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HOUSE CALENDAR

THURSDAY, MAY 13

CONSENT CALENDAR – PART II

COMMERCE

HB 662-FN, relative to the duties of the liquor commission. RE-REFER TO COMMITTEE

Rep. Stephen G. Avery for Commerce: This bill would limit the Liquor Commission to certain restrictions as to how they do business. The committee is not yet ready in limiting the commission as they are doing a great job raising revenues for the State. There has been at least one incident in Portsmouth, which did raise some questions, and the committee would like to take some extra time to look at these issues. Vote 14-0.

HB 732, relative to nonpayment of member dues and fees and access to financial records of condominium associations. OUGHT TO PASS WITH AMENDMENT

Rep. Gene B. Marshall for Commerce: This bill amends the current law, which allows condominium owner associations to terminate common privileges and services, including parking, to owners who are seriously delinquent in payment of common assessments. This bill concerns some issues that arose in the implementation of the new law by adding due process protections. It also assures access of owners to all financial records of their condominium association. Vote 13-1.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 706, relative to the definition of "sexual contact" under the sexual assault laws. OUGHT TO PASS WITH AMENDMENT

Rep. William V. Knowles for Criminal Justice and Public Safety: The definition of sexual contact is clarified in Section 1. Section 2 clarifies the fact that a person is guilty of aggravated felonious sexual assault without penetration when such person touches whether directly, through clothing, or otherwise, the genitalia of a person under the age of 13 under circumstances that can be reasonably construed as being for the purpose of sexual arousal or gratification. The remainder of the bill deals with the federal requirement of registration of criminal offenders. Added to the list of those required to register are those found guilty of incest, computer pornography, and using a computer to seduce, solicit, lure, or entice a child or another person believed by the person to be a child. Vote 13-0.

HB 739, eliminating the restrictions on the number of days bingo volunteers may serve. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill, as introduced, repealed RSA 287-E:7, IV relative to restrictions on assisting in the conduct of bingo games or of Lucky 7 games. The committee felt that was too big a step to take and that a gradual lessening of the work restrictions was what was needed. The new amendment simply says that one may work these games no more than 2 times in any calendar week, which we specifically defined as Sunday through Saturday. Vote 16-0.

SB 30, relative to the cruelty to animals law. OUGHT TO PASS WITH AMENDMENT

Rep. Everett A. Weare for Criminal Justice and Public Safety: This bill allows the animal control officer, law enforcement officer, or officer of a duly licensed humane society to take into temporary protective custody any animal where there is probable cause that the animal has been abused or neglected. It further set forth the procedures for the care and disposition of any animal taken into custody. It further requires a veterinarian be present when livestock are involved. The amendment deletes the requirement that the appointed veterinarian be the law enforcement officer for animals involved in pari-mutuel racing. The committee felt that pari-mutuel racing is presently regulated sufficiently to avoid any problems with animal abuse. Vote 16-0.

SB 121, requiring reports to the department of justice following certain DWI arrests and refusals to take alcohol concentration tests. INEXPEDIENT TO LEGISLATE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill would require law enforcement officers to make reports to the attorney general following DWI arrests that do not result in charges being filed and also where someone takes or refuses a breath test where no charges are filed. Presently, the police must file a report with the attorney general when a DWI charge is reduced or dismissed. To also do it when someone is simply arrested for DWI but not charged would greatly add to the police workload. If a person passes the breath test and is released, there is no need to burden the department with the submission of a report. In those instances where too many letters were going to the attorney general's office regarding the reduction of DWI charges, the attorney general contacted that police department and advised them to prosecute the cases, not reduce the charge. In another case where a person was arrested for DWI and the case never went forward, both police chiefs were forced to resign. The committee felt that the present statute was working just fine. Vote 14-0.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 613-FN-L, consolidating the pari-mutuel commission and sweepstakes commission into a gaming commission. RE-REFER TO COMMITTEE

Rep. Michael O'Neil for Executive Departments and Administration: This bill would combine and re-organize the pari-mutuel and sweepstakes commissions into a single gaming commission. Due to the uncertainty of the future of the gaming industry in New Hampshire, the committee believes it prudent to re-refer HB 613-FN in order to further investigate the impact of combining the two commissions into one at the present time. Vote 16-0.

HB 626-FN, relative to revising the laws regulating accountancy. OUGHT TO PASS WITH AMENDMENT

Rep. Howard C. Dickinson for Executive Departments and Administration: This bill, as amended, brings the State of New Hampshire into compliance with the Uniform Accountancy Act, model legislation developed jointly by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy. Furthermore, the bill removes the prohibition against non-licensees who perform "general accounting services," i.e. bookkeeping, tax preparation and allows them to describe themselves as "accountants". All parties seemed to have reached an agreement on this bill. Vote 17-0.

HB 691-FN, relative to persons receiving split benefit accidental disability retirement benefit allowances. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Executive Departments and Administration: This bill would have changed some of the requirements for vested deferred benefits in the retirement system. The changes are necessary but can be postponed for another year. After consultation with the retirement system, it was felt appropriate to make this bill inexpedient to legislate and address all similar questions of language changes in a future bill. Vote 15-0.

FINANCE

HB 616-FN-A, relative to providing funds to certified driver education courses from the driver training fund. OUGHT TO PASS WITH AMENDMENT

Rep. Vivian R. Clark for Finance: As received from the policy committee, this bill would reimburse students at private driving schools at the same rate that public schools are reimbursed for their drivers' ed students. Review of the financial aspects of the bill brought out that the Department of Safety is unsure of how many students are currently eligible for public driver education or of how many annually take private courses; that reimbursement is being made for some out-of-state residents; that passing the course is not required for reimbursement; and that reimbursement funds are used for widely different purposes, including support of athletic programs. The amendment therefore changes the bill to create a study committee to examine all of these issues. Vote 23-0.

HB 698-FN-L, restricting fees for registration permits for certain vehicles. OUGHT TO PASS

Rep. Vivian R. Clark for Finance: This bill is intended to create some consistency in the fees charged for registration of construction equipment. Neither the Department of Safety nor the Municipal Association could predict how the change would affect revenues, but both agreed that the amount of the change would be small and neither had any objection to it. Vote 22-0.

JUDICIARY

HB 551, relative to employers who are subject to state law against discrimination. OUGHT TO PASS WITH AMENDMENT

Rep. Tony F. Soltani for Judiciary: This bill, as amended, expands the application of the New Hampshire Anti-Discrimination Law and codifies certain exemptions. The bill will treat all entities in the private sector equally regardless of their for-profit or not-for-profit status. State and local governments will remain subject to the prohibitions of the statute. This act will also codify exemptions for religious organizations, where the entity seeks to advance its philosophical or theological objectives. Additionally, an exemption is made for circumstances where a bona fide employment qualification may create a preference. The exemptions adopted are, for the most part, adaptations of parts of the Federal Title VII exemption, as well as, the New York State Law exemptions for religious institutions. These laws have been subject to repeated scrutiny by the courts and the committee sought to avoid the reinvention of the wheel. The law will only impact employment relationships where the employer has six (6) or more employees. It does not affect membership in social clubs, public accommodations, housing or other activities. Vote 13-1.

LEGISLATIVE ADMINISTRATION

HB 728-FN, relative to per diem reimbursement to legislators for expenses on days of legislative committee meetings. OUGHT TO PASS WITH AMENDMENT

Rep. Peter H. Burling for Legislative Administration: The committee felt it is time for a serious and thorough review of the compensation and reimbursement of legislators. This study will be done by June 30, 2000, and will offer the possibility of meaningful change for the next century. Vote 13-0.

MUNICIPAL AND COUNTY GOVERNMENT

SB 81, permitting the city of Manchester to issue bonds to finance unfunded liability of the city's employee pension system. OUGHT TO PASS WITH AMENDMENT

Rep. Elizabeth S. Hager for Municipal and County Government: This bill allows Manchester flexibility in funding one of its pension plans. The Committee was reassured that a great deal of preparation and research was done in preparation of the bill's filing. The amendment "sunsets" the bill after five years. Vote 15-0.

SCIENCE, TECHNOLOGY AND ENERGY

HB 263, repealing the Northern New England Low-Level Radioactive Waste Management Compact. OUGHT TO PASS

Rep. Ralph J. Rosen for Science, Technology and Energy: This compact was formed on paper a number of years ago. It has never existed as an organization, no meetings were ever held, and no record of any correspondence exists. Maine and Vermont withdrew from the compact and entered into agreements with Texas for handling low-level waste. New Hampshire has turned to South Carolina. The current House and Senate appointees to the compact committee are the sponsors of this bill. Vote 16-0.

HJR 8, urging the Federal Energy Regulatory Commission to change the structure of the New England Individual Service Organization (ISO). OUGHT TO PASS WITH AMENDMENT

Rep. Gary R. Gilmore for State-Federal Relations and Veterans Affairs: This resolution urges the Federal Energy Regulatory Commission (FERC) to appoint a more diverse, representative, and local Board to govern the New England Independent System Operator (ISO), the agency responsible for operating New England's electric transmission grid. The current ISO Board is largely comprised of individuals from outside the New England region while some other regional ISOs are comprised in a similar manner as advocated in the resolution. Of additional concern is the lack of competitive power supply being built in New England and the ISO's failure in facilitating such energy policy. Vote 15-0.

TRANSPORTATION

HB 680-FN-A, establishing a veterans' programs number plate trust fund and a special veterans' programs license plate, to support state veterans' programs. INEXPEDIENT TO LEGISLATE

Rep. Robert J. Letourneau for Transportation: An amendment was offered by the sponsor to establish a \$25 fee for these special license plates and an advisory commission to design the plates. The committee has many members who are veterans and support veterans issues. They commend the sponsors for their effort, however, they are opposed to the use of special license plates to do so. The Department of Safety felt that the start up cost associated with the development and implementation of a new special plate issuance would be about \$25,000 for 900 sets of special plates, not including the cost of a data base and programmers or commission. There were also recent reports from our neighbor to the south that has implemented 7 such special plates and have not sold well. This state has not even recovered the start up or inventories cost. The committee also recognizes that the conservation license plate has not been issued yet, and this needs to be considered. Finally, the committee heard testimony from the commissioner of safety that the legal purpose for license plates is for law enforcement to recognize proper registration. The department would like to discourage legislation of special license plates for recognition and safety concerns within the law enforcement community. Vote 18-0.

THURSDAY, MAY 13

REGULAR CALENDAR – PART ii

COMMERCE

HB 252, establishing a procedure for separation of condominium units at the Commons at Merrimack. OUGHT TO PASS WITH AMENDMENT

Rep. Tara G. Reardon for Commerce: This bill provides a mechanism to allow a condominium to divide itself into two separate properties. The condominium association that came before us included a block of rental units divided by a road from a group of owner-occupied townhouses. The owner-occupied units have been unable to obtain financing from some lenders because of the high rate of non-owner occupied units. The bill, as amended, included numerous opportunities for an opponent of the division to have an opportunity to be heard before the local governing body, planning board, and appeal to the superior court. Vote 12-2.

HB 668, adding 2 members to the board of directors of the Pease development authority. INEXPEDIENT TO LEGISLATE

Rep. Stephen G. Avery for Commerce: While the sponsor had valid concerns as to the tenants' representation on the Board of Directors, many conflict of interest problems surfaced during the testimony. The committee does not feel that we can move ahead at this time with this piece of legislation. Vote 11-3.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 360-FN, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons. OUGHT TO PASS

Rep. Frank M. Schanda for Criminal Justice and Public Safety: This bill clarifies the current statutes relative to convicted felons who are prohibited from possession of firearms and/or other dangerous weapons. Under existing New Hampshire statutes those convicted of a non violent felony such as passing a bad check, can still possess a firearm. Under federal statutes, these same people are prohibited from possession of firearms. The existing conflict between federal and state statutes puts citizens of New Hampshire who have a non violent felony on their record, in harm's way. This correction to RSA 159:3 will clarify who can and who cannot possess firearms. RSA 159:3, III states that: "It is an affirmative defense to a charge under this section that a felony of which a defendant has been convicted in another jurisdiction would not have constituted a felony in the state of New Hampshire at the time such felony was committed." House Bill 360 as introduced makes New Hampshire statutes conform to federal statutes. Vote 14-2.

FINANCE

HB 574-FN-A, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats. OUGHT TO PASS

Rep. Steve Vaillancourt for Finance: This bill would raise the price of a fishing license by \$1 (currently \$23.25 for in-state residents, \$35.50 for out-of-staters) generating an estimated \$140,000 a year to be used to fund a fisheries habitat account within Fish and Game. Finance took into account the support this bill had from Fish and Game and members of the public during the hearing before the Wildlife and Marine Resources Committee. No general fund monies are involved; the increase seems appropriate for the purpose established by the policy committee; thus Finance has no objection. Vote 22-2.

HB 596, making technical corrections to certain laws administered by the department of revenue administration. OUGHT TO PASS WITH AMENDMENT

Rep. David J. Alukonis for Finance: This bill makes technical corrections to certain tax laws and extends the temporary tax rate for the communications services tax through the biennium ending June 30, 2001. The technical changes include: reference to general tax provisions regarding penalties, reference to the United States Internal Revenue Code, clarification of an existing exemption from the real estate transfer tax, correction of a reference regarding the legacies and succession tax, and the repeal of a certain limitation on the commissioner's authority to waive or abate penalties which was enacted for the sole purpose of the tax amnesty program in the last biennium. The bill also provides that the 5.5% communications services tax rate is continued for the next biennium (3.0% permanent, 5.5% temporary). This extension will yield over \$45 million during fiscal '00 & '01. Lastly, the bill also extends the prospective repeal date for the exemption of wooden poles used for communications purposes from real estate taxes. This action is taken pursuant to the extensive review and legislation which took place during the last legislative session. It should also be noted that the temporary tax rates regarding the real estate transfer tax and the rooms and meals tax are NOT in this bill as the rates for those taxes were addressed in HB 117. Vote 21-1.

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, and correcting out-of-date references and phraseology pertaining to the department of corrections. OUGHT TO PASS WITH AMENDMENT

Rep. Jeffrey C. MacGillivray for Finance: This bill creates a new unclassified (appointed by governor and council) position of warden of the northern New Hampshire (Berlin) correctional facility, allows the assistant commissioner to assume the duties of the commissioner when necessary, renames two current superintendents as wardens, and corrects out-of-date references. The committee amendment changes this warden's pay group and salary to the minimum category exceeding his current classified employee salary ("N" instead of "O"; next-to-top step instead of the top step), and changes the personnel group of the lakes region facility (Laconia) warden to equal the new warden's personnel group.

While the Committee considered making both of these warden positions group "O" instead of "N", limiting the new position to group "N" leaves this recently-hired employee with one step increase still available; this decision also leaves time for the study committee being created by separate legislation to evaluate all unclassified positions within the state and recommend changes. However, given the increase in population at the Laconia facility since its warden was classified in group "M", to a population comparable with Berlin's capacity, the similarity between Laconia and Berlin justifies paying these two wardens equally Vote

22-1.

HB 644-FN-A-L, authorizing the operation of electronic games of chance at pari-mutuel licensee locations. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: RE-REFER TO COMMITTEE.

Rep. William S. Belvin for the Majority of Finance: This bill authorizes electronic games of chance (e.g. slot machines or video poker), establishes the process for conducting these games, and creates a gaming enforcement division with the Department of Safety. The bill intends to grant an exclusive privilege to the state's four racetracks, as the gambling machines are only authorized for the existing holders of pari-mutuel licenses. Local communities in which racetracks are located must adopt the authorizing RSA by majority vote, but there is no provision for rescinding video gambling once adopted. Extensive provisions are made for the control of both persons and machines, including investments in central computer systems, thus recognizing the inherent dangers contained within the bill. The fiscal note shows first two years expenditures of \$1.691 million to establish video gambling with state revenues of \$160 million for the same time period. There is broad skepticism about these revenue estimates, particularly in light of the potential for Massachusetts to permit casinos on our border if such a bill is adopted.

The committee majority doubted that the state should in effect establish monopolies at the four racetracks for video gambling, and felt that the social and economic consequences would greatly diminish any presumed revenue benefits from video gambling. Some committee members viewed the proposal as exploitative of persons vulnerable to addiction. Others viewed the measure as a regressive means of raising revenue. Concerns were expressed over the potential damage to area small businesses from the diversion of discretionary dollars from stores and amusements into gambling.

Division IV of Finance and the full committee defeated motions of recommit and re-refer before voting 15-8 for Inexpedient to Legislate. Expanded gambling bills are heard in the legislature nearly every year. This bill will mark the third time this session that expanded gambling has been before the full House. It is clear to the committee majority that, on balance, video gambling brings more monetary and social ills than any presumed economic benefit Vote 15-8.

Rep. Steve Vaillancourt for the Minority of Finance: The minority believes it is essential that this bill be re-referred for further study. While we can differ about the pluses and minuses of expanded video lottery, one thing we ought to be able to agree upon is that if we are going to do this, we ought to do it right. We ought to consider the arguments and counter-arguments regarding such things as: the social and economic impacts on society; whether this is a sustainable source of revenue should Massachusetts also legalize expanded gambling in the near future; does this type of activity lead to an increase in crime; and perhaps most significantly, what constraints should be placed on gambling and should it be limited to tracks, hotels, or opened to a wider array.

While this bill contains specific proposals, the sponsor is not married to any of them and offers the referral as an ideal device to address these and other philosophical and implementation issues. A starting point could well be the 1994 150-page gambling study which provides voluminous data on the issues raised here. The minority believes an extensive review of this is absolutely required, and if not now, then when?

The minority also believes that now is not the time to foreclose any funding source, not considering the gap we created in the general fund when we passed the committee of conference Claremont solution last week.

HB 652-FN, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund. OUGHT TO PASS WITH AMENDMENT

Rep. Jeffrey C. MacGillivray for Finance: This bill significantly increases funds available for the victims' assistance fund by increasing the surcharge on all fines and penalties for criminal offenses from 17 to 20 per cent (\$500,000 additional revenue per year) and surcharging state prison commissary purchases by 5 per cent (\$75,000 additional revenue per year). The bill also makes these funds continually appropriated. The Committee finds that the additional revenue generated for victim assistance will allow significant increases in dollar limits and significant relaxation of categorical limitations on expenses by the victims' assistance fund. The committee amendment simply clarifies language. Vote 20-3.

HB 719-FN, relative to procedures regarding children in need of services. OUGHT TO PASS WITH AMENDMENT

Rep. Mary Jane Wallner for Finance: This bill clarifies certain procedures involving children in need of services. The policy committee voted 14-0 Ought to Pass as Amended. The bill originated as the direct result of an 18-month study done by the court task force. Definitions for the terms of diversion and intervention are established.

The Finance Committee amended the bill to change the effective date, clarify the definition of diversion, and to make clear that

the cost of the programs shall be paid by private insurance, if available, or otherwise by the child, parent, guardian or person having custody of the child, except under certain circumstances already provided by law. Vote 20-0.

TRANSPORTATION

HB 505-FN, establishing a special license plate for veterans. INEXPEDIENT TO LEGISLATE

Rep. Jon P. Beaulieu Transportation: An amendment was offered by the sponsor to establish a \$25 fee for these special license plates and an advisory commission to design the plates. This bill was very similar to HB 680, and most of the debate was centered around the same issues. The committee has many members who are veterans and support veterans issues. Once again they commend the sponsors for their effort, however, they are opposed to the use of special license plates to do so. There were also recent reports from our neighbor to the south that has implemented 7 such special plates, which have not sold well. This state has not even recovered the start up or inventories cost. The committee also recognizes that the conservation license plate has not been issued yet, and this needs to be considered. Additionally, the committee heard testimony from the Commissioner of Safety that the legal purpose for license plates is for law enforcement to recognize proper registration. The department would like to discourage legislation of special license plates for recognition and safety concerns within the law enforcement community. Vote 18-0.

HB 525-FN, relative to prisoner of war license plates. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Alfred C. Lerandau for the Majority of Transportation: This bill as amended relative to special plates for certain veterans extends the transferring of plates to a surviving spouse. After much lively discussion amongst the committee over the role of caregiver or spouse, it became our opinion that the plate would only be for the surviving spouse. This bill creates no fiscal impact. Vote 12-5.

Rep. Stanley E. Czech for the Minority of Transportation: It was the opinion of the minority that since the amendment deleted the phrase, "... may be retained by widows upon death of a former prisoner of war for as long as they remain widows.", the original idea behind the bill is lost. Furthermore, the bill does not allow a spouse, who may have been the spouse for a greater number of years after the veteran returned, and provided support and loving care longer than the spouse at the time of incarceration, was not eligible to keep the plate simply because she was not married to the POW when he was a prisoner. We believe this bill does not do what was originally intended – to honor those spouses who supported their POW husbands after their return from the war.

THURSDAY, MAY 13

AMENDMENTS – PART II

(LISTED IN NUMERICAL ORDER)

1999-1102h

Amendment to HB 252

Proposed by the Committee on Commerce - R

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

AN ACT establishing a procedure for the division of units within condominium complexes and creating a committee to study all aspects of the Condominium Act established under RSA 356-B.

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

1 Statement of Purpose.

I. The general court finds:

- (a) That from time to time condominium complexes within the state encounter changes in the usage of units where an individual may purchase several units within an established complex and use them as rental properties.
- (b) That the original subdivision plan for the condominium complex then becomes faulty because the complex then consists of 2 types of dwellings, individually owned condominium units and rental units, which create discrepancies concerning marketable title to the properties.
- (c) That the description of the different parcels within the condominium complexes then cannot be made sufficiently certain and accurate for the purposes of taxation or tax title procedures without noting the differing divisions and correct metes and bounds of the same.
- (d) That owners then become incapable of selling their properties due to these discrepancies.
- (e) That special legislation is necessary to remedy this unique situation.

2 New Section; Process for Division of Rental Units from Individually Owned Units for Tax and Title Purposes. Amend RSA 356-B by inserting after section 26 the following new section:

356-B:26-a Division of Rental Units from Individually Owned Units for Tax and Title Purposes. Notwithstanding the provisions of RSA 356-B:26, in situations where a single owner has purchased several units within an established complex and uses them as rental properties, the following procedure shall allow cities and towns to rectify discrepancies concerning marketable title to the properties:

I. Upon the request of the majority of the lot owners in a subdivision, the governing body may cause a plat to be made for the purpose of taxation or tax title procedures. Such request shall be made in the form of a warrant article which may be placed on the warrant by the will of the selectmen or as a petitioned warrant article as provided in RSA 39:3. Upon approval by the legislative body, the governing body, acting as the applicant, shall submit such application to the planning board for review and approval pursuant to local subdivision regulations and RSA 676:4 where the town has authorized the planning board to approve or disapprove plats pursuant to RSA 74:35.

II.(a) When completed, the plat shall be filed with the planning board by the governing body that ordered the plat. For the purposes of this section, the filing of the application for approval of the plat shall occur at least 15 but not more than 20 days prior to the public hearing at which the application is submitted to and accepted by the planning board.

(b) On its title page shall appear the sworn certificate of the surveyor who made the plat, which shall state and contain:

- (1) The name of the governing body by whose order the plat was made and the date of the order.
- (2) A clear and concise description of the land so surveyed and mapped by metes and bounds beginning with some corner marked and established in the New Hampshire state plane coordinate system, North American DATUM of 1983.
- (3) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel thereof.
- (4) A statement the surveyor has fully complied with the provisions of this section in filing the same.

(c) Notice shall be given to the owners of record of lands in the plat, the applicant, abutters and the public according to the procedures set forth in RSA 676:4, I(d) and notice shall also be given, in the same manner as provided for in RSA 676:4, I(d), to each person holding a mortgage on such property and to the person to whom property taxes are assessed if other than the owner in order that such persons shall have the opportunity to examine the map, view the temporary monuments, and make known any disagreement with the boundaries as shown by the temporary monuments. For the purposes of this section, the names and addresses of all persons to be notified shall be those as indicated in the county registry of deeds not more than 5 days before the day of filing of the application with the planning board.

III.(a) Such plat, when approved by the planning board, shall be recorded in the registry of deeds pursuant to the requirements of RSA 674:37 and shall be recorded within 30 days of submission to and acceptance by the planning board, as specified in section 3 of this act. The approval and subsequent recording of any such plat shall in no way extinguish, exhaust or vacate any liens, mortgages or encumbrances on any land contained within the area of the plat and any such liens, mortgages or encumbrances shall continue to run with the land as shown on the plat as recorded in the registry of deeds.

(b) Reference to any land, as it appears on a recorded plat, is deemed sufficient for purposes of title and taxation. Conveyance

may be made by reference to such plat and shall be as effective to pass title to the land so described as it would be if the same premises had been described by metes and bounds. Such plat or record of such plat shall be received in evidence in all courts and places as correctly describing the several parcels of land therein designated.

(c) Amendments or corrections to a plat may be made at any time by application to the planning board by the governing body as outlined in section 2 of this act.

(d) Any persons aggrieved by any decision of the planning board regarding approval of a plat may appeal such decision pursuant to RSA 677:15.

(e) A copy of this act shall be recorded in the registry of deeds along with the final plat.

3 Committee Established. There is established a committee to study all aspects of the Condominium Act established under RSA 356-B.

4 Membership and Compensation.

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

(a) Three members of the house of representatives, at least one of which shall be a member of the house commerce committee, appointed by the speaker of the house.

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

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

5 Duties. The committee shall study all aspects of the Condominium Act established under RSA 356-B, soliciting input from organizations including but not limited to the attorney general's office and the Community Associations Institute-New Hampshire (C.A.I.).

6 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the attorney general, the speaker of the house of representatives, the house clerk, the senate president, the senate clerk, the governor, and the state library on or before November 1, 1999.

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill establishes a procedure for the division of units within condominium complexes where the mixture of individually owned units and rental units creates problems with marketable titles. The bill also creates a committee to study all aspects of the Condominium Act established under RSA 356-B.

1999-1142h

Amendment to HB 525-FN

Proposed by the Majority of the Committee on Transportation - R

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

AN ACT relative to special number plates for certain veterans.

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

1 Special Number Plates for Certain Veterans. RSA 261:86 is repealed and reenacted to read as follows:

261:86 Special Number Plates for Certain Veterans.

- I. The department shall furnish one set of special number plates, designed by the director with the approval of the commissioner, for one motor vehicle owned by a veteran who:
- (a) Because of being an amputee, or paraplegic, has received said motor vehicle from the United States government or whose vehicle is to replace one so received, or who is evaluated by the United States Department of Veterans Affairs to be permanently and totally disabled from such service-connected disability. The special number plates shall incorporate the international accessibility symbol.
 - (b) Has been determined by the veterans administration to be suffering from total blindness as a result of a service-connected disability.
 - (c) Is a former prisoner of war and was captured and incarcerated for 30 days or more while serving in a qualifying war or armed conflict as defined in RSA 72:28, IV, and who was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances. The plates shall be transferable upon death to the surviving spouse of the prisoner of war provided that such surviving spouse provides proof that he or she was married to the prisoner of war during the imprisonment.
 - (d) Was awarded the Purple Heart medal in a qualifying war or armed conflict as defined in RSA 72:28, IV, and who was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances.
 - (e) Survived Pearl Harbor and was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances. The plates shall be issued upon payment of the regular registration and number plate fees. The plates shall be transferable upon death to the surviving spouse of the Pearl Harbor survivor provided that such surviving spouse provides proof that he or she was married to the Pearl Harbor survivor at the time of the Pearl Harbor invasion.

II. Plates furnished pursuant to subparagraphs I(a)-(c) shall be issued without charge. Plates furnished pursuant to subparagraphs I(d) and (e) shall be issued upon payment of the regular registration and number plate fees. Notwithstanding RSA 265:73 or any other law, any person who is issued a plate pursuant to subparagraphs I(c)-(e) shall not be entitled to free parking privileges provided for disabled veterans. Individuals who qualify for special plates for certain veterans shall only be issued one set of plates pursuant to this section.

2 Repeal. The following are repealed:

- I. RSA 261:87, relative to special number plates for vehicles of blind veterans.
- II. RSA 261:87-a, relative to plates for former prisoners of war.

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

AMENDED ANALYSIS

This bill delineates the requirements for certain veterans to obtain special number plates. The bill also repeals provisions relative to special number plates for vehicles of blind veterans and plates for former prisoners of war.

1999-1156h

Amendment to HB 551

Proposed by the Committee on Judiciary - C

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

AN ACT revising the definition of "employer" under the employment discrimination laws of the state.

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

1 Commission for Human Rights; Definitions. Amend RSA 354-A:2, VII to read as follows:

VII. "Employer" does not include ~~[a club exclusively social, or a fraternal, charitable, educational or religious association or~~

~~corporation, if such club, association or corporation is not organized for private profit, nor does it include] any employer with fewer than 6 persons in its employ, but shall include the state and all political subdivisions, boards, departments and commissions thereof.~~

(a) Nothing in this section shall prevent an employer from hiring and employing employees on the basis of religion, sex, national origin, family or marital status, sexual orientation, color, creed or disability in those instances where religion, sex, national origin, family or marital status, sexual orientation, color, creed or absence of disability is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(b) Nothing in this section shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious organization, from limiting employment or giving preference to persons of the same religion or denomination in taking such actions as are calculated by the religious organization to promote the religious principles for which it is established or maintained.

4 Effective Date. This act shall take effect January 1 2000.

AMENDED ANALYSIS

This bill revises the definition of "employer" under the employment discrimination laws of the state.

1999-1135h

Amendment to HB 596

Proposed by the Committee on Finance - R

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

AN ACT making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

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

6 Rate of Tax for Biennium Ending June 30, 2001; Intrastate and Interstate Communications Services Tax. Notwithstanding RSA 82-A:3 and RSA 82-A:4, for the period beginning July 1, 1999 and ending June 30, 2001, the rate of tax is 5.5 percent on the gross charge for communications services purchased at retail from a retailer.

7 Prospective Repeal Date Extended for Exemption of Wooden Poles Under RSA 72:8-b. Amend 1998, 304:6, I to read as follows:

I. Section 5 of this act shall take effect July 1, ~~[1999]~~ **2001**.

8 Effective Date.

I. Sections 1-5 of this act shall take effect 60 days after its passage.

II. Section 7 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1999.

AMENDED ANALYSIS

This bill makes technical corrections to certain laws administered by the department of revenue administration. This bill extends the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

1999-1170h

Amendment to HB 601

Proposed by the Committee on Finance - R

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

AN ACT allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and changing the personnel group status of the warden of the lakes region facility.

Amend the bill by replacing section 5 with the following:

5 Reference Change and Addition to Personnel Group. Amend RSA 94:1-a by:

I. Deleting in group M:

Superintendent, New Hampshire state prison for women

Superintendent, lakes region facility, department of corrections

II. Inserting in group M:

Warden, New Hampshire state prison for women

III. Inserting in group N:

Warden, lakes region facility, department of corrections

Warden, Northern New Hampshire Correctional Facility, department of corrections

Amend the bill by inserting after section 5 the following and renumbering the original sections 6-11 to read as 7-12, respectively:

6 Applicability of Salary Classifications. The warden of the Northern New Hampshire Correctional Facility (formerly the Berlin prison facility) on the effective date of this act shall become the unclassified warden at the salary step in group N which is not less than the warden’s classified salary. The warden of the lakes region facility on the effective date of this act, shall be placed in the unclassified salary step in group N so that the warden shall be compensated at a rate not less than the superintendent’s present salary.

AMENDED ANALYSIS

This bill allows the assistant commissioner to assume the duties of the commissioner in the event that the commissioner is unable for any reason to perform such duties, corrects certain out-of-date references pertaining to the department of corrections, and adds the position of warden of the Northern New Hampshire Correctional Facility to unclassified personnel group N and the position of warden of the lakes region facility to unclassified personnel group N.

1999-1165h

Amendment to HB 616-FN-A

Proposed by the Committee on Finance - C

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

AN ACT establishing a house study committee to consider issues related to the driver training fund.

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

1 Committee Established. There is established a committee to study issues related to the driver training fund established pursuant to RSA 263:52.

2 Membership and Compensation.

I. The membership of the committee shall consist of 3 members of the house transportation committee and 2 members of the house finance committee, appointed by the speaker of the house.

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

3 Duties. The committee shall study issues related to the driver training fund established pursuant to RSA 263:52, including

but not limited to:

I. Revenue generated for the fund from the issuance of original licenses and vanity plates.

II. Recipients of reimbursement from the fund.

III. Utilization of reimbursement funds.

IV. Methods of reimbursement.

V. Requirements for reimbursement.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the house clerk, the governor, and the state library on or before November 1, 1999.

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

AMENDED ANALYSIS

This bill establishes a study committee to consider issues related the driver training fund, established pursuant to RSA 263:52.

1999-1131h

Amendment to HB 626-FN

Proposed by the Committee on Executive Departments and Administration - C

Amend the bill by replacing section 1 with the following:

1 Accountancy Act. RSA 309-B is repealed and reenacted to read as follows:

CHAPTER 309-B

NEW HAMPSHIRE ACCOUNTANCY ACT

309-B:1 Citation. This chapter may be cited as the "Accountancy Act of 1999."

309-B:2 Purpose. It is the policy of the state of New Hampshire and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated and maintained their qualifications to do so; that a public authority competent to prescribe and assess the qualifications and to regulate the professional conduct of licensees be established; and that the use of titles that are likely to mislead the public as to the status or competence of the persons using such titles be prohibited.

309-B:3 Definitions. In this chapter:

I.(a) "Attest" means providing the following financial statement services:

(1) Any audit or other engagement to be performed in accordance with the American Institute of Certified Public Accountants' Auditing Standards Board's Statements on Auditing Standards (SAS).

(2) Any review of a financial statement or compilation of a financial statement to be performed in accordance with the American Institute of Certified Public Accountants' Auditing Standards Board's Statements on Standards for Accounting and Review Services (SSARS).

(3) Any examination of prospective financial statements to be performed in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements (SSAE).

(b) The Statements on Standards specified in subparagraph (a)(1)-(3) above shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

II. "Board" means the New Hampshire board of accountancy established under RSA 309-B:4.

III. "Certificate" means a certificate as a certified public accountant issued under RSA 309-B:5 or corresponding provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state.

IV. "CPA firm" means a sole proprietorship, a corporation, a partnership including a limited liability partnership, a limited liability company including a professional limited liability company, or any other legally authorized association issued a license under RSA 309-B:8.

V. "Financial Accounting Foundation" means the independently incorporated organization, the board of trustees of which consists of members of organizations having special knowledge of, and interest in, financial reporting, that is responsible for the oversight and funding for the Financial Accounting Standards Board and the Governmental Accounting Standards Board.

VI. "Financial Accounting Standards Board" or "FASB" means the designated organization formed by the Financial Accounting Foundation or its successor organization that establishes the standards of financial accounting and reporting for nongovernmental entities recognized by the United States Securities and Exchange Commission and the American Institute of Certified Public Accountants.

VII. "Governmental Accounting Standards Board" or "GASB" means the designated independent organization in the private sector or its successor organization that establishes the standards of financial accounting and reporting for state and local governmental entities recognized by the United States Securities and Exchange Commission and the American Institute of Certified Public Accountants.

VIII. "License" means a certificate issued under RSA 309-B:5, a permit issued under RSA 309-B:8 or a registration under RSA 309-B:9; or in each case, a certificate or permit issued under corresponding provisions of prior law.

IX. "Licensee" means the holder of a license as defined in RSA 309-B:3, VIII.

X. "Manager" means a manager of a professional limited liability company established under RSA 304-D or equivalent statute in another state.

XI. "Member" means a member of a professional limited liability company established under RSA 304-D or equivalent statute in another state.

XII. "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm that performs attest services, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed.

XIII. "Permit" means a permit to practice as a CPA firm issued under RSA 309-B:8 or corresponding provisions of prior law, or under corresponding provisions of the laws of other states.

XIV. "Professional" means arising out of or related to the specialized knowledge or skills associated with certified public accountants.

XV. "Report," when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that such person or firm is an accountant or auditor, or from the language of the report itself. The term "report" shall include any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, and it shall include any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

XVI. "Rule" means any rule adopted by the board under RSA 541-A.

XVII. "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam;

except that "this state" means the state of New Hampshire.

XVIII. "Substantial equivalency" is a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in this chapter and rules relating thereto adopted under RSA 541-A, or that the individual certified public accountant's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in this chapter and rules relating thereto adopted under RSA 541-A.

XIX. "Uniform Accountancy Act" means the third edition of the model legislation developed jointly by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy as published in 1998.

309-B:4 Board of Accountancy; Appointment; Disposition of Fees; Rulemaking.

I.(a) There is hereby created the New Hampshire board of accountancy, which shall have responsibility for the administration and enforcement of this chapter. The board shall consist of 5 members, all of whom shall be residents of this state appointed by the governor with the approval of council. Three members shall be holders of certificates under RSA 309-B:5 or corresponding provisions of prior law; one member shall be a public accountant who is a holder of a currently valid registration, and one member shall be a public member, who is not, and never was, a member of the accounting profession, or the spouse of such a person, but who has, or has had, professional or practical experience in the use of accounting services and financial statements so as to be qualified to make judgments about the qualifications and conduct of persons and firms subject to regulation under this chapter. The one position to be occupied by a public accountant shall instead be occupied by a public member after the number of public accountants holding currently valid public accountant registrations drops below 25.

(b) Members of the board shall serve staggered 5-year terms. Members serving terms of less than 5-years under prior law shall serve out such shorter terms. A vacancy occurring during a term shall be filled by appointment of the governor and approval of council for the unexpired portion of such term. Upon the expiration of a member's term, such member shall continue to serve until a successor shall have been appointed and taken office.

(c) No person who has served 2 successive complete terms shall be eligible for reappointment, but appointment to fill an unexpired term shall not be considered a complete term for this purpose. All terms of service under prior law shall be considered in determining the completion of 2 consecutive terms.

(d) Any member of the board whose certificate under RSA 309-B:5 or registration under RSA 309-B:9 of this chapter is revoked or suspended shall automatically cease to be a member of the board. A board member may be removed for cause by the governor and council under RSA 4:1.

II.(a) The board shall elect annually from among its members a chairperson, a secretary-treasurer, and such other officers as the board may deem appropriate.

(b) The board shall meet at such times and places as may be fixed by the board. Meetings of the board shall be open to the public except insofar as they are concerned with investigations under RSA 309-B:11 and except as may be necessary to protect information that is required to be kept confidential by board rules or by the laws of this state. A majority of the board members then in office shall constitute a quorum at any meeting duly called.

(c) The board shall have a seal which shall be judicially noticed.

(d) The board shall retain or arrange for the retention of all applications, all documents under oath that are filed with the board, and records of its proceedings. The board shall maintain a registry of the names and addresses of all licensees under this chapter. In any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of any of the records certified as true copies under the seal of the board shall be admissible in evidence as tending to prove the contents of said records.

III.(a) Each member of the board shall be paid \$100 for each day or portion of a day spent in the discharge of official duties and shall be reimbursed for actual and necessary expenses incurred in the discharge of official duties.

(b) In addition to the amounts in subparagraph (a), the secretary-treasurer shall be compensated in an amount to be determined by the board, but not to exceed \$5,000.

IV. All moneys collected by the board from fees authorized under this chapter shall be received and accounted for by the board,

shall be deposited in the state treasury to the credit of the board, and shall not lapse. Administration expenses shall be limited to the funds collected and may include, but shall not be limited to, the costs of conducting investigations and of taking testimony and procuring the attendance of witnesses before the board or its committees; all legal proceedings taken under this chapter for the enforcement of this chapter; and educational programs for the benefit of the public or licensees and their employees. All fees prescribed by the board under prior law shall remain in effect until the board shall prescribe a new schedule of fees pursuant to RSA 541-A.

V. The board shall file an annual report of its activities with the governor, the president of the senate, and the speaker of the house of representatives. The report shall include a statement of all receipts and disbursements and a listing of all current licensees under this chapter. The board shall mail a copy of the annual report to any person requesting it, upon payment of a reasonable charge.

VI. The board may employ an executive director, investigators, and such other personnel as it deems necessary for administration and enforcement under this chapter. It may appoint such committees or persons to advise or assist it in such administration and enforcement, as it may see fit. It may retain its own counsel to advise and assist it, in addition to such advice and assistance as is provided by the department of justice.

VII. The board shall have the power to take any action necessary and proper to carry out the purposes of this chapter, including the power to sue and be sued in its official name as an agency of this state; to issue subpoenas to compel the attendance of witnesses and the production of documents; and to administer oaths, to take testimony, to cooperate with the appropriate authorities in other states in investigations and enforcement concerning violations of this chapter and comparable laws of other states, and to receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence. The board, its members, and its agents shall be immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the state shall hold the board, its members, and its agents harmless from all costs, damages, and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies.

VIII. The board shall adopt rules, pursuant to RSA 541-A, governing its administration, the enforcement of this chapter and the conduct of licensees. Such rules shall include, but not be limited to:

- (a) Rules governing the board's meetings and conduct of its business.
- (b) Rules of procedure governing the conduct of investigations and hearings by the board.
- (c) Rules specifying the educational and experience qualifications required for all licensees, and the continuing professional education required for renewal of certificates or registrations.
- (d) Rules of professional conduct directed to controlling the quality and integrity of the practice of public accountancy by licensees, including, but not limited to, matters relating to independence, integrity, objectivity, competence, technical standards, responsibilities to the public, and responsibilities to clients.
- (e) Rules on substantial equivalency for implementation of RSA 309-B:6.
- (f) Rules governing the manner and circumstances of use of the titles "certified public accountant", "CPA," "public accountant" and "PA."
- (g) Rules regarding peer review as required under this chapter. Such rules shall include conduct and cost parameters to ensure that charges for the off-site peer review process are not excessive.
- (h) The establishment of all fees required under this chapter.
- (i) Such other rules as the board may deem necessary or appropriate for implementing the provisions and purposes of this chapter.

IX. In accordance with RSA 541-A, the board shall publish notice of such proposed action and shall, in addition, notify all licensees.

309-B:5 Qualifications for a Certificate as a Certified Public Accountant.

I. The certificate of "certified public accountant" shall be granted to persons of good character who meet the education,

experience, and examination requirements of this section, who make application therefor pursuant to RSA 309-B:7, and who pay the fees prescribed by the board.

II. Good character for purposes of this section means the lack of a history of dishonest or felonious acts.

III. The education requirements for a certificate shall be as follows:

(a) Until January 1, 2005, a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, with an accounting concentration or equivalent as determined by board rule to be appropriate.

(b) After January 1, 2005, at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; provided however, that candidates for a certificate may sit for the examination described in paragraph IV if they have at least 120 semester hours of college education including a baccalaureate degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate.

IV. The examination required to be passed as a condition for the granting of a certificate shall be held as often as the board may specify by rule, and shall test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule. The time for holding such examination shall be determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate, provided, however, that the board shall, to the extent possible, see to it that the examination itself, the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may make such use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants, and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to assist it in performing its duties under this section.

V. An applicant shall be required to pass all sections of the examination provided for in paragraph IV in order to qualify for a certificate. A passing grade for each section shall be 75. If, at a given sitting of the examination, an applicant passes 2 or more but not all sections, the applicant shall be given credit for those sections passed and need not sit for reexamination in those sections, provided that:

(a) At that sitting the applicant wrote all sections of the examination for which the applicant does not have credit;

(b) The applicant attained a minimum grade of 50 on each section not passed at that sitting;

(c) The applicant passes the remaining sections of the examination within 5 years of the examination at which the first sections were passed;

(d) At each subsequent sitting at which the applicant seeks to pass any additional sections, the applicant writes all sections for which the applicant does not have credit; and

(e) In order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of 50 on sections taken at that sitting.

VI. An applicant shall be given credit for any and all sections of an examination passed in another state if such credit would have been given, under applicable requirements at that time, had the applicant taken the examination in this state.

VII. The board may in particular cases waive or defer any of the requirements of paragraphs V and VI regarding the circumstances in which the various sections of the examination must be passed, upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet such requirement.

VIII. The board may charge, or provide for a third party administering the examination to charge, each applicant a fee in an amount prescribed by the board by rule, for each section of the examination or reexamination taken by the applicant.

IX. The experience requirement shall consist of public accounting experience in providing one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters, or the equivalent, all of which was under the direction of a licensee in any state in practice as a certified public

accountant or as a public accountant, or in any state in employment as a staff accountant by a certified public accountant or anyone practicing public accounting, or a combination of either of such types of experience and for the following periods of time:

- (a) Two years for a candidate with a 4-year college degree, or the equivalent; or
- (b) One year for a candidate holding a master's degree in accounting, taxation, finance, or business administration.

X. Experience obtained in the employment of a governmental agency for the periods of time provided in paragraph IX in the following areas shall be accepted by the board as qualifying experience under this section:

- (a) In auditing the tax returns or books and accounts of nongovernmental entities in 3 or more distinct lines of commercial or industrial business in accordance with generally accepted auditing standards under the direction of a licensee; or
- (b) In auditing the books and accounts or activities of 3 or more governmental agencies or distinct organizational units in accordance with generally accepted auditing standards under the direction of a licensee and reporting on their operations to a third party, to the Congress, or to a state legislature; or
- (c) In reviewing financial statements and supporting material covering the financial condition and operations of nongovernmental entities engaged in 3 or more distinct lines of commercial or industrial business under the direction of a licensee to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable government regulations for the protection of investors and consumers.

XI. The board shall by rule prescribe other kinds of experience that meet the experience requirement, provided that minimum requirements shall include at least one year of experience in providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax or consulting skills, all of which shall be under the general direction of a licensee or other appropriately qualified professional acceptable to the board.

309-B:6 Substantial Equivalency.

I. The practice rights, reciprocity and discipline for certificate holders and licensees from states whose accountancy statutes are substantially equivalent to the requirements set out in this chapter shall be governed by the following provisions:

- (a) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any United States jurisdiction which the board has verified to be in substantial equivalence with the certified public accountant licensure requirements of this state, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all rights and privileges of certificate holders and licensees of this state without the need to obtain a certificate under RSA 309-B:7 or a permit under RSA 309-B:8. However, such individuals shall notify the board of their intent to enter the state under this provision and pay any required fee.
- (b) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any United States jurisdiction which the board has not verified to be in substantial equivalence with the certified public accountant licensure requirements of this state, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all rights and privileges of certificate holders and licensees of this state without the need to obtain a certificate under RSA 309-B:7 or a permit under RSA 309-B:8 if such individual obtains from the board verification that such individual's certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of this state. However, such individuals shall notify the board of their intent to enter the state under this provision and pay any required fee.

II. As an alternative to the requirements of RSA 309-B:7, III, a certificate holder licensed by another state, before establishing a principal place of business in this state, shall request the issuance of a certificate from the board prior to establishing such principal place of business. The board shall issue a certificate to such person who meets the standards and requirements set out in subparagraph I(b) of this section.

III. A licensee of another state who satisfies all of the requirements specified in subparagraphs I(a) or (b) of this section shall comply with all applicable provisions of this chapter.

IV. A licensee of this state offering or rendering services or using this state's certified public accountant designation in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline in the other state. Notwithstanding RSA 309-B:11, I, the board shall be required to investigate any complaint made by the board of accountancy of another state.

V. Any licensee of another state exercising the privileges afforded under subparagraph I(a) or I(b) of this section hereby consents, as a condition of the grant of this privilege, to:

(a) The personal and subject matter jurisdiction of the board;

(b) Comply with this chapter and the rules of the board, including payment of any fees the board may assess such licensees;

(c) The appointment of the out-of-state board of accountancy which issued their license as their agent upon whom process may be served in any action or proceeding by this board against the licensee.

309-B:7 Issuance and Renewal of Certificates; Maintenance of Competency.

I. The board shall grant or renew certificates to persons who make application and demonstrate that their qualifications, including where applicable the qualifications prescribed by RSA 309-B:5, are in accordance with the requirements of this section, or that they are eligible for licensure under the substantial equivalency standards set out in RSA 309-B:6. The holder of a certificate issued under this section may provide attest services as defined in RSA 309-B:3, I(a) only in a CPA firm that holds a permit issued under RSA 309-B:8.

II. Certificates shall be initially issued, and renewed, for periods of not more than 3 years. Annual periods shall coincide with the state's fiscal year, beginning on July 1 and ending on the subsequent June 30. Applications for such certificates shall be made in such form, and in the case of applications for renewal, between such dates, as the board shall by rule specify. A certificate shall remain valid for the period of time that the board requires to act on the application for renewal, provided that the renewal was submitted in accordance with the rules adopted by the board. The board shall grant or deny any application no later than 90 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or where the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional certificate, which shall expire 90 days after its issuance or when the board determines whether or not to issue or renew the certificate for which application was made, whichever shall first occur.

III. With regard to applicants that are not eligible for reciprocity under the substantial equivalency standard set out in RSA 309-B:6, I(b), the board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon a showing that:

(a) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(b) The applicant had at least 4 years of experience outside of this state of the type described in RSA 309-B:5 or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's certificate was based and within the 10 years immediately preceding the application;

(c) If the applicant's certificate, license, or permit was issued more than one year prior to the application for issuance of an initial certificate under this section, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable under paragraph IV of this section.

IV. The board may charge a fee to any licensee of another state exercising the privileges afforded under this section, in accordance with rules adopted by the board.

V. Persons requesting issuance of certificates under paragraph IV of this section shall in their request list all states in which they have applied for or hold certificates, or licenses, and list any past denial, revocation, or suspension of a certificate or license and shall notify the board, in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate or license by another state.

VI. An application under this section may be made through any qualification service that the board may approve by rule.

VII. For renewal of a certificate under this section each licensee shall participate in a program of learning designed to insure continuing professional competence. The requirements established by the board shall specify any reasonable approach to meeting this requirement, including but not limited to, the setting of hours, the setting of fees, and the conducting of random audits of reports submitted to the board. The approach to meeting this requirement specified by the board shall be comparable to guidelines specified in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public

Accountants (AICPA). The board may by rule create an exception to this requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted such an exception by the board shall place the word "inactive" adjacent to their CPA title or PA title on any business card, letterhead, or any other document or device, with the exception of their CPA certificate or PA registration, on which the CPA or PA title appears.

VIII. The board shall charge a fee for each application for initial issuance or renewal of a certificate under this section in an amount prescribed by the board by rule.

IX. Applicants for initial issuance or renewal of certificates under this section shall in their applications list all states in which they have applied for or hold certificates, licenses, or permits and list any past denial, revocation, or suspension of a certificate, license, or permit, and each holder of or applicant for a certificate under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate, license, or permit by another state.

X. The board shall issue a certificate to a holder of a substantially equivalent foreign designation, granted in a foreign country, provided that:

(a) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain such foreign authority's comparable designation; and

(b) The foreign designation:

(1) Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(2) Entitles the holder to issue reports upon financial statements; and

(3) Was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law; and

(c) The applicant:

(1) Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted;

(2) Completed an experience requirement, substantially equivalent to the requirement set out in RSA 309-B:5, IX, in the jurisdiction which granted the foreign designation or has completed at least 4 years of professional experience in this state; or meets equivalent requirements prescribed by the board by rule, within the 10 years immediately preceding the application; and

(3) Passed a uniform qualifying examination in national standards acceptable to the board.

XI. An applicant under paragraph X shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy, and each holder of a certificate issued under this paragraph shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

XII. The board has the sole authority to interpret the application of the provisions of paragraphs X and XI.

309-B:8 Firm Permits to Practice; Attest Experience and Peer Review.

I. The board shall grant or renew permits to practice as a CPA firm to entities that make application and demonstrate their qualifications therefor in accordance with the requirements of this section or to CPA firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued under this section in order to provide attest services or to use the designation "CPAs" or "CPA firm."

II. Permits shall be initially issued and renewed for periods of not more than 3 years. Annual periods shall coincide with the state's fiscal year, beginning on July 1 and ending on the subsequent June 30. Applications for such permits shall be made in such form and in the case of applications for renewal, between such dates, as the board shall by rule specify. A permit shall remain valid for the period of time that the board requires to act on the application for renewal, provided that the renewal was submitted in accordance with the rules adopted by the board. The board shall grant or deny any application no later than 90

days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or where the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance or when the board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.

III. An applicant for initial issuance or renewal of a permit to practice under this section shall be required to show that:

(a) Notwithstanding any other provision of law, a 2/3 majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state of the United States and such partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state, hold a valid certificate issued under RSA 309-B:5 or the corresponding provisions of prior law or are public accountants licensed under RSA 309-B:9. Firms may include non-licensee owners but the firm and its ownership shall comply with rules adopted by the board. For firms of public accountants, at least a 2/3 majority of the ownership of the firm, in terms of financial interests and voting rights, shall belong to holders of registration under RSA 309-B:9.

(b) Any CPA or PA firm may include non-licensee owners provided that:

(1) The firm designates a licensee of this state, who is responsible for the proper registration of the firm and identifies that individual to the board.

(2) All non-licensee owners are active individual participants in the CPA or PA firm or affiliated entities.

(3) The firm complies with such other requirements as the board may impose by rule.

(c) Any individual licensee who is responsible for supervising attest services, and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the appropriate experience requirements for such services as required by professional standards for such services.

(d) Any individual licensee who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience requirement of RSA 309-B:8, III(c).

IV. An applicant for initial issuance or renewal of a permit to practice under this section shall be required to register each office of the firm within this state with the board and show that all attest services rendered in this state are under the charge of a person holding a valid certificate issued under RSA 309-B:5 or the corresponding provision of prior law or some other state.

V. The board shall charge a fee for each application for initial issuance or renewal of a permit under this section in an amount prescribed by the board by rule.

VI. Applicants for initial issuance or renewal of permits under this section shall in their application list all states in which they have applied for or hold permits as CPA firms and list any past denial, revocation, or suspension of a license or permit by any other state, and each holder of or applicant for a permit under this section shall notify the board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in this state, any change in the number or location of offices within the state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of license or permit by any other state.

VII. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a license, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board will result in the suspension of the firm permit.

VIII. The board shall by rule require, on either a uniform or random basis, as a condition to renewal of permits under this section, that applicants undergo, no more frequently than once every 3 years, peer reviews conducted in such manner as the board shall specify, and such peer review shall include a verification by the reviewer that individuals in the firm who are responsible for attest services and who sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the experience requirements set out in professional standards for such services, provided that such rule:

(a) Shall be adopted reasonably in advance of the time when it first becomes effective;

(b) Shall include reasonable provision for compliance by an applicant showing that it has, within the preceding 3 years,

undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this paragraph;

(c) Shall require, with respect to peer reviews contemplated by subparagraph (b), that they be subject to oversight by an oversight body established or sanctioned by board rule, which body shall periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and

(d) Shall require, with respect to peer reviews contemplated by subparagraph (b), that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that neither the board nor any third party, other than the peer review oversight body, shall have access to documents furnished or generated in the course of such peer review. This subparagraph shall not be construed to limit the board's subpoena power under RSA 309-B:11, I; nor shall it be construed to prevent the board from obtaining from the applicant, its peer review report, the related letter of comment, and the related letter of response.

309-B:9 Public Accountants and Firms of Public Accountants.

I. Persons who on January 1, 2,000 hold registrations as public accountants issued under prior law of this state shall be entitled to have their registrations renewed upon fulfillment of the continuing professional education requirements for renewal of certificates set out in RSA 309-B:7, and on the renewal cycle and payment of fees there prescribed for renewal of certificates. Any registration not so renewed shall expire January 1, 2003.

II. Firms of public accountants holding permits to practice as such issued under prior law of this state shall be entitled to have their permits to practice renewed pursuant to the procedures set out in RSA 309-B:8, subject to the requirements for renewal of permits to practice for firms of certified public accountants.

III. So long as such public accountants hold valid registrations and permits to practice, they shall be entitled to perform attest services to the same extent as holders of certificates and holders of permits. In addition, they shall be entitled to use the title "public accountant" and "PA," but no other title under this chapter. The holder of a registration issued under this section may perform attest services only in a firm that holds a permit under RSA 309-B:8.

309-B:10 Enforcement Against Holders of Certificates, Permits, and Registrations.

I. After notice and hearing pursuant to RSA 309-B:12, the board may revoke any certificate, permit, or registration issued under RSA 309-B:7, 309-B:8 or 309-B:9 or corresponding provisions of prior laws; suspend any such certificate, permit, or registration; or refuse to renew any such certificate, permit, or registration for a period of not more than 5 years. The board may reprimand, censure, or limit the scope of practice of any licensee; impose an administrative fine not exceeding \$1,000; or place any licensee on probation, all with or without terms, conditions, and limitations, for any one or more of the following reasons:

(a) Fraud or deceit in obtaining a certificate, permit, or registration.

(b) Cancellation, revocation, suspension, or refusal to renew a license or practice rights by any other state, including possessions of the United States, for any cause involving disciplinary reasons.

(c) Failure, on the part of a holder of a certificate under RSA 309-B:7 or permit under RSA 309-B:8 or registration under RSA 309-B:9, to maintain compliance with the requirements for issuance or renewal of such certificate, permit, or registration or to report changes to the board under RSA 309-B:7, VI and 309-B:8, VI.

(d) Revocation or suspension of the right to practice before any state, including possessions of the United States, or federal agency for disciplinary reasons.

(e) Dishonesty, fraud, or gross negligence in the performance of services as a licensee or in the filing or failure to file the licensee's own income or employment tax returns or the payment of the licensee's income or employment tax liability.

(f) Violation of any provision of this chapter or rule adopted by the board under this chapter or violation of professional standards.

(g) Violation of any rule of professional conduct adopted by the board under RSA 309-B:4, VIII(d).

(h) Conviction of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this state, or of any other state, of any possessions of the United States, or of any other country if the acts involved would have constituted a crime under the laws of this state.

- (i) Performance of any fraudulent act while holding a certificate, registration, or permit issued under this chapter or prior law.
- (j) Any conduct reflecting adversely upon the licensee's fitness to perform services as a licensee.
- (k) Making any false or misleading statement or verification, in support of an application for a certificate, registration, or permit filed by another.

II. In lieu of, or in addition to, any remedy specifically provided in paragraph I of this section, the board may require one or both of the following of a licensee:

- (a) A peer review conducted in such fashion as the board shall specify.
- (b) Satisfactory completion of such continuing professional education programs as the board may specify.

III. In any proceeding in which a remedy provided by paragraph I or II of this section is imposed, the board may also require the respondent licensee to pay the costs of the proceeding.

309-B:11 Enforcement Procedures; Investigations.

I. The board may, upon receipt of a complaint or other information suggesting violations of this chapter or of the rules of the board, conduct investigations to determine whether there is probable cause to institute proceedings under RSA 309-B:12, 309-B:15 or 309-B:16 against any person or firm for such violation, but an investigation under this section shall not be a prerequisite to such proceedings in the event that a determination of probable cause can be made without investigation. In aid of such investigations, the board, through its chairperson, shall have the power to compel the testimony of witnesses and the production of documents or other evidence by the issuance of subpoenas. The board and the defendant may take the depositions of witnesses residing within or without the state pertaining to any matter being investigated.

II. The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of the investigation, the investigating officer shall file a report with the board. The board shall find probable cause or lack of probable cause based upon the report or shall return the report to the investigating officer for further investigation. Unless there has been a determination of probable cause, the report of the investigating officer, the complaint, if any, the testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities, and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.

III. Upon a finding of probable cause, if the subject of the investigation is a licensee, the board shall direct that a complaint be issued under RSA 309-B:12, and if the subject of the investigation is not a licensee, the board shall take appropriate action under RSA 309-B:15 or 309-B:16. Upon a finding of no probable cause, the board shall close the matter and shall thereafter release information relating to the investigation only with the consent of the person or firm under investigation.

IV. The board may review the publicly available professional work of licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. If, as a result of such review, the board discovers reasonable grounds for a more specific investigation, the board may proceed under paragraphs I through III of this section.

309-B:12 Enforcement Procedures; Hearings by the Board.

I. In any case where probable cause with respect to a violation by a licensee has been determined by the board, whether following an investigation under RSA 309-B:11, or upon receipt of a written complaint furnishing grounds for a determination of such probable cause, or upon receipt of notice of a decision by the board of accountancy or similar agency of another state, possession of the United States or country furnishing such grounds, the board shall issue a complaint setting forth appropriate charges and set a date for a disciplinary hearing before the board on such charges. The board shall, not less than 30 days prior to the date of such hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the licensee, together with a copy of the board's rules governing proceedings under this section, either by personal delivery or by mailing a copy by certified mail, return receipt requested, to the licensee at the licensee's address last known to the board.

II. A licensee against whom a complaint has been issued under this section shall have the right, reasonably in advance of the hearing, to examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of

anticipated evidence in the board's possession relating to the subject matter of the complaint. The board's rules governing proceedings under this section shall specify the time and manner in which such right may be exercised.

III. In a hearing under this section the respondent licensee may appear in person or, in the case of a firm, through a duly authorized partner, officer, director, or shareholder member or manager, or by counsel. The respondent or counsel may examine witnesses and evidence presented in support of the complaint, and may present evidence and witnesses on the licensee's behalf. The licensee shall have the right, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

IV. The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under RSA 309-B:11, shall not participate in the board's decision of the matter.

V. In a hearing under this section, the board shall be advised by counsel, and such individual shall not be the same counsel who presents or assists in presenting the evidence supporting the complaint under paragraph IV of this section.

VI. In a hearing under this section, the board shall not be bound by the technical rules of evidence.

VII. In a hearing under this section, a stenographic or electronic record shall be made and filed with the board. A transcript need not be prepared unless review is sought under paragraph X of this section or the board determines that there is other good cause for its preparation. The respondent may request a copy of such record and shall bear the cost of making such copy.

VIII. In a hearing under this section, a recorded vote of a majority of all members of the board, excluding members disqualified by reason of paragraph IV or other reasons under this section, shall be required to sustain any charge and to impose any penalty with respect to such hearing.

IX. If, after service of a complaint and notice of hearing as provided in paragraph I of this section, the respondent licensee fails to appear at the hearing, the board may proceed to hear evidence against the licensee and may enter such order as it deems warranted by the evidence. The order shall be final unless the licensee petitions for review under paragraph X of this section, provided, however, that within 30 days from the date of any such order, upon a showing of good cause for the licensee's failure to appear and defend, the board may set aside the order and schedule a new hearing on the complaint to be conducted in accordance with applicable paragraphs of this section.

X. Any person or firm adversely affected by any order of the board entered after a hearing under this section may appeal such order by filing a written petition with the superior court in the county in which the respondent resides or, if not a resident of this state, in the county in which the respondent has a place of business or resident agent. The petition shall be filed within 30 days after the entry of the order. The respondent shall exhaust all applicable administrative procedures before periodical review may commence. The procedures for review and the scope of the review shall be as specified in RSA 541-A, the New Hampshire Administrative Procedure Act.

XI. In any case where the board renders a decision imposing discipline against a licensee under RSA 309-B:10 or RSA 309-B:12, the board shall examine its records to determine whether the licensee holds a certificate, license, or a permit in any other state, possession of the United States, or country. If that is the case, the board shall notify the board of accountancy or other similar regulatory agency of such other state, possession of the United States, or country of its decision, by mail, within 45 days of rendering the decision or within 45 days of a final decision of an appeal by a court reviewing the board's decision, whichever is later. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to professional organizations having a disciplinary interest in the licensee. Where a petition for review has been filed pursuant to RSA 309-B:12, X, the notification and furnishing of information provided for in this paragraph shall await the resolution of such review and, if resolution is in favor of the licensee, no such notification or furnishing of information shall be made.

309-B:13 Reinstatement.

I. In any case where the board has suspended or revoked a certificate, permit, or registration or refused to renew a certificate, permit, or registration, the board may, upon application in writing by the individual or firm affected and for good cause shown, modify the suspension or reissue the certificate, permit, or registration.

II. The board shall by rule specify the manner in which such applications shall be made, the times within which they shall be made, and the circumstances under which hearings will be held.

III. Before reissuing or terminating the suspension of a certificate, permit, or registration under this section, and as a condition to such action, the board may require the applicant to show successful completion of specified continuing professional education. The board may make the reinstatement of a certificate, permit, or registration conditional and subject to satisfactory completion of a peer review conducted in such fashion as the board shall specify.

309-B:14 Unlawful Acts.

I. Only licensees may issue a report on financial statements of any other person, firm, organization, or governmental unit or otherwise offer to render or render any attest service. This restriction shall not prohibit any act of a public official or public employee in the performance of that person's duties as such; or prohibit the performance by any person from the use of accounting skills, or analyzing and preparing projections of financial data in the performance of management advisory services, financial advisory services, consulting services, the preparation of tax returns, or the furnishing of advice on tax matters. This restriction also does not apply to non-licensees who may prepare financial statements and issue reports thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

II. Licensees performing attest services shall provide those services pursuant to statements on standards relating to those services adopted by reference or directly by the board.

III. No person not holding a valid certificate shall use or assume the title or designation "certified public accountant," or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

IV. No firm shall provide attest services or assume or use the title or designation "certified public accountants," or the abbreviation "CPAs," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless (1) the firm holds a valid permit issued under RSA 309-B:8, and (2) ownership of the firm is in accord with this chapter and rules adopted by the board.

V. No person shall assume or use the title or designation "public accountant," or the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant unless such person holds a valid registration issued under RSA 309-B:9.

VI. No person or firm not holding a valid certificate, permit, or registration issued under RSA 309-B:7, 309-B:8 or 309-B:9 shall provide attest services or assume or use the title or designation "public accountant," the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of public accountants.

VII. No person or firm not holding a valid certificate, permit, or registration issued under RSA 309-B:7, 309-B:8 or 309-B:9 shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant," or any other title or designation likely to be confused with the titles "certified public accountant" or "public accountant," or use any of the abbreviations "CA," "LA," "RA," "AA," or similar abbreviation likely to be confused with the abbreviations "CPA" or "PA." The title "Enrolled Agent" or "EA" may only be used by individuals so designated by the Internal Revenue Service.

VIII. Persons not licensed under this chapter shall not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements. In this regard, the board shall issue safe harbor language non-licensees may use in connection with such financial information. Such disclaimer language shall include the following:

"I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners).

I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any form of assurance on them."

IX. No person or firm not holding a valid certificate, permit, or registration issued under RSA 309-B:7, 309-B:8 or 309-B:9 shall assume or use any title or designation that includes the words "accountant," "auditor," or "accounting," in connection with any other language, including the language of a report, that implies that such person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor. This paragraph shall not prohibit any officer, partner, or employee of any firm or organization from affixing a signature to any statement in reference to the financial affairs of such firm

or organization with any wording designating the position, title, or office that person holds, nor shall it prohibit any act of a public official or employee in the performance of that person's duties. Nothing in this chapter shall prohibit non-licensees who perform services involving the use of accounting skills from describing such services as "bookkeeping", "tax preparation" or "general accounting" services or describing themselves as "accountants".

X. No persons holding a certificate or registration or firm holding a permit under this chapter shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons or number of persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter; provided, however, that names of one or more of the former partners, members, managers or shareholders may be included in the name of a firm or its successor.

XI. No provision of this section shall have any application to a person holding a certification, designation, degree, license, or permit granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in such country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds such entitlement, who performs no attest services as defined, and who issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this state, and who does not use in this state any title or designation other than the one under which that person practices in such country, followed by a translation of such title or designation into English, if it is in a different language, and by the name of such country.

XII. No holder of a certificate issued under RSA 309-B:7 or a registration issued under RSA 309-B:9 shall perform attest services in any firm that does not hold a valid permit issued under RSA 309-B:8.

XIII.(a) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client an attest service as defined in RSA 309-B:3, I or a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence.

(b) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(c) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

XIV.(a) A licensee shall not:

(1) Perform for a contingent fee any professional services for, or receive such a fee from a client for whom the licensee or the licensee's firm performs an attest service as defined in RSA 309-B:3, I or a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(2) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client; provided however that a licensee may prepare an amended return or claim for refund for a contingent fee if that licensee has a reasonable expectation that the amended return or claim for refund will be the subject of substantive review by the taxing authority.

(b) The prohibition in subparagraph (a) applies during the period in which the licensee is engaged to perform any of the services listed in subparagraph (a) and the period covered by any historical financial statements involved in any such listed services.

(c) Except as otherwise provided in this subparagraph, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

XV. Nothing within this section shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law, or from billing a client or receiving a fee from a client in conformity with the professional conduct rules that govern the practice of law by such attorney or firm of attorneys.

309-B:15 Injunctions Against Unlawful Acts. Whenever, as a result of an investigation under RSA 309-B:11 or RSA 309-B:12, the board believes that any person or firm has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of RSA 309-B:14, the board may make application to the appropriate court for an order enjoining such acts or practices. Upon a showing by the board that such person or firm has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or other order as may be appropriate may be granted by such court.

309-B:16 Criminal Penalties.

I. Whenever, by reason of an investigation under RSA 309-B:11 or otherwise, the board has reason to believe that any person or firm has knowingly engaged in acts or practices which constitute a violation of RSA 309-B:14, the board may bring its information to the attention of the department of justice of this state which may, in its discretion, cause appropriate criminal proceedings to be brought.

II. Any person who knowingly violates any provision of RSA 309-B:14 shall be guilty of a class A misdemeanor.

309-B:17 Single Act as Evidence of Practice. In any action brought under RSA 309-B:12, RSA 309-B:15 or RSA 309-B:16, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify the imposition of a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

309-B:18 Confidential Communications. Except by permission of the client for whom a licensee performs services, or the heirs, successors, or personal representatives of such client, a licensee or any partner, officer, member, manager, shareholder, or employee of a licensee shall not voluntarily disclose information communicated to such person by the client relating to and in connection with services rendered to the client by the licensee. Such information shall be deemed confidential, provided, however, that nothing in this chapter shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings or administrative proceedings before governmental agencies in instances where a subpoena or summons has been issued, in investigations or proceedings under RSA 309-B:11 or RSA 309-B:12, in ethical investigations conducted by private professional organizations, or in the course of peer reviews, or to other persons active in the organization performing services for that client on a need to know basis or to persons in such professional organization, peer review entity, or organization performing services for that client who need this information for the sole purpose of assuring quality control.

309-B:19 Licensees' Working Papers and Clients' Records.

I. Subject to the provisions of RSA 309-B:18, all statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager, or employee of a licensee, incident to, or in the course of, rendering services to a client except for the records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partner, member or stockholder or new partner, new member or new stockholder of the licensee, or any combined or merged firm or successor in interest to the licensee. Nothing in this section shall be construed as prohibiting any temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to RSA 309-B:18.

II. A licensee shall furnish to the client or former client, upon request and reasonable notice:

- (a) A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and
- (b) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.
- (c) A copy of computer prepared client data diskettes containing client ledger data, spread sheet data, client documents and any other such data of the client or former client that would ordinarily constitute part of the client's records and not otherwise be available to the client.

III. Nothing in this section shall require a licensee to keep any work paper beyond the period prescribed in any other applicable statute.

309-B:20 Appointment of Secretary of State as Agent. Application by a person or a firm not a resident of this State for a certificate under RSA 309-B:7 or a license to practice under RSA 309-B:8 shall constitute appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed by the applicant while a licensee within this state.

309-B:21 Severability. If any provision of this chapter or the application thereof to any person or circumstances 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.

Amend the bill by replacing section 3 with the following:

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

1999-1163h

Amendment to HB 652-FN

Proposed by the Committee on Finance - R

Amend the bill by replacing section 6 with the following:

6 Restitution First Priority. Amend RSA 651:63, VI to read as follows:

VI. Restitution, administrative fines and fees, and other fees collected, except for supervision fees pursuant to RSA 504-A:13, shall be allocated on a pro-rata basis *by the commissioner of corrections or his or her designee* when payments are insufficient to cover the full amount due for each of these balances, *except that restitution to victims shall have priority over all other allocations.*

1999-0720h

Amendment to HB 706

Proposed by the Committee on Criminal Justice and Public Safety - C

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

AN ACT relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders.

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

1 Definitions; Sexual Contact. Amend RSA 632-A:1, IV to read as follows:

IV. "Sexual contact" means the intentional touching *whether directly, through clothing, or otherwise*, of the victim's or actor's sexual or intimate parts, including breasts and buttocks~~[-and the intentional touching of the victim's or actor's clothing covering the immediate area of the victim's or actor's sexual or intimate parts]~~. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification.

2 Aggravated Felonious Sexual Assault. Amend RSA 632-A:2, II to read as follows:

II. A person is guilty of aggravated felonious sexual assault without penetration when he intentionally touches *whether directly, through clothing, or otherwise*, the genitalia of a person under the age of 13 under circumstances that can be reasonably construed as being for the purpose of sexual arousal or gratification.

3 Registration of Criminal Offenders; Definitions Amended. Amend RSA 651-B:1, V (a) and (b) to read as follows:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense, RSA 633:1, 633:2, 633:3, **639:2**, or 645:2; or

(b) RSA 169-B:41, II, 639:3, III, 649-A:3, **649-B:3**, **649-B:4** or 650:2, II; or

4 Registration of Criminal Offenders; Duration of Registration; Offenses Added. Amend RSA 651-B:6, I to read as follows:

I. Any sexual offender convicted of a violation or attempted violation of RSA 632-A:2 or 632-A:3, and any offender against children convicted of a violation or attempted violation of RSA 169-B:41, II, 633:1, 633:2, **639:2**, 639:3, III, 645:2, II, 649-A:3, I, **649-B:3**, **649-B:4**, or 650:2, II, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for life.

5 Registration of Criminal Offenders; Duration of Registration; Multiple Offenses. Amend RSA 651-B:6, III to read as follows:

III. Notwithstanding the provisions of paragraph II, any sexual offender or offender against children who ***has been convicted of more than one offense listed in RSA 651-B:1, III or RSA 651-B:1, V, or who*** is sentenced to an extended term of imprisonment pursuant to RSA 651:6, I(b) shall be registered for life.

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

AMENDED ANALYSIS

This bill adds touching, whether directly, through clothing, or otherwise, to the definition of sexual contact and aggravated felonious sexual assault without penetration within RSA 632-A. This bill also adds the criminal offenses of incest and computer pornography and child exploitation to the criminal offenders registration statute.

1999-1185h

Amendment to HB 719

Proposed by the Committee on Finance - R

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Diversion Defined. Amend RSA 169-D:2 by inserting after paragraph IV the following new paragraph:

IV-a. "Diversion" means a decision made by a person with authority which results in providing an individually designed program for delivery of services for the child by a specific provider, or a plan to assist the child in finding a remedy for his or her inappropriate behavior. The goal of diversion is to prevent further involvement of the child in the formal legal system. Diversion of a child may take place either at pre-filing as an alternative to the filing of a petition or at any time after the filing of the petition.

Amend the bill by replacing section 9 with the following:

9 New Subparagraph; Dispositional Hearing May Include Certain After-School or Evening Programs. Amend RSA 169-D:17, I by inserting after subparagraph (d) the following new subparagraph:

(e) Requiring any child to attend structured after-school or evening programs which address some of the child's compliance issues, as well as supervise the child during the time of the day in which the child most values his or her freedom and the time which is most often used to perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or otherwise by the child, parent, guardian or person having custody of the child, or may be available to the child free of charge based on the limited means of the family or based on the program's receipt of other funding, including but not limited to funding distributed pursuant to RSA 170-G:4, XVI. Payment shall be made pursuant to RSA 169-D:29 only for those programs that have been certified pursuant to RSA 170-G:4, XVIII.

Amend the bill by replacing section 11 with the following:

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

1999-1203h

Amendment to HB 728-FN

Proposed by the Committee on Legislative Administration - C

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

AN ACT establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses.

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

1 Commission Established. There is established a commission to study the compensation of members of the legislature and the reimbursement for expenses.

2 Membership and Compensation.

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

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

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

(c) Three nonvoting members appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study the compensation and reimbursement for expenses of members of the New Hampshire house of representatives and the New Hampshire senate.

4 Chairperson; Quorum. The speaker of the house shall appoint a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member and shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before June 30, 2000.

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

AMENDED ANALYSIS

This bill establishes a commission to study the compensation of the members of the legislature and the reimbursement for expenses.

1999-1133h

Amendment to HB 732

Proposed by the Committee on Commerce - C

Amend the bill by replacing section 2 with the following:

2 Termination of Common Privileges and Services. RSA 356-B:46, IX is repealed and reenacted to read as follows:

IX. Notwithstanding any law, rule or provision of the condominium declaration, bylaws or rules to the contrary, the unit owners' association may authorize pursuant to RSA 356-B, its board of directors to, after 30 days prior written notice to the unit owner and the unit owner's first mortgagee of nonpayment of common assessments, terminate the delinquent unit's common privileges and cease supplying any unit which is delinquent in payment of common assessments for a period of 3 months or a total of more than \$1,000, whichever is greater, with any and all services normally supplied or paid for by the unit owners' association. Where such services or privileges include use of, or access to a parking space, the board of directors may, upon application to a court of competent jurisdiction for an order authorizing same, cause any motor vehicle to be towed or removed from such space at the delinquent unit owner's expense. The court shall issue an order pursuant to this section in accordance with the rules governing the issuance of a preliminary injunction. The court may consider all legal and equitable defenses of the delinquent unit owner and shall not issue an order without notice to said owner of the pending claim.

1999-1044h

Amendment to HB 739

Proposed by the Committee on Criminal Justice and Public Safety - C

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

AN ACT eliminating certain restrictions on the number of days bingo volunteers may serve.

Amend the bill by replacing section 1 with the following:

1 Bingo and Lucky 7 Volunteers; Restrictions on Number of Days Volunteers May Assist. Amend RSA 287-E:7, XIV to read as follows:

XIV. No person shall assist in the conduct of bingo games or of lucky 7, or any combination thereof, more than 2 times in one [7 day period, nor shall any such assists occur during the next 7 day period; no person shall assist in the conduct of bingo games or of lucky 7 on behalf of more than 2 licensed organizations in any calendar year. This paragraph shall not apply to any person who, on or before January 1, 1985, assisted at any licensed game in any commercial hall more than 2 days in one 7 day period] *calendar week, meaning Sunday through Saturday.*

AMENDED ANALYSIS

This bill limits the prohibitions on how frequently a volunteer may assist in the conduct of games of bingo or lucky 7 to no more than 2 times in one calendar week, meaning Sunday through Saturday. This bill also eliminates the exception for any person who, on or before January 1, 1985, assisted at any licensed game in any commercial hall more than 2 days in one 7 day period.

1999-1176h

Amendment to HJR 8

Proposed by the Committee on Science, Technology and Energy - C

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

A RESOLUTION urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO).

Amend the resolution by replacing all after the resolving clause with the following:

That the general court of the state of New Hampshire urges the Federal Energy Regulatory Commission to appoint a diverse body to govern the New England Independent System Operator (ISO), with membership from the following groups, selected by the membership of said groups:

I. Four representatives from investor-owned utilities.

II. Two representatives from municipally or cooperatively owned utilities.

III. One representative of industrial consumers.

IV. One representative of commercial consumers.

V. One representative of residential consumers.

VI. One representative from an environmental public interest group.

VII. One representative from a public utility commission.

VIII. One representative from a non-utility organization which markets energy products; and

IX. One representative of a consumer advocate's office.

That membership shall be apportioned to provide representation from throughout the New England states; and

That a copy of this resolution, signed by the president of the senate and the speaker of the house, be forwarded by the house clerk to the Commissioner of the Federal Energy Regulatory Commission, and the congressional delegations, house and senate leaders and governors of all the New England States.

AMENDED ANALYSIS

This house joint resolution urges the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO) to create a more appropriate and representative body to address the utility issues before it.

1999-1046h

Amendment to SB 30

Proposed by the Committee on Criminal Justice and Public Safety - C

Amend RSA 644:8. IV-a as inserted by section 1 of the bill by deleting subparagraph (c):

AMENDED ANALYSIS

This bill eliminates the provision that a veterinarian be the enforcement officer to take a non-livestock domesticated animal into protective custody upon a finding of probable cause of cruelty to animals.

The bill requires the investigating officer be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian when taking an animal considered livestock into protective custody. The accompanying veterinarian shall set the probable cause criteria for taking the animal.

1999-1169h

Amendment to SB 81

Proposed by the Committee on Municipal and County Government - C

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

- 2 Definition. In this act, the "old" pension system means the city of Manchester pre-1974 non-contributory pension system.
- 3 Issuance of Bonds or Notes. The city of Manchester is hereby authorized to issue bonds or notes from time to time up to an aggregate principal amount not exceeding \$30,000,000 for the purpose of funding the unfunded pension liability of the pay-as-you-go "old" pension system of the city of Manchester. Bonds or notes issued pursuant to the authority hereof shall be issued for terms not in excess of 30 years from their date of issue and, except as otherwise provided herein, shall be subject to the applicable provisions of RSA 33, the municipal finance act. The aggregate amount of bonds or notes which may be issued by the city of Manchester hereunder, shall not exceed the amount which the "old" pension system of the city of Manchester, with the approval of the mayor and city finance officer, shall determine to be the unfunded actuarial liability of the "old" pension system of the city of Manchester. Such determination of the "old" pension system of the city of Manchester shall be based upon the report of a nationally recognized independent consultant actuary, which may be the consulting actuary generally retained by the city of Manchester. Such report shall also set forth the present value savings to the city of Manchester reasonably expected to be achieved as a result of the issuance of such bonds and shall be filed with the board of mayor and aldermen of the city of Manchester prior to the final passage of any bond resolution of the city of Manchester authorizing the issuance of bonds or notes hereunder.
- 4 Maturity Schedules. Notwithstanding the provisions of any general or special law to the contrary, the maturities of bonds or notes issued pursuant to the authority of this act shall either be arranged so that for each issue the annual combined payments of principal and interest shall be as nearly equal as practicable in the opinion of the officer of the city authorized to issue said bonds or notes or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal.
- 5 Investment of Proceeds. Proceeds of any bonds or notes issued pursuant to the authority of this act, shall be paid by the city of Manchester to the trustees of trust funds of the city of Manchester, shall be allocated solely to reduce the funding obligations of the city of Manchester thereto, and shall be held, invested, and expended by the trustee of trust funds of the city of Manchester in accordance with law.
- 6 Authority to Issue Bonds or Notes. The authority of the city of Manchester to issue bonds or notes provided in section 3 of this act shall terminate on July 1, 2004. The termination of the authority to issue bonds or notes shall not effect the validity of any bonds or notes issued prior to July 1, 2004.
- 7 Effective Date. This act shall take effect upon its passage.

