSA 420-G.

III. Assessment determination.

(a) Assessment liabilities shall commence July 1, 1999.

(b) Assessments shall be calculated based on the number of covered lives. The number of covered lives shall be determined each month during the calendar year. The assessment shall be calculated as the number of covered lives times a specified amount. The specified amount shall be fixed throughout the calendar year and shall be determined by the board no later than the first day of November preceding the calendar year for which the amount is to be used. The amount shall be approved by the commissioner. The board shall provide a basis for recommending the specified amount, including a projection of the calculated subsidy and consideration of any prior year shortfalls or coverages. For the calendar year 1999, the specified amount shall be 18 cents per covered life per month.

(c) Each covered life should be included in the assessment only once. The board shall adopt procedures by which affiliated carriers calculate their assessment on an aggregate basis with procedures to ensure that no covered life is counted more than once.

IV. Administrative matters. The plan of operation shall further provide for all of the following:

(a) Responsibility for the handling and accounting of funds and other assets of the association.

(b) The financial and other records required to be kept, including the annual report to be submitted to the commissioner.

(c) Such other administrative provisions as are necessary or proper for the execution of the powers and duties of the association.

404-G:6 Commissioner's Powers and Duties. In addition to duties and powers enumerated elsewhere in this chapter:

I. The commissioner shall upon request of the board of directors, serve a demand upon the member insurer to make good an assessment within a reasonable time; the failure of the member insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this chapter.

II. The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed 5 percent of the unpaid assessment per month, but no forfeiture shall be less than \$100 per month.

III. Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if the appeal is taken within 30 days of the final action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the association and available to meet association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Any final action or order of the commissioner shall be subject to judicial review pursuant to RSA 541.

IV. The commissioner may adopt rules as necessary to carry out the purposes of this chapter.

V. The powers of the commissioner enumerated in this chapter shall be in addition to those established under RSA 404-C.

VI. The commissioner may at any time prescribe provisions of the plan of operation, including, but not limited to, those requiring insurers to enter the individual health insurance market, as well as those varying any provisions of RSA 420-G as necessary to maintain an individual health insurance market in this state.

404-G:7 Examination and Annual Report. The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner each year, not later than 120 days after the association's fiscal year, a financial report in a form approved by the commissioner and a report of its activities during the preceding fiscal year. The association's fiscal year shall be the calendar year.

404-G:8 Tax Exemption. The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

404-G:9 Immunity for Members and Employees. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or the commissioner's representatives, for any action or omission by them in the performance of their powers and duties under this chapter.

404-G:10 Severability. If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

7 Effective Date.

- I. Section 6 of this act shall take effect January 1, 1999.
- II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the feasibility of creating a nonprofit, public corporation to facilitate the availability of affordable health insurance for the uninsured and underinsured by organizing large purchasing groups of subsidized and non-subsidized subscribers.

This bill also establishes the individual health insurance market mandatory risk sharing plan which provides a mechanism to distribute the risks associated with such market.

1998-0904h

Amendment to HB 1414

Proposed by the Majority of the Committee on Education

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

189:14-b Review by State Board.

I. A teacher aggrieved by such decision may request the state board of education for review thereof. Such request for review by the state board of education shall be the exclusive remedy available to a teacher on the matter of the failure of such teacher to be renominated or reelected. Such request must be in writing and filed with the state board within 10 days after the issuance 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 days after the request for review is filed, and the decision of the state board shall be final and binding upon both parties.

II. The review by the state board of education shall be limited to:

- (a) Determining if the school district has provided adequate notice and hearing regarding its decision not to renew the teacher's contract; and*
- (b) Determining if the school district's findings of fact are clearly erroneous, or that the reasons given for the decision not to reelect or renominate the teacher are arbitrary, capricious, or contrary to law. For the purposes of this paragraph, "arbitrary" or "capricious" means a willful and unreasonable action unsupported by or in disregard of relevant facts and evidence.*

1998-0277h

Amendment to HB 1423-FN

Proposed by the Committee on Labor, Industrial and Rehabilitative Services

Amend the bill by replacing section 1 with the following:

1 Unemployment Compensation; Definition of Employment. Amend RSA 282-A:9, IV(l) to read as follows:

(l) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; *or service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by the individual at a fixed price, his or her compensation being*

based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

1998-0769h

Amendment to HB 1428

Proposed by the Committee on Education

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

AN ACT establishing requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach to a broad range of students including exceptional learners.

Amend RSA 21-N:9, II (z) as inserted by section 1 of the bill by replacing it with the following:

(z) Establishing requirements for teachers and teacher preparation programs to ensure that all teachers are prepared to teach to a broad range of students’ needs, including, but not limited to, the needs of exceptional learners, using a variety of methods, materials, and instructional techniques.

Amend RSA 186:8, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Establishing requirements for teachers and teacher preparation programs to ensure that all teachers are prepared to teach to a broad range of students’ needs, including, but not limited to, the needs of exceptional learners.

AMENDED ANALYSIS

This bill would grant rulemaking authority to the state board of education to establish requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach a broad range of students including exceptional learners.

1998-0618h

Amendment to HB 1429

Proposed by the Committee on Education

Amend RSA 21-N:9, II (s) as inserted by section 1 of the bill by replacing it with the following:

(s) Certification standards for educational personnel, including teachers, paraprofessionals, superintendents, assistant superintendents, ~~[teacher consultants,]~~ **special education administrators**, business administrators, principals, vocational directors, ~~[administrative associates,]~~ coordinators of comprehensive health education and services, directors of pupil personnel services, guidance directors, guidance counselors, school psychologists, associate school psychologists, ~~[school physicians, school dentists, emergency medical care providers, dental hygienists,]~~ speech-language specialists, social workers, health educators, physical education teachers, home economics teachers, elementary teachers, ~~[school nurses,]~~ specialists in assessment of intellectual functioning, media supervisors, **and** media generalists ~~[and media educational associates,]~~ as authorized by RSA 186:8 and RSA 186:11, X.

AMENDED ANALYSIS

This bill redefines the rulemaking authority of the state board of education by excluding certain education and education-related professions and including special education administrators.

1998-0875h

Amendment to HB 1435-LOCAL

Proposed by the Committee on Municipal and County Government

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

AN ACT relative to board of tax and land appeals jurisdiction over town line disputes, relative to time limits for abatement and

appeal of a land use change tax, relative to the vote required for a legislative body of a municipality to accept a street, and relative to allowing municipalities to except islands from certain requirements concerning streets.

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

1 Disputed Town Line; Certain Board of Tax and Land Appeals Added. Amend RSA 51:7 to read as follows:

51:7 Disagreement.

I. When the selectmen of adjoining towns shall disagree in renewing and establishing the lines and bounds of such towns, the superior court for the county in which the town first incorporated or paying the highest tax as aforesaid is situate, upon petition and after notice to the other towns interested, shall, either examine said disputed lines or appoint a committee for that purpose, and the court's decision thereon shall be final; and the court may order either or both towns to pay the costs, as deemed just.

II. For a dispute as to the actual location of a town line arising in a matter on appeal before the board of tax and land appeals pursuant to RSA 76:16-a, the board of tax and land appeals shall have concurrent jurisdiction with the superior court and shall have the authority granted the superior court in paragraph I.

2 Failure to File Inventory; References Added. Amend RSA 74:7-a, I to read as follows:

I. Any person who fails to file a fully completed inventory form on or before April 15, unless granted an extension under RSA 74:8, shall pay a penalty of one percent of the property tax for which the person is liable. In no case, however, shall the penalty be less than \$10 or more than \$50. Any person who fails to file an inventory form and who becomes liable to pay the penalty specified in this section shall lose the right to appeal the denial of an abatement ~~[which is claimed on the grounds of improper assessment valuation]~~ **of an assessment under RSA 75:1**, but shall not lose the right to apply for, or appeal the denial of, any other type of tax relief **including an appeal under RSA 72:34, an assessment under RSA 75:10, and a land use change tax under RSA 79-A:7**. This penalty has all the force of taxation and shall be treated as incident to the tax.

3 Extensions of Applications; Reference Removed. Amend the introductory paragraph of RSA 76:16-d, II to read as follows:

II. In towns with dates of notice of tax, as defined in RSA 72:1-d and RSA 76:1-a, after December 31, the uniform deadlines in exemption, deferral, and taxation applications, replies and appeals statutes, including RSA 72:33, 34, 34-a, 38-a[,] **and** RSA 76:16, 16-a, **and** 17~~[, and RSA 79-A:10;]~~ shall be as follows:

4 Abatement of Land Use Change Tax. RSA 79-A:10 is repealed and reenacted to read as follows:

79-A:10 Abatement of Land Use Change Tax.

I. Any person aggrieved by the assessment of a land use change tax may, within 2 months of the notice of tax date and not afterwards, apply in writing to the selectmen or assessors for an abatement of the land use change tax.

II. Upon receipt of an application under paragraph I, the selectmen or assessors shall review the application and shall grant or deny the application in writing within 6 months after the notice of tax date.

III.(a) If the selectmen or assessors neglect or refuse to abate the land use change tax, any person aggrieved may either:

(1) Apply in writing to the board of tax and land appeals accompanied with a \$65 filing fee; or

(2) Petition the superior court in the county.

(b) The appeal to either the board of tax and land appeals or superior court shall be filed within 8 months of the notice of tax date and not afterwards.

IV. For purposes of this section, "notice of tax date" means the date the taxing jurisdiction mails the land use change tax bill.

V. Each land use change tax bill shall require a separate abatement request and appeal.

5 Acceptance of Streets; Vote of Those Present and Voting. Amend RSA 674:40, III(a) and (b) to read as follows:

(a) If approved by the board, be approved by a majority vote of ~~[the entire membership]~~ **those present and voting at a regular or special meeting** of the local legislative body; or

(b) If disapproved by the planning board, be approved by not less than 2/3 of ~~[the entire membership of the local legislative body in the case of a city or of a county in which there are located unincorporated towns or unorganized places, or by majority vote of the legal voters present and voting at a regular or special town or district meeting in the case of a town or district]~~ ***those present and voting at a regular or special meeting of the local legislative body.***

6 New Paragraph; Building Permits; Streets on Islands. Amend RSA 674:41 by inserting after paragraph II the following new paragraph:

II-a. Municipalities may except island lots for islands served exclusively by boats from the requirements of paragraphs I and II by an affirmative vote of the local legislative body, first submitted to the planning board for its approval and:

- (a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or
- (b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.

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

AMENDED ANALYSIS

- This bill :
- I. Allows the board of tax and land appeals to decide disputes as to the location of town lines in an appeal concerning abatement of taxes.
 - II. Clarifies the time limits for abatement and appeal of a land use change tax.
 - III. Changes the vote required by a legislative body to accept a street.
 - IV. Allows municipalities to except islands from certain requirements concerning streets.

1998-0838h

Amendment to HB 1438

Proposed by the Committee on Executive Departments and Administration

Amend the bill by replacing section 3 with the following:

3 Duties.

- I. The committee shall examine the implications of implementing occupational regulation of personnel employed in early childhood programs, including directors, teachers, teacher assistants, and child care workers. Other duties shall include, but not be limited to, review and documentation of the effects of occupational regulation on the health, safety, and quality of care and education of young children; the position of the National Association for the Educators of Young Children (NAEYC) with regard to occupational regulation in early childhood education; and preparation of a report of the studies of occupational regulation and certification in early childhood education in other states with special attention to possible agreements of reciprocity.
- II. The committee shall consult with the following individuals and groups to obtain additional information:
 - (a) The commissioner of the department of education, or designee.
 - (b) The commissioner of the department of health and human services, or designee.
 - (c) The president of the New Hampshire Association for the Education of Young Children.
 - (d) The president of the New Hampshire Child Care Association, or designee.
 - (e) The president of the New Hampshire Child Care Directors Association, or designee.
 - (f) The president of the New Hampshire Family Child Care Association, or designee.

- (g) A faculty member from an institution of higher education who teaches early childhood education.
- (h) Individual parents as the committee deems necessary.
- (i) Members of the New Hampshire Child Care Advisory Committee as established by RSA 126-A:17.

1998-0783h

Amendment to HB 1448

Proposed by the Committee on Criminal Justice and Public Safety

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

1 Definitions; Confidential Communications. Amend RSA 173-C:1, I to read as follows:

I. "Confidential communication" means information transmitted between a victim, as defined in paragraph VI, of an alleged sexual assault ~~[or]~~, alleged domestic abuse, ***alleged sexual harassment, or alleged stalking***, and a sexual assault or domestic violence counselor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the hearing impaired, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the sexual assault or domestic violence counselor in the course of that relationship.

2 Definitions; Victim. Amend RSA 173-C:1, VI to read as follows:

VI. "Victim" means any person alleging sexual assault under RSA 632-A ~~[or]~~, domestic abuse as defined in RSA 173-B:1, ***stalking under RSA 633:3-a, or sexual harassment as defined under state or federal law***, who consults a sexual assault counselor ~~[or]~~, a domestic violence counselor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual assault or domestic abuse, ***stalking, or sexual harassment***, or an alleged attempted sexual assault ~~[or]~~ domestic abuse.

3 Exceptions to Counselor's Duty to Report Child Abuse. RSA 173-C:10 is repealed and reenacted to read as follows:

173-C:10 Counselor's Duty to Report Child Abuse. The domestic violence or sexual assault counselor shall have the same reporting duties under RSA 169-C:29 as other professionals, provided that, notwithstanding RSA 169-C:32, this duty shall not apply where a minor is 14 years of age or older, and is alleging abuse as defined by RSA 173-B:1, sexual assault as defined by RSA 632-A, stalking as defined by 633:3-a, or sexual harassment as defined by state or federal law, and the alleged perpetrator is not related to the minor by consanguinity or affinity, ***and does not reside either permanently or temporarily with the minor. Nothing in this section shall be construed to alter, modify, or relieve a domestic violence or sexual assault counselor's duty to report child abuse under circumstances where such counselor has reason to believe a minor aged 14 or older is or may be in imminent danger of physical harm.***

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

AMENDED ANALYSIS

This bill exempts, under certain circumstances, domestic violence and sexual assault counselors from the reporting requirements found in current law, and expands the definitions of "confidential communication" and "victim" to include instances of alleged stalking or sexual harassment.

1998-0836h

Amendment to HB 1455

Proposed by the Committee on Executive Departments and Administration

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

1 Administrative Rules; Publishing. Amend RSA 541-A:15, I to read as follows:

I. The director of legislative services shall compile, index, and publish, or require agencies to publish all effective rules adopted

by each agency. *The text of an adopted rule as filed with the director and which is effective shall be the official version of the rule, unless or until a version prepared for publication, which may have editorial changes not affecting the substance of the rule, is certified by the agency as the same in substance as originally filed. The certified version shall be the official version. The official version of the rule shall be available to the public by the agency and the director pursuant to RSA 541-A:14, IV.*

I-a. The agency shall certify the rule under paragraph I within 120 days of the effective date of the rule. The 120-day deadline shall not apply to interim or emergency rules. A copy of each rule as filed and each as certified shall be sent by the director to the state library and the New Hampshire law library at the supreme court.

I-b. Compilations shall be supplemented, revised, or published as often as necessary. The compilation, indexing, or publishing of fiscal impact statements shall not be required. The director of legislative services, in consultation with state agencies, may enter into a contract for the preparation and publishing of the compilation of agency rules or any portion of it, or may certify a commercially prepared version of the compilation. Any version or portion of the code published under this section shall conform to all requirements of this chapter.

2 Applicability. The provisions of RSA 541-A:15 as amended by section 1 of this act shall apply to rules filed and effective after the effective date of this act.

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

AMENDED ANALYSIS

This bill requires agencies to certify the official version of a rule within 120 days of becoming effective, and requires certified copies of such rules to be sent to the state library, and the state supreme court law library.

1998-0790h

Amendment to HB 1456

Proposed by the Committee on Finance

Amend RSA 9:8-a, II as inserted by section 4 of the bill by replacing it with the following:

II. Performance budgeted agencies and programs shall be exempt from the requirements in paragraph I. The budget of a performance budget agency or program shall be presented as one line item for each program objective. In this section, performance budget agency and program means an agency, PAU, or program specified in the budget for the subsequent biennium on the basis of identified goals, objectives, and verifiable outcome measures.

Amend the bill by replacing all after section 6 with the following:

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

AMENDED ANALYSIS

This bill changes the budget process to require that the budget be available in printed and electronic format, clarifies proposed maintenance expenditures, and the budget process for performance based budget agencies and programs.

1998-0840h

Amendment to HB 1459

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 specificity of administrative rules and the identification of state and federal law in the rulemaking process.

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

1 New Section; Specificity of Rules; Identification of State or Federal Law. Amend RSA 541-A by inserting after section 3 the

following new section:

541-A:3-a Specificity of Rules; Identification of State or Federal Law. If an agency proposes a rule pursuant to RSA 541-A:3 or 541-A:19, the agency shall identify in the notice required pursuant to RSA 541-A:6 and 541-A:19, II, and in the rule, the specific section or sections of state or federal statute or regulation which the rule is intended to implement. The notice shall be in such form as the director of legislative services shall prescribe until otherwise provided by the drafting and procedure manual adopted pursuant to RSA 541-A:8. The identification in the rule shall be made in the manner specified in the drafting and procedure manual. General references to the name or title of a state or federal statute or regulation shall not suffice for the purposes of this section. To the extent that specific provisions of the proposed rule are designed to implement different sections or provisions of state or federal statutes or regulations, the agency shall reference the state or federal statute or regulation with the provision of the proposed rule that is intended to implement that statute or regulation.

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

1998-0798h

Amendment to HB 1469-LOCAL

Proposed by the Committee on Local and Regulated Revenues

Amend the bill by replacing the title with the following:

AN ACT establishing a committee to examine the valuation of public utility property.

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

1 Committee Established. There is hereby established a committee to examine the valuation of public utility property.

2 Membership and Mileage.

I. The committee shall be comprised of the following members:

(a) Two representatives from the committee on science, technology and energy, appointed by the speaker of the house.

(b) Two representatives from the committee on finance, appointed by the speaker of the house.

(c) Two representatives from the committee on local and regulated revenues, appointed by the speaker of the house.

(d) Three senators, appointed by the senate president.

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

III. The first meeting of the committee shall be called by the first-named house member within 45 days after the effective date of this section. At the first meeting, members shall elect a chairperson from among the committee membership. All subsequent meetings shall be at the call of the chairperson. Five members of the committee shall constitute a quorum.

3 Duties. The committee shall examine the valuation of public utility property regulated by the public utilities commission. The committee shall address only those properties which are used in the distribution and transmission of electricity and telecommunications. The committee shall study ways to improve valuation equalization, including, but not limited to, the possible development of separate equalization ratios for such property and any other issues that arise during this study.

4 Report. The committee shall report its findings and any recommendations for legislation to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1998.

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

AMENDED ANALYSIS

This bill establishes a committee to study the valuation of public utility property regulated by the public utilities commission. Specifically, the committee shall examine those properties which are used in the distribution and transmission of electricity and telecommunications.

1998-0853h

Amendment to HB 1496**Proposed by the Committee on Science, Technology and Energy**

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

1 Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Declaration of Purpose. Amend RSA 162-H:1 to read as follows:

162-H:1 Declaration of Purpose.

I. The legislature recognizes that the selection of sites for energy facilities will have a significant impact upon the welfare of the population, the economic growth of the state and the environment of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the possible need for new energy facilities in New Hampshire; that undue delay in construction of any needed facilities be avoided; ~~that operation of the facility be consistent with the state's least cost energy policy;~~ and that the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic and technical issues are resolved in an integrated fashion. The legislature, therefore, hereby establishes a procedure for the review, approval, monitoring and enforcement of compliance in the planning, siting, construction and operation of energy facilities. The legislature also recognizes that it has a broad responsibility to provide both economic and environmental protection for its coastal and estuarine waters and the adjoining land areas. The legislature therefore declares it to be its policy that any offshore facility, other than pipelines, shall be located so as to at least comply with the policies and guidelines of the Federal Environmental Protection Agency; and that this policy may be relaxed only if it is shown by clear and convincing evidence that there are compelling technological or economic reasons for doing so, that no feasible alternative exists, and that there will be no substantial environmental risk.

II. The legislature also finds that the present and predicted growth in electric power demands in the state of New Hampshire requires the development of a procedure for the selection and utilization of sites for electric generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the need for new power sources; ~~that operation of the facility be consistent with the state's least cost energy policy;~~ that electric power supplies must be constructed on a timely basis; that in order to avoid undue delay in construction of needed facilities and to provide full and timely consideration of environmental consequences, all ~~electric~~ entities **planning to construct facilities** in the state should be required to ~~engage in adequate long-range planning and~~ provide full and complete disclosure to the public of such plans; that a certifying body be established for the preconstruction review of ~~bulk power supply facilities~~ **high voltage transmission lines**; that the siting of ~~bulk power plants and~~ **electric generating plants and** high voltage transmission lines should be treated as a significant aspect of land-use planning in which all environmental, economic and technical issues should be resolved in an integrated fashion, so as to assure the state an adequate and reliable supply of electric power in conformance with sound environmental utilization. The legislature, therefore, hereby establishes a procedure for the planning, siting, and construction of ~~bulk power supply facilities~~ **large electric generating facilities and high voltage transmission lines**.

2 Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Definitions; Energy Facility; Certain Electric Generating Station Equipment and Facilities Added. Amend RSA 162-H:2, VII to read as follows:

VII. "Energy facility" means any industrial structure, other than bulk power supply facilities, as defined in paragraph II, that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion and onshore and offshore loading and unloading facilities for energy sources. Energy facility shall also include energy transmission pipelines, storage tanks, or any other facility which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines requires a certificate, consistent with the findings and purposes set forth in RSA 162-H:1. **Energy facility shall include electric generating station equipment and associated facilities only if they are**

designed for, or capable of, operation at a capacity of greater than 30 megawatts.

3 New Paragraph; Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Prohibitions and Restrictions; Energy Facilities After Competition. Amend RSA 162-H:5 by inserting after paragraph III the following new paragraph:

IV. All electric generating facilities of capacity greater than 30 megawatts proposed and to be owned by entities not subject to rate regulation by the commission shall be considered energy facilities, and shall not be considered bulk power supply facilities. After the date when competition has been certified to exist, pursuant to RSA 38:36, in that portion of the state or in more than half of the state as a whole, all proposed electric generating facilities of capacity greater than 30 megawatts shall be considered energy facilities, and shall not be considered bulk power supply facilities. All transmission lines which would otherwise be considered bulk power supply facilities under RSA 162-H:2 and which are necessary to interconnect one electric generating facility or group of energy facilities to the transmission grid shall also be considered energy facilities, and shall not be considered bulk power supply facilities.

4 New Paragraph; Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Bulk Power Facility Plans; Exemption After Competition Added. Amend RSA 162-H:17 by inserting after paragraph II the following new paragraph:

III. Any utility in whose portion of the state competition has been certified to exist pursuant to RSA 38:36 shall be exempt from the requirements of this section with respect to electric generating plants.

5 Office of State Planning; Coordination; Reference Changed. Amend RSA 4-C:6, II(d) to read as follows:

(d) ~~[Bulk power supply facility]~~ Site evaluation committee as established in RSA ~~[162-F:3]~~ **162-H:3**;

6 Fish and Game; Endangered Species Conservation Act; Exemptions and Restrictions; Reference Deleted. Amend RSA 212-A:13, III to read as follows:

III. The provisions of RSA 212-A or any rule promulgated under this chapter shall not interfere in any way with the siting or construction of any bulk power supply facility ~~[as defined in RSA 162-F:2]~~ or any energy facility as defined in RSA 162-H:2.

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

AMENDED ANALYSIS

This bill provides that electric generating facilities of capacity greater than 30 megawatts to be owned by entities not subject to rate regulation shall not be considered bulk power facilities. This bill provides that all proposed electric generating facilities of capacity greater than 30 megawatts and certain transmission lines may no longer be certified as a bulk power supply facility after electric competition is certified to exist. This bill also exempts public utilities from certain reporting requirements relative to bulk power supply facilities after electric competition is certified to exist, and makes technical corrections in certain laws relative to bulk power supply utilities.

1998-0664h

Amendment to HB 1498

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 authorizing emergency medical care providers to inform patients of transport options.

Amend RSA 151-B:10-a as inserted by section 1 of the bill by replacing it with the following:

151-B:10-a Transport Options. Emergency medical care providers licensed under this chapter may, under medical control, inform individuals of transport options which, in the opinion of the provider, are suitable to such individual. This information shall be provided only after the emergency medical care provider has made a physical assessment of the signs and symptoms of the individual within the provider’s level of licensure. All individuals who elect not to be transported or not to be transported by an emergency medical service vehicle shall sign an agreement releasing the emergency medical care provider, hospital, and the medical control physician from liability relating to such transport decision. Nothing in this section shall be construed to require

an individual to choose any particular transport option.

AMENDED ANALYSIS

This bill authorizes licensed emergency medical care providers to inform patients of transport options.

1998-0819h

Amendment to HB 1529

Proposed by the Committee on Commerce

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

AN ACT reinstating the corporate charters of Hampstead Garage, Inc. and Raycor Corporation and establishing a committee to study the process for reinstating a corporate charter.

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

2 Reinstatement of Corporate Charter of Raycor Corporation. The charter of Raycor Corporation, of Salem, New Hampshire, incorporated on February 6, 1996, was forfeited on November 2, 1992, under former RSA 293-A:95, I(a) now codified at RSA 293-A:14.21. Upon payment of any fees in arrears, a reinstatement fee of \$135 under RSA 293-A:1.22(a)(7), the filing of any annual reports required by law, the filing of an affidavit with the secretary of state stating that there are no lawsuits pending against the corporation, and obtaining a certificate of good standing from the department of revenue administration, Raycor Corporation shall be reinstated for all purposes as a New Hampshire corporation. This reinstatement shall be retroactive to November 2, 1992.

3 Committee Established. There is established a committee to study the process for reinstating a corporate charter after revocation.

4 Membership and Compensation.

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

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

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

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

5 Duties. The committee shall study the current process for reinstating a corporate charter after revocation by the secretary of state.

6 Chairperson; Quorum. The first meeting of the committee shall be called by the first-named house member. At the first meeting, the members of the committee shall elect a chairperson from among the members. All subsequent meetings shall be at the call of the chairperson. Four members of the committee shall constitute a quorum.

7 Report. The committee shall submit a report of its findings, including any recommendations for legislation, to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1998.

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

AMENDED ANALYSIS

This bill reinstates the corporate charters of Hampstead Garage, Inc. and Raycor Corporation.

The bill also establishes a committee to study the corporate charter reinstatement process.

1998-0755h

Amendment to HB 1536

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 women's health care.

Amend the bill by deleting sections 6 and 7 and renumbering the original section 8 to read as 6.

AMENDED ANALYSIS

This bill establishes a committee to study women's health care.

1998-0770h

Amendment to HB 1543-FN-LOCAL

Proposed by the Majority of the Committee on Criminal Justice and Public Safety

Amend RSA 30-B:19 as inserted by section 1 of the bill by replacing it with the following:

30-B:19 Application of Earnings.

I. The wages or salaries from the work of all persons held for trial or for any other cause or sentenced to imprisonment in a county department of corrections facility shall be disbursed by the superintendent for:

~~[I.]~~ ***(a)*** Restitution or reparation or both, to the victim of his conduct for the damage or injury which was sustained, in a sum and manner determined by the court.

~~[II.]~~ ***(b)*** The cost of board and all other expenses of the county maintaining the facility with the county of commitment receiving a credit for the cost of board and all other expenses.

~~[III.]~~ ***(c)*** Payment of a fine.

~~[IV.]~~ ***(d)*** Incidental expenses of the person so employed.

~~[V.]~~ ***(e)*** Support of the person's dependents, if any.

~~[VI.]~~ ***(f)*** The account of the person so employed which shall be payable to such person upon discharge.

II. The county commissioners of each county may require sentenced inmates to pay a portion of their income payable to them from sources other than wages or salaries, to offset the costs of incarceration, when sanctioned by the sentencing court. In setting the amount of such payments, the court shall take into consideration and make allowances for the maintenance and support of an inmate's spouse, dependent children, or any other persons having a legal right to support and maintenance by the inmate.

1998-0655h

Amendment to HB 1551-FN

Proposed by the Committee on Commerce

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

2 Dental Insurance Added. Amend RSA 420-F:1, III to read as follows:

III. Delta shall be governed by this chapter and shall be exempt from this title, except for the provisions of RSA 400-A:39, ***415:18, VII(g)(1), relative to continuation of dental insurance***, and 1961, 345; provided, however, if any of the provisions of 1961, 345 are inconsistent with this chapter the provisions of this chapter shall prevail. Delta and its agents shall be subject to the fees prescribed for ~~[hospital and medical]~~ ***health*** service corporations under RSA 400-A:29, VII.

3 Reference Change. Amend the introductory paragraph of RSA 400-A:29, VII to read as follows:

VII. ~~[Hospital and medical]~~ ***Health*** service corporations.

4 Effective Date. This act shall take effect January 1, 1999.

1998-0852h

Amendment to HB 1561-FN

Proposed by the Committee on Criminal Justice and Public Safety

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

1 Penalties for Offenses Increased; Misdemeanor to Felony. Amend RSA 649-A:3 to read as follows:

649-A:3 Offenses.

I. A person is guilty of a felony if ~~he~~ ***such person***:

(a) Sells, delivers or provides, or offers or agrees to sell, deliver or provide, any visual representation of a child engaging in sexual activity; or

(b) Presents or directs a visual representation of a child engaging in sexual activity, or participates in that portion of such visual representation which consists of a child engaging in sexual activity; or

(c) Publishes, exhibits or otherwise makes available any visual representation of a child engaging in sexual activity; or

(d) Possesses any visual representation of a child engaging in sexual activity for purposes of sale or other commercial dissemination[-]; ***or***

(e) Knowingly buys, procures, possesses, or controls any visual representation of a child engaging in sexual activity; or

(f) Knowingly brings or causes to be brought into this state any visual representation of a child engaging in sexual activity.

II. An offense under paragraph I shall be:

(a) A class B felony if such person has had no prior convictions in this state or another state for the conduct prohibited by paragraph I;

(b) A class A felony if such person has had one or more prior convictions in this state or another state for the conduct prohibited by paragraph I.

~~III. A person is guilty of a misdemeanor if he:~~

~~(a) Buys, procures, possesses, or controls any visual representation of a child engaging in sexual activity; or~~

~~(b) Brings or causes to be brought into this state any visual representation of a child engaging in sexual activity.]~~

2 New Chapter; Computer Pornography and Child Exploitation Prevention. Amend RSA by inserting after chapter 649-A the following new chapter:

CHAPTER 649-B

COMPUTER PORNOGRAPHY AND

CHILD EXPLOITATION PREVENTION

649-B:1 Short Title. This chapter shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1998."

649-B:2 Definition. In this chapter, "child" means any person under the age of 16 years.

649-B:3 Computer Pornography Prohibited.

I. No person shall *knowingly*:

- (a) Compile, enter into, or transmit by means of computer;
- (b) Make, print, publish, or reproduce by other computerized means;
- (c) Cause or allow to be entered into or transmitted by means of computer; or
- (d) Buy, sell, receive, exchange, or disseminate by means of computer,

any notice, statement, or advertisement, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information, for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any child, or the visual depiction of such conduct.

II. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

III. Any person who violates the provisions of this section is guilty of a class B felony.

649-B:4 Certain Uses of Computer Services Prohibited. Any person who knowingly utilizes a computer on-line service, internet service, or local bulletin board service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any of the following is guilty of a class B felony:

I. Any offense under RSA 632-A, relative to sexual assault and related offenses.

II. Indecent exposure and lewdness under RSA 645:1; or

III. Endangering a child, as defined in RSA 639:3.

649-B:5 Owners or Operators of Computer Services Liable.

I. It shall be a class A misdemeanor for any owner or operator of a computer on-line service, internet service, or local bulletin board service knowingly to permit a subscriber to utilize the service to commit a violation of this chapter.

II. Any out-of-state computer service company doing business in New Hampshire which receives a subpoena from the state of New Hampshire resulting from an investigation of a violation of this chapter shall respond to such subpoena within 14 days. Failure to respond may result in the suspension or revocation of such company's right to do business in New Hampshire.

649-B:6 State Criminal Jurisdiction. A person is subject to prosecution for engaging in any conduct proscribed by this chapter within this state, or for engaging in such conduct outside this state if by such conduct the person commits a violation of this chapter involving a child or an individual the person believes to be a child, residing within this state.

3 Authorization for Interception of Telecommunications or Oral Communications; Child Pornography Crimes. Amend RSA 570-A:7 to read as follows:

570-A:7 Authorization for Interception of Telecommunications or Oral Communications. The attorney general, deputy attorney general, or a county attorney, upon the written approval of the attorney general or deputy attorney general, may apply to a judge of competent jurisdiction for an order authorizing or approving the interception of telecommunications or oral communications, and such judge may grant, in conformity with RSA 570-A:9, an order authorizing or approving the interception of telecommunications or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offenses as to which the application is made, when such interception may provide, or has provided, evidence of the commission of organized crime, as defined in RSA 570-A:1, XI, or evidence of the commission of the offenses of homicide, kidnapping, gambling, theft as defined in RSA 637, corrupt practices as defined in RSA 640, *child pornography under RSA 649-A, computer pornography and child exploitation under RSA 649-B*, criminal conduct in violation of the securities law, as defined in RSA 421-B:3, 421-B:4, 421-B:5, 421-B:19, and 421-B:24, criminal conduct in violation of the security takeover disclosure laws, as defined in RSA 421-A:3, 421-A:7, 421-A:8, 421-A:11, and 421-A:13, robbery as defined in RSA 636:1, arson as defined in RSA 634:1, hindering apprehension or prosecution as defined in RSA 642:3, tampering with witnesses and informants as defined in RSA 641:5, aggravated felonious sexual assault as defined in RSA 632-A:2, felonious sexual assault as defined in RSA 632-A:3, escape as defined in RSA 642:6, bail jumping as defined in RSA 642:8, dealing in narcotic drugs, marijuana, or other dangerous drugs, hazardous waste violations under RSA 147-A:4, I, or any conspiracy to commit any of the foregoing offenses.

4 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill establishes penalties for child pornography, exploitation, and abuse offenses committed by means of computer. The bill makes owners and operators of computer services criminally liable for knowingly permitting subscribers to utilize their services to commit such offenses.

The bill also increases the penalty for possession offenses under the child pornography laws from a misdemeanor to a class B felony.

1998-0479h

Amendment to HB 1563

Proposed by the Majority of the Committee on Health, Human Services and Elderly Affairs

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

AN ACT relative to the professional use of cannabis-type drugs.

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

1 Professional Use of Cannabis-Type Drugs. Amend RSA 318-B:10, VI to read as follows:

VI. Notwithstanding any other law to the contrary, an attending physician, in good faith and in the course of ~~[his]~~ **the attending physician's** professional practice only, may prescribe and administer cannabis-type drugs, or the attending physician may cause such drugs to be administered by a nurse or intern under ~~[his]~~ **such physician's** direction and supervision~~[to a patient who is receiving radiation or chemotherapy treatment for cancer].~~

2 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill clarifies the professional use of cannabis-type drugs for illness.

1998-0422h

Amendment to HB 1563

Proposed by the Minority of the Committee on Health, Human Services and Elderly Affairs

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

AN ACT relative to cannabis-type drugs.

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

1 Derivative of Drug Not Included. Amend RSA 172:1, XIV to read as follows:

XIV. "Cannabis-type drug" means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plants, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination. ***This term shall not include any derivative of a cannabis-type drug classified by the federal Food and Drug Administration as schedule II, III, IV, or V.***

2 Derivative of Drug Allowed. Amend RSA 318-B:9, VI to read as follows:

VI. A pharmacist employed by a pharmacy located in a hospital may dispense ~~[cannabis-type drugs prescribed under RSA 318-B:10, VI]~~ **any derivative of a cannabis-type drug classified by the federal Food and Drug Administration as schedule**

II, III, IV, or V, to any person upon the written prescription of an attending physician, provided it is properly executed, dated, and signed by the person prescribing on the day when issued and bears the full name and address of the patient for whom the drug is dispensed. The pharmacist filling the prescription shall write the date of filling and ~~[his]~~ **the pharmacist's** own signature on the face of the prescription.

3 Repeal. RSA 318-B:10, VI, relative to prescribing and administering cannabis-type drugs to cancer patients, is repealed.

4 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill clarifies the law regarding the use of certain drugs for illness.

1998-0896h

Floor Amendment to HB 1563

Proposed by Rep. Boyce

Amend the bill by replacing section 1 with the following:

1 Professional Use of Cannabis-Type Drugs. Amend RSA 318-B:10, VI to read as follows:

VI. Notwithstanding any other law to the contrary, an attending physician, in good faith and in the course of ~~[his]~~ **the attending physician's** professional practice only, may prescribe and administer cannabis-type drugs, ~~[or]~~ **not including marijuana or hashish**. The attending physician may cause such drugs to be administered by a nurse or intern under ~~[his]~~ **such physician's** direction and supervision~~[, to a patient who is receiving radiation or chemotherapy treatment for cancer]~~.

AMENDED ANALYSIS

This bill clarifies the professional use of cannabis-type drugs for illness.

1998-0817h

Amendment to HB 1588-FN

Proposed by the Committee on Criminal Justice and Public Safety

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

AN ACT relative to causing injury to a police dog or horse.

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

1 Reference Added. Amend RSA 644:8, II to read as follows:

II. In this section, "animal" means a domestic animal, **including a police dog or horse**, a household pet, or a wild animal in captivity

2 Repeal. RSA 644:8-d, relative to interference with police dogs or horses, is repealed.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill repeals the law relating to interfering with police dogs or horses. A penalty for cruelty to police dogs and horses is included in the law relative to cruelty to animals.

1998-0847h

Amendment to HB 1606-LOCAL

Proposed by the Committee on Environment and Agriculture

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

1 Public Safety and Welfare; Firewards, Firefighters, and Fire Hazards; Liability Concerning Hazardous Materials Accidents. RSA 154:8-a, II-a is repealed and reenacted to read as follows:

II-a.(a) Any person whose act or omission caused the actual discharge of hazardous materials or toxic wastes which resulted in the response of police, fire, emergency preparedness, or emergency response equipment shall be responsible for payment of the cost of the equipment use or replacement of the equipment used, if damaged or expended, in containing the hazardous materials or toxic wastes.

(b) Any person whose act or omission caused the actual discharge of hazardous materials or toxic wastes shall be responsible for payment of the personnel costs of police, fire, public safety, and municipal personnel, including mutual aid standby personnel, directly involved in the emergency response, except that costs for on-duty paid personnel who have responded to the emergency involving the discharge of hazardous materials during their assigned duty shift shall not be costs eligible for reimbursement.

(c) The response to fires or other emergencies where the discharge of hazardous materials is incidental to the fire or other emergency and does not require the use of specialized hazardous materials response equipment or personnel specially trained pursuant to 40 C.F.R. section 311 shall not be costs eligible for reimbursement.

(d) Within 30 days after the equipment leaves the site of the incident, the municipality, organization, or mutual aid district which seeks payment shall submit a bill for cost of equipment use, equipment cleanup, or equipment replacement and the costs of personnel, if applicable, to the person responsible for the equipment contamination under subparagraph (a) and the costs of personnel under subparagraph (b). At the time of billing, the municipality, organization, or mutual aid district which seeks payment shall notify the billed party that an appeal may be filed with the commissioner of safety within 30 days of the receipt of the bill. Payment shall be made directly to the municipality, to the organization, or to the mutual aid district. A municipality, organization, or mutual aid district within whose jurisdiction the incident occurs is authorized to collect payment on behalf of the municipalities, organizations, or mutual aid districts that participated in the response and to disburse payment accordingly.

(e) The person responsible for the equipment contamination may appeal payment for such costs within 30 days of receipt of the bill for the costs to the commissioner of safety. The commissioner shall hold an administrative hearing within 30 days after receiving the appeal, at which time the extent of liability for costs shall be determined. The commissioner shall issue a decision within 30 days after holding the hearing. Any person aggrieved by a decision of the commissioner under this section may appeal the decision to the superior court in the same manner as that prescribed in RSA 263:75, II and III.

(f) If no appeal is filed within 30 days after receipt of the bill, the person responsible for the equipment contamination shall be deemed to have waived all rights to appeal and shall be liable to the municipality, organization, or mutual aid district for the total amount billed.

(g) The commissioner of safety shall establish rates for equipment usage and personnel costs that shall be the maximum amount that may be charged by any municipality, organization, or mutual aid district in accordance with this section. The guidelines for establishing the rates shall be adopted pursuant to RSA 541-A. To the extent possible, the rates shall reflect the actual costs for emergency response to hazardous materials incidents for municipalities throughout the state.

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

1998-0797h

Amendment to HB 1623

Proposed by the Committee on Environment and Agriculture

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

AN ACT relative to a waiting period before a cat or ferret may be euthanized, relative to requirements for cats, ferrets, and dogs transferred from animal shelter facilities, and relative to ferret rabies suspects.

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

1 Ferret Rabies Suspects. Amend RSA 436:105-b, II and III to read as follows:

II. Any ***apparently healthy*** ferret not vaccinated or whose vaccination status is unknown which has bitten any person and

caused a puncture of the skin or which has caused a nonbite exposure of the person shall be seized and, *if the owner consents, impounded under the supervision of the local authorities for a period of not less than 10 days. If, upon examination by a licensed veterinarian, the ferret has no signs of rabies at the end of the impoundment, it may be released to the owner. Any illness in the ferret during confinement or before release shall be evaluated by a licensed veterinarian. If signs suggestive of rabies develop, the ferret shall be* euthanized and the head sent for examination to the public health laboratory, department of health and human services. *It shall be the responsibility of the owner for any expense for the examination and for the impoundment of the ferret. If the owner of the ferret is not known or if the owner does not consent to impoundment, the ferret shall be euthanized upon seizure and the head sent for examination to the public health laboratory, department of health and human services.* It shall be the responsibility of the owner for any expense for euthanizing the ferret and for preparing the head for shipment to the public health laboratory. If the owner of the ferret is not known, the state shall be responsible for the expense.

III. Any healthy ferret vaccinated in accordance with RSA 436:100, which has bitten any person and caused a puncture of the skin or which has caused a nonbite exposure, shall be confined by the owner or other responsible person as required by the local authorities for a period of ~~[45]~~ **10** days, at which time the ferret shall be examined by a licensed veterinarian. If no signs of rabies are observed by the veterinarian, the ferret may be released from confinement. Any illness in the ferret during confinement or before release shall be evaluated by a licensed veterinarian. If signs suggestive of rabies develop, the ferret shall be euthanized and the head sent for examination to the public health laboratory, department of health and human services. It shall be the responsibility of the owner for any expense for the examination and the impoundment of the ferret, for euthanizing the ferret and for preparing the head for shipment to the public health laboratory. If the owner of the ferret does not consent to the confinement or if the owner of the ferret is not known, the state shall be responsible for the expense.

2 Abandoned Cats and Ferrets; Waiting Period. Amend RSA 437:18, IV to read as follows:

IV. "Abandoned animal" means:

- (a) Any animal whose owner neglects or refuses to reclaim it within 7 days after the mailing of the notification provided for in RSA 437:19~~[, or]~~.
- (b) Any animal left in an animal care center by a person unknown or by an owner who, when leaving the animal, gives a false name or false address.
- (c) *Any ferret in the custody of the animal care center for at least 7 days.*
- (d) *Any cat in the custody of the animal care center for at least 7 days which has a form of positive identification including, but not limited to a tattoo, collar, microchip, eartag, or any other form of identification approved by the commissioner of agriculture, markets, and food pursuant to rules adopted under RSA 466:13-a.*

3 Exemption for Animal Shelters; Importation and Sale of Dogs, Cats, and Ferrets. RSA 437:10, III is repealed and reenacted to read as follows:

- III. Animal shelter facilities, as defined in RSA 437:2, I, are exempt from the requirements of this subdivision relative to accepting, selling, or transferring dogs, cats, and ferrets except that:
- (a) All animal shelter facilities shall have on premises a microchip scanner and shall maintain a file of recognized pet retrieval agencies including but not limited to national tattoo or microchip registries.
 - (b) Where an owner is not known, all animal shelter facilities shall inspect for tattoos, ear tags, or other permanent forms of positive identification and shall scan for a microchip upon admission of an unclaimed or abandoned animal as defined in RSA 437:18, IV and prior to transferring ownership of an unclaimed or abandoned animal.
 - (c) All animal shelters shall comply with the provisions of RSA 437:13-a, IV.

4 Health Certificates for Cats; Section Heading Changed. Amend RSA 437:13-a to read as follows:

437:13-a ~~[Breeder's]~~ Health Certificate *for Cats*.

I. No cat shall be ~~[sold]~~ **transferred by any person** in the state or out of the state ~~[by a breeder]~~ **for a fee** without first being inoculated against infectious diseases using a vaccine approved by the state veterinarian and unless accompanied by an official health certificate issued by a licensed veterinarian within 14 days. Said **health** certificate shall be in triplicate, of which one

copy shall be sent to the state veterinarian, one copy shall be kept by the ~~[breeder]~~ **person transferring ownership** of said cat for a period of at least 3 years, and one copy shall be given to the ~~[purchaser]~~ **new owner**.

II. For purposes of this section, an official health certificate means a certificate signed by a licensed veterinarian on a form approved by the state veterinarian, containing the name and address of the ~~[breeder]~~ **person transferring ownership of the cat**, the age, sex, breed and description of the cat, a list of all types of vaccines or medication administered to the cat, and the certification of the veterinarian that the cat is free from visual evidence of any communicable diseases.

III. No ~~[breeder]~~ **person** shall deliver or cause to be delivered any cat less than 8 weeks of age.

IV. All incorporated or chartered humane societies with operating shelters in the state of New Hampshire are exempt from the requirements of this section relative to selling or transferring cats ***except that all cats transferred out of an animal shelter facility shall have a form of positive identification, including but not limited to a tattoo, collar, microchip, ear tag, or any other permanent form of identification approved by the commissioner of agriculture, markets, and food and shall have been vaccinated against rabies in accordance with RSA 436.***

V. ~~[In this section, "breeder" means any person who breeds cats for sale.~~

~~VII.]~~ The commissioner of the department of agriculture, markets, and food or ~~[his]~~ designee is hereby authorized on ~~[his]~~ **the commissioner's** own initiative or pursuant to complaints of other persons to investigate any complaints made pursuant to this section and to enforce the penalties of RSA ~~[437:13-a, VII]~~ **437:13-a, VI**. The commissioner shall adopt rules under RSA 541-A relative to the procedures for such investigations.

~~VII.]~~ **VI.** Notwithstanding the provisions of RSA title LXII, any person violating any of the provisions of this section shall be fined not less than \$100 for the first offense, \$200 for the second offense, and \$500 for each succeeding offense. Each violation shall be considered a separate offense. Fines and penalties under this section shall be delivered to the state treasurer for deposit into the general fund.

5 Section Heading Changed; Reclaiming of Animals; Application to Cats. Amend RSA 437:19 to read as follows:

437:19 Notice to Owner; ***Reclaiming of Animals***. The operator of an animal care center having custody of an animal, the owner of which has refused or neglected to reclaim the animal for a period of 7 days, or has refused or neglected to pay the just fees and charges due for boarding, grooming, surgical, medical or other care of the animal for a period of 7 days, shall notify the owner by certified mail of the intention of the operator to treat the animal as an abandoned animal within the meaning of this subdivision if the owner does not reclaim the animal or pay the charges and fees within 7 days after the mailing of the notification. ***Any cat not licensed in accordance with RSA 466:13-a and which is reclaimed from an animal care center shall be released to the owner only upon proof of a current, valid rabies vaccination or upon being vaccinated against rabies in accordance with RSA 436.***

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

AMENDED ANALYSIS

This bill:

- (a) Adds requirements for a waiting period before an animal care center may consider a cat or ferret to be abandoned.
- (b) Adds new requirements for cats relative to reclaiming, health certificates, and identification.
- (c) Changes the procedure for ferret rabies suspects.
- (d) Adds requirements for animal shelter facilities relative to dogs, cats, and ferrets.

1998-0818h

Amendment to HB 1652

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

1 Statement of Intent. The general court recognizes the growing need of frail elderly in the state who require supervised living

environments but do not require 24-hour per day skilled nursing services. Residential care facilities offer elders these services in a cost-effective manner and their existence enables such elders to remain as independent as possible while receiving needed care. The general court recognizes that in order to address the growing number of frail seniors in the state, alternative means and settings for providing such care must be explored. It is the intent of the general court that investment in this form of care for seniors will result in more cost-effective means to provide services to the frail elderly in the state of New Hampshire. Therefore, the general court hereby establishes a pilot program relative to medication administration in residential care facilities.

2 Pilot Program.

I. The commissioner of the department of health and human services is hereby directed to create a pilot program for medication administration in residential care facilities. The commissioner may approve a waiver to He-P 804. The requirements for the pilot program shall be as follows:

(a) Facility criteria:

(1) Residential care facility shall have had the same administrator for 2 previous years.

(2) Facility may have any number of beds.

(b) Resident criteria:

(1) Resident must be either cognitively intact, have a guardian who has power to make medical decisions, or have given power of attorney for medical decisions to another individual.

(2) Cognitive state to be determined by bureau of health facilities, department of health and human services, needs assessment tool.

(3) Cognitive ability to be determined within 30 days prior to application for medication waiver.

(c) Program criteria:

(1) Residential care facilities with 24-hour RN staff are under no restrictions on the number of residents or number and type of medications that may be administered.

(2) Residential care facilities with an LPN on staff and supervision provided by a RN are under no restrictions on number of residents or number and type of medications.

(3) All medication administration under subparagraph (1) and (2) shall be in accordance with RSA 326-B.

(4) If the residential care facility does not have licensed staff, the following shall apply:

(A) Waiver request must be specific for both the resident and the individual or individuals who will be administering medications.

(B) The resident shall have resided in the home for at least 6 months prior to the waiver request.

(C) The resident shall have a single ordering health care practitioner and/or have a primary care practitioner sign off that he or she has reviewed all medications for compatibility.

(D) Medications (prescription and over the counter) shall come from the same pharmacy or medications shall be reviewed quarterly by a pharmacist. If a quarterly review is required, the first shall be completed prior to the waiver request. A drug review shall be completed each time a new medication is ordered.

(E) The resident shall be assessed utilizing the states' needs assessment no more than 30 days prior to request. A full resident needs assessment shall be done quarterly and sent to the bureau of health facilities within 7 days of completion.

(F) The facility shall have had no medication deficiencies which threaten the health and safety of a resident within the last year.

(G) Administration of injectable or rectal medication, class 2 or class 3 narcotics will be denied, except as deemed appropriate by the consulting RN.

(H) Administration of eyedrops shall require individualized training by an RN.

(I) All individuals administering medications shall have a minimum of a high school diploma.

(J) The number of medications shall be determined by the consulting RN based on the type of prescription, the type of medication, and the capability of the staff member.

(K) Waivers will be granted for no more than 5 residents per facility.

(L) Quarterly quality assurance reports shall be filed with the bureau of health facilities, department of health and human services using indicators developed by that bureau.

(M) Facilities shall hire a registered nurse consultant, qualified to perform the resident needs assessment.

(N) The nurse consultant shall be responsible for:

(i) implementing the program based on the requirements of He-M 1201, including staff training and procedures for documentation.

(ii) performing the quarterly resident assessments.

(iii) completing the quarterly quality assurance program.

(iv) performing any additional training required by a change in the residents' medications.

(d) Waiver may be revoked for any of the following reasons:

(1) The bureau of health facilities, in consultation with the consulting RN, determines that medication errors threaten the well being of the residents and/or are excessive.

(2) Allowing unauthorized staff to administer medications.

(3) Failure to follow any criterion for the pilot program.

II. Due process rights of the facility shall not apply to this pilot program.

III. Administration of medications under this pilot program shall be exempt from the provisions of RSA 326-B.

IV. This pilot program shall be exempt from the provisions of RSA 541-A.

V. Facilities eligible for the pilot program shall hire a registered nurse as a consultant.

VI. This pilot program shall terminate on December 30, 2000, unless authorized to continue by the legislature.

VII. The commissioner may pursue additional funding for the pilot program in the form of grants from federal and private foundations sources and expend such grants, moneys, and any appropriation for the purpose of said program.

VIII. The commissioner shall submit a report on the activities, findings and recommendations relative to the pilot program to the speaker of the house, the president of the senate, and the governor before the termination date specified in paragraph VI of this section.

3 Residential Care Pilot Program Advisory Committee Established.

I. There is hereby established the residential care pilot program advisory committee to review the implementation of the pilot program established in section 2 of this act. The members of the committee shall be as follows:

(a) The commissioner of the department of health and human services, or designee.

(b) An RN from the bureau of health facilities, department of health and human services, appointed by the commissioner of the department.

(c) A representative of the New Hampshire board of nursing, appointed by the board.

- (d) A representative of the New Hampshire Residential Care Association, appointed by the association.
- (e) A representative of the New Hampshire Nurses Association, appointed by the association.
- (f) A representative of the New Hampshire Health Care Association, appointed by the association.
- (g) A representative of the New Hampshire Home Care Association, appointed by the association.

II. The committee’s duties shall include, but not be limited to:

- (a) Reviewing the implementation of the pilot program established under section 2 of this act.
- (b) Approving all necessary waivers for the pilot program.

4 Funding. The pilot program established in section 2 of this act shall be funded through existing appropriations to the department of health and human services.

5 Repeal. Sections 1-4 of this act, relative to the residential care pilot program, are repealed.

6 Effective Date.

I. Section 5 of this act shall take effect December 30, 2000.

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

AMENDED ANALYSIS

This bill requires the commissioner of health and human services to establish a pilot program for medication administration in residential care facilities. The pilot program shall terminate on December 30, 2000.

1998-0912h

Amendment to HB 1656

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

Amend RSA 4:9-a, I as inserted by section 1 of the bill by replacing it with the following:

I. There shall be a memorial to commemorate the New Hampshire law enforcement community. Notwithstanding any other provision of law to the contrary, the memorial shall be situated on the ~~[southeast corner on the front]~~ grounds ~~[connected with the legislative office building]~~ **of the department of justice**. The governor is authorized to accept in the name of the state the law enforcement memorial as a private gift upon its completion.

Amend the bill by deleting section 4 and renumbering the original section 4 to read as 5.

AMENDED ANALYSIS

This bill changes the location on which the law enforcement memorial is to be situated from the grounds of the legislative office building to the grounds of the department of justice. The bill also adds legislative members to the committee established to oversee the law enforcement memorial.

1998-0908h

Floor Amendment to HB 1656

Proposed by Rep. Katherine D. Rogers

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

AN ACT relative to the law enforcement memorial and making an appropriation therefor.

Amend RSA 4:9-a, I as inserted by section 1 of the bill by replacing it with the following:

I. There shall be a memorial to commemorate the New Hampshire law enforcement community. Notwithstanding any other provision of law to the contrary, the memorial shall be situated on the ~~[southeast corner on the front]~~ grounds ~~[connected with the legislative office building]~~ **of the department of justice**. The governor is authorized to accept in the name of the state the law enforcement memorial as a private gift upon its completion.

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

4 Appropriation; Department of Administrative Services. The sum of \$110,000 is appropriated to the department of administrative services for the fiscal year ending June 30, 1999, for purposes of site preparation for the law enforcement memorial. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill changes the location on which the law enforcement memorial is to be situated from the grounds of the legislative office building to the grounds of the department of justice and makes an appropriation for site preparation for the law enforcement memorial. The bill also adds legislative members to the committee established to oversee the law enforcement memorial.

1998-0859h

Amendment to HB 1658-FN

Proposed by the Committee on Health, Human Services and Elderly Affairs

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

2 New Chapter; Human Cloning Prohibited. Amend RSA by inserting after chapter 141-H the following new chapter:

CHAPTER 141-I

Human Cloning Prohibited

141-I:1 Human Cloning.

- I. No person shall clone a human being.
- II. No person shall purchase, sell, offer, make available, or have in his or her possession an ovum, zygote, embryo, or fetus for the purpose of cloning a human being.
- III. For purposes of this chapter:
 - (a) "Clone" means the practice of creating or attempting to create a human being by transferring the nucleus from a human cell from whatever source into a human egg cell from which the nucleus has been removed for the purpose of, or to implant, the resulting product to initiate a pregnancy that could result in the birth of a human being.
 - (b) "Commissioner" means the commissioner of the department of health and human services.

141-I:2 Commission Established.

- I. There is hereby established a commission on human cloning. The commission shall consist of the following members:
 - (a) The commissioner, or designee.
 - (b) Two members of the house of representatives, appointed by the speaker of the house.
 - (c) Two members of the senate, appointed by the president of the senate.
 - (d) Eight members appointed by the governor and council, one licensed physician, one each representing the fields of religion, biotechnology, genetics, law, and bioethics, and 2 public members. The term of the members in subparagraphs (a) - (c) shall be coterminous with their terms in office. The term of office of each member appointed by the governor and council shall be 3 years

and until a successor is appointed. Vacancies shall be filled in the same manner and for the unexpired terms. The legislative members of the commission shall be reimbursed for mileage when attending to the duties of the commission.

II. The commission shall evaluate the medical, ethical, and social implications of human cloning and shall review public policy of such implications.

III. The commission shall make an annual report on or before January 1 of each year to the speaker of the house of representatives, the president of the senate, and the governor.

141-I:3 Civil Penalty; Disciplinary Actions.

I. Any person who violates the provisions of this chapter shall be subject to a civil penalty not to exceed \$250,000 if a natural person or \$1,000,000 if any other person. In addition, any person who derives pecuniary gain from a violation of this chapter shall be assessed a civil penalty of not more than an amount equal to the amount of the gross gain multiplied by 2. All penalties collected under this section shall be deposited in the general fund.

II. Any physician, licensed pursuant to RSA 329, who violates this chapter shall be subject to disciplinary action under RSA 329:17.

III. Any business incorporated pursuant to RSA 293-A which violates the provisions of this chapter shall have its certificate of authority revoked.

3 New Subparagraph; Human Cloning. Amend RSA 329:17, VI by inserting after subparagraph (k) the following new subparagraph:

(l) Has violated the provisions of RSA 141-I.

4 Applicability. The commissioner of health and human services shall call the first meeting of the commission established in section 2 of this act within 30 days after passage of this act. The members of the commission shall elect a chairperson at the first meeting.

5 Funding. The department of health and human services has determined that no additional funds are necessary to implement this act.

6 Repeal. RSA 141-I, relative to human cloning, is repealed.

7 Effective Date.

I. Section 6 of this act shall take effect January 1, 2004.

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

1998-0765h

Amendment to HB 1659

Proposed by the Majority of the Committee on Science, Technology and Energy

Amend RSA 371:1 s inserted by section 1 of the bill by replacing it with the following:

371:1 Petition. Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a line, branch line, extension, or a pipeline, conduit, line of poles, towers or wires across the land of another, or should acquire land, land for an electric ~~[generating station or electric]~~ substation, ~~[land for a dam site,]~~ or flowage, drainage, or other rights for the necessary construction, extension or improvement of any ~~[plant,]~~ water power~~[:]~~ or other works owned or operated by such public utility, and it cannot agree with the owners of such land or rights as to the necessity or the price to be paid therefor, such public utility may petition the public utilities commission for such rights and easements or for permission to take such lands or rights as may be needed for said purposes. ***No public utility may petition for permission to take private land or property rights for the construction or operation of an electric generating plant.***

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

3 Contingency. Sections 1 and 2 of this act shall take effect upon the date of certification by the chairman of the public utilities

commission to the secretary of state, pursuant to RSA 38:36, that retail electric competition exists in at least 70 percent of the state.

4 Effective Date.

I. Sections 1-2 of this act shall take effect as provided in section 3.

II. Section 3 of this act shall take effect upon its passage.