

State of New Hampshire HOUSE RECORD

**First Year of the 156th Session of the General Court
Calendar and Journal of the 1999 Session**

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

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet on Thursday, May 20 at 10:00 a.m. Future session days have not yet been determined, as they depend on the development of the budget. It is possible that there will be session on Tuesday, May 25, but the House will **not** meet on May 26 or 27.

In the good news department, I know the House joins me in congratulating Representative Dean Ouellette and his wife on the birth of their first child, Anna, on May 11. Best wishes to them all.

Chairmen and Vice Chairmen will meet on Tuesday, May 18 at 9:00 a.m. in Room 201 LOB.

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Thursday, May 20 at 9:00 a.m. in Rooms 201-203, LOB

Rep. Gene G. Chandler, Majority Leader

NOTICE

There will be a Democratic Caucus on Thursday, May 20 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

NOTICE

Legislative Forum

House Continuing Education

TOPIC: Celebrate New Hampshire Culture

Smithsonian Folklife Festival

PRESENTER: Van McLeod, Commissioner of Cultural Resources

DATE: Wednesday, May 19, 1999

TIME: Noon

PLACE: Room 100, State House

Continuing Education Forums had been suspended until resolution of the Claremont education funding problem. The next presentation in our series will be on New Hampshire's participation in the Smithsonian Folklife Festival: Celebrate New Hampshire Culture. The speaker will be Van McLeod, Commissioner of the New Hampshire Department of Cultural Resources. He will give an update on New Hampshire's involvement in the festival to be held on the National Mall, Washington, D.C., June 23-27 and June 30 to July 4, 1999. We look forward to seeing you there. (The state's Web address for the festival is: <http://www.nhfolkfest.org>)

Rep. Godfrey Howard

Rep. Janet Wall

Continuing Education Coordinators

BILLS REMOVED FROM CONSENT CALENDAR ON May 13

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 722-FN, revising the law relative to protection of persons from domestic violence. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill is a reorganization of the present Domestic Violence Statute, RSA 173-B. The various components are rewritten so that the process is easier to follow and understand. The first sections begin with the definitions and their statutory references followed by jurisdiction and venue. Next are commencement of proceedings, temporary relief, permanent relief and etceteras. A subcommittee met six times to work on this bill. Under the definition of abuse, we added a requirement that if a person violates one of the listed crimes the conduct has to constitute a credible threat to the plaintiff's safety. Further into the bill we made it very clear that a person filing a Domestic Violence Petition (DVP) would be subject to criminal penalties if they make a false allegation of abuse and on the DVP application we will require the following words to appear: "I swear that the foregoing information is true and correct to the best of my knowledge. I understand that making a false statement on this petition will subject me to criminal penalties." We allow the temporary hearing to be held no sooner than three days and not later than five days if a request is made to have a hearing. Under RSA 173-B:5 (Relief) it is plainly stated that temporary reconciliation shall not revoke an order and a person restrained from contacting the plaintiff cannot do so even if invited by the plaintiff, unless the order is modified by the court. There are technical corrections such as changing the reference of Department of Safety to the Administrative Office of the Courts who is now responsible for maintaining the list of active DVP orders. Under the current statute firearms can be taken for the duration of a DVP. In this rewrite, provisions for a motion to return firearms can be filed with the court 15 days prior to the expiration of an order and the court shall schedule a hearing no later than 15 days after the expiration of the order. The court is required to notify the plaintiff of this hearing. Another change from current statutes regarding firearms has been included to allow

defendants, when firearms are taken under an order, to make arrangements to have them stored with a federally licensed firearms dealer at the defendants' expense and with the approval of the court. This feature relieves local police departments with limited space or no storage facilities suitable for storage of firearms from responsibility for "proper storage" and allows the defendant to secure "proper storage" of the firearms if the court approves. The last major change from the bill as introduced is in the penalty section where in five different places we changed the phrase from "shall be charged" to the discretionary "may be charged": thus allowing the judge to take special circumstances into consideration when making decisions. The committee believes that this bill presents improvements and fair treatment for all parties during times of great emotional stress. Vote 12-1.

FINANCE

HB 617-FN-A-L, relative to funding and monitoring seacoast harbor issues. RE-REFER TO COMMITTEE

Rep. Jeffrey C. MacGillivray for Finance: This bill would have changed how gasoline ("road tolls") collected from boats (about \$1.7 million per year) but not claimed as refunds (only about \$100,000 per year) is spent. Currently half of this \$1.6 million per year is placed in the general fund. The bill would have moved this \$800,000 per year to a harbor dredging and pier maintenance fund. However, since only a tiny fraction of the boats which generate these funds are registered along the seacoast, where this fund would be spent, the committee did not agree with this diversion from the general fund. Re-referring this bill will give the committee time to carefully examine appropriate allocation of these funds. Vote 23-0.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HCR 11, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds. RE-REFER TO COMMITTEE

Rep. George R. Rubin for State-Federal Relations and Veterans Affairs: The Committee needed additional time and information to properly evaluate this bill for consideration. Vote 15-0.

TRANSPORTATION

HB 673-FN-A, establishing special number plates for emergency medical service providers and firefighters and continually appropriating fees charged for such plates to certain funds. INEXPEDIENT TO LEGISLATE

Rep. John W. Flanders, Sr. for Transportation: This bill set out to accomplish two basic goals: 1) make the private vehicles of firefighters and emergency medical technicians recognizable; 2) to raise money for the Firefighter Workers Compensation Insurance Premium Fund. There are already in place ways firefighters can equip their vehicles to identify them with flashing red lights and/or sirens. Additionally, they may attach a plaque to their plates that identify them as a firefighter or EMT. The committee felt the amount of money that this may raise would fall short of solving the problem the sponsor was concerned about and wanted to address. The New Hampshire Fire Chief has concerns on the administration process of these proposed plates. Who would be responsible for the plates on unauthorized vehicles? A representative from the Compensation Funds of NH raised serious concerns with the language not being consistent with how towns now self-insure. The Department of Safety also opposed this bill and the committee felt that there were many problems. Vote 16-0.

THURSDAY, MAY 20

CONSENT CALENDAR

COMMERCE

HB 443, allowing certain beverage manufacturers to distribute products directly to retailers. OUGHT TO PASS WITH AMENDMENT

Rep. Stephen G. Avery for Commerce: This bill will allow brew pubs and beverage manufacturers who produce less than 15,000 barrels of beer annually and who have less than 5,000 barrels sold in-state per year, to self-distribute their products directly to retailers. It also outlines the reporting process and assures that the State will get all fees and taxes on these products. This bill has the support of the craft brewers and the beer distributors. Vote 14-0.

EDUCATION

SB 13, relative to the bonding authority of joint boards in joint maintenance agreements and relative to the eligibility of joint maintenance agreement districts for school building aid. OUGHT TO PASS WITH AMENDMENT

Rep. Susan B. Durham for Education: The bill, as amended by the Senate, is no longer needed. The sponsor testified to that. He would like the original bill, which sets up a commission to study joint maintenance agreements for school building aid. This is an alternative already in law, but never used. This is a continuation of efforts from last year's legislation. Last year's commission was unable to address joint maintenance agreements because of the work needed to address educational funding. Vote 16-0.

SB 152-L, relative to the procedures for establishing a charter school. OUGHT TO PASS

Rep. Clair A. Snyder for Education: This bill only serves to clarify steps in the charter school process by amending the wording of the warrant article requiring fiscal audits by CPA's and clarifying the evaluation process by the local school board of the initial charter school application. Vote 16-1.

SB 204, establishing the New Hampshire excellence in higher education endowment trust fund. OUGHT TO PASS WITH AMENDMENT

Rep. Elizabeth K. Hoadley for Education: The committee supports the establishment of the higher education endowment trust fund. The amendment simply requires the disclosure that some administrative fees may funnel back to the trust fund to provide scholarships for state residents. Participants in the original investing plan should know of this process. Vote 15-0.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 449-FN, requiring boating safety education. OUGHT TO PASS WITH AMENDMENT

Rep. Robert S. Mercer for Executive Departments and Administration: This bill requires a certificate of boating safety education to operate any watercraft in excess of 15-horse power on the waters of this state after certain specified dates. The bill was referred to the Executive Departments and Administration committee for review after passing the House with a 258-100 vote. The committee found no need to make any changes in the sections dealing with Chapter 541-A, Administrative Rules issues. During the review process, the sponsors of the bill requested the committee adopt an amendment which helps clarify who can administer the temporary boating safety exam and who can issue a temporary certificate to operate a watercraft. After careful review and discussion, the committee agreed with the sponsors' intent and voted 16-0 to approve the clarifying amendment and the bill as amended. The committee strongly supports this legislation to improve boating safety through education of operators of most watercraft. Vote 16-0.

HB 524, increasing the membership on the board of professional engineers. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: The original bill would add an additional member to the Board of Professional Engineers. The sponsor requested the original bill not be passed. The committee amended the title and the bill to provide for one additional member, to act as alternate chairman of the public employees labor relations board. This will provide an additional full board of 3 members: 1 public, 1 labor member and 1 employee member to hear public employees labor relations cases. Vote 16-0.

HB 586, clarifying certain terms relative to the practice of chiropractic. OUGHT TO PASS WITH AMENDMENT

Rep. Syliva A. Holley for Executive Departments and Administration: This bill states that the terms adjustment, manipulation and subluxation are primary to the practice of chiropractic and enables the Board of Chiropractic Examiners to define these terms in rules. The bill also addresses the penalties for unlawful practice of chiropractic and makes it a misdemeanor upon conviction to practice chiropractic in New Hampshire without a New Hampshire chiropractic license. Vote 17-0.

HB 688, relative to the custody and escheat of abandoned and unclaimed property. OUGHT TO PASS WITH AMENDMENT

Rep. Frank V. Sapareto for Executive Departments and Administration: This bill updates a number of provisions of the abandoned property law, which is administered by the state treasurer. Treasurer Thomas testified in support of this bill. The bill changes the timing for the publication and mailing of notices regarding abandoned property. It also removes the current requirement for a civil action in the Superior Court to determine that abandoned and unclaimed property escheats to the state.

The amendment allows holders of unclaimed property to report such abandonment only to the state of New Hampshire and not to any other state. Such property is subject to the same uniform property rules as all other abandoned property. Vote 15-0

HB 725, relative to rulemaking under the administrative procedures act. RE-REFER TO COMMITTEE

Rep. Sylvia A. Holley for Executive Departments and Administration: This bill changes the procedures for review, adoption and publication of agency rules under RSA 541-A, the administrative procedures act. Upon review of the numerous amendments submitted, and the suggested changes to the present Joint Committee on Administrative Rules process, the committee determined a more detailed analysis by a larger Executive Departments and Administrative subcommittee, familiar with the rules process, is needed to reach consensus. Vote 15-0.

SB 21, relative to domestic animals. OUGHT TO PASS WITH AMENDMENT

Rep. Howard C. Dickinson, Jr. for Executive Departments and Administration: This bill, as amended, provided for a Division of Animal Industry within the Department of Agriculture, Marketing and Food and assigns the state veterinarian as its director. Oddly enough, the state veterinarian has been performing these duties for the past eight years even though the Division of Animal Industry was not authorized in statute. Recently, when the "Director" approached the Joint Legislative Committee on Administrative Rules staff with proposed administrative rules, he was told that rules could not be written for his division that did not exist. SB 21, as amended, will correct this discrepancy. Vote 15-0.

SB 215, transferring certain responsibilities for shellfish harvesting and regulation. OUGHT TO PASS WITH AMENDMENT

Rep. Michael O'Neil for Executive Departments and Administration: This bill enables the transition of some responsibilities for the New Hampshire Shellfish Program from the Department of Health and Human Services to the Department of Environmental Services. DES duties would be expanded to include additional responsibility for the classification of shellfish, waters and related sanitary survey work in addition to its present responsibility for water quality, assessment and cleanup. The Department of Health and Human Services, Department of Fish and Game and the Office of State Planning will continue with their current responsibilities. Vote 15-0.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 419-FN, repealing the certificate of need law. INEXPEDIENT TO LEGISLATE

Rep. Peter Batula for Health, Human Services and Elderly Affairs: Prior to 1987 a federal statute required states to set up a "certificate of need" law. The objective and intent was to keep down the medical costs by controlling new construction for medical care, such as acute care facilities (hospitals), nursing homes, ambulatory surgical centers, etc. In 1987, Congress repealed this mandate, no longer requiring C.O.N. boards in the states. So far, 13 states have discontinued the C.O.N. boards entirely because in the opinion of some, it interfered with free enterprise and all but shut down competition. This bill to repeal the New Hampshire C.O.N. board was carefully considered and the subcommittee and the full committee decided to fix the problem areas of the C.O.N. board. House Bills 545 and 657 follow through with this recommendation. Vote 21-1.

JUDICIARY

SB 16, relative to revocation of wills by divorce. OUGHT TO PASS WITH AMENDMENT

Rep. John M. Pratt for Judiciary: This bill clarifies the law to make clear that any children of a former spouse shall not inherit after a divorce unless the will expressly provides otherwise. The amendment makes specific that an heir of a former spouse can inherit after a divorce only if the will expressly names that heir. Vote 12-0.

SB 26, establishing a committee to study trustee process. OUGHT TO PASS WITH AMENDMENT

Rep. Sandra B. Keans for Judiciary: This bill sets up a study committee to look at the trustee process – Chapter 512. In particular the study would look at and clarify the banks' responsibility when holding funds and in which cases they might become a party to court action. The current chapter has not had any changes in over 30 years. Vote 14-0.

SB 111, relative to requirements for acknowledgements and jurats by justices of the peace. OUGHT TO PASS WITH AMENDMENT

Rep. John M. Pratt for Judiciary: This Senate bill requires a justice of the peace to print or type his or her name on any

document or instrument acknowledged by the justice of the peace. The amendment requires that the justice of the peace must also state the expiration date of his or her commission on the document. Vote 14-0.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 242, establishing a committee to study lost wages due to work-related injuries. INEXPEDIENT TO LEGISLATE

Rep. Robert H. Turner for Labor, Industrial and Rehabilitative Services: Currently the client has their case heard by a hearings officer who makes a determination as to causality of their claim. If the claimant is dissatisfied with the hearings officer's decision, he or she may request a hearing before a statutory appeals board and, if still not satisfied, may go to the Supreme Court for a further determination. The comprehensive Worker's Compensation Reform Bill of 1994 has some sections of law in very early stages of implementation. The committee, after considering the request, preferred to monitor the changes we implemented in 1994 rather than reopening issues that have not yet had time sufficient enough to determine their effectiveness. Vote 18-0.

HB 512, relative to limiting work hours for 16 and 17- year old persons enrolled in school. INEXPEDIENT TO LEGISLATE

Rep. C. Michael Gilman for Labor, Industrial and Rehabilitative Services: The committee found that this bill as written, if implemented, would contribute to undermining the role of parents' authority in the lives of their teenagers. The bill would also create a stricter regulation than that of present federal regulations. Vote 16-2.

HB741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs. OUGHT TO PASS WITH AMENDMENT

Rep. Gary Torressen for Labor, Industrial and Rehabilitative Services: This bill as amended reduces the required journeyman to apprentice ratio of 5-1 to 3-1. The committee believed that this was a fair compromise from the original ratio of the bill, seeking a 1-1 ratio. The commissioner of labor also supported this new ratio. This bill will provide more opportunity for those wanting to enter the trades and apprenticeship programs. Vote 14-0.

HB 742, defining "domestic employee" for purposes of workers' compensation. OUGHT TO PASS

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: The purpose of this legislation is to define "domestic" for the workers compensation portion of homeowners insurance. Currently, all home insurance policies are required to carry workers compensation insurance. The Supreme Court requested the legislature to further define the term "domestic" employee, which the committee has done. This new definition clearly shows that contractors working at your home do not fall under the homeowner's workers compensation but housekeepers and babysitters do. Those holding themselves out as a business or self-employed must carry a valid workers compensation policy if they expect to be covered under the current system. Vote 17-0.

PUBLIC WORKS AND HIGHWAYS

SB 42-L, establishing a committee to study safety improvements at the U.S. Route 1 traffic circle in the city of Portsmouth. OUGHT TO PASS

Rep. John E. Tholl, Jr. for Public Works and Highways: The traffic count on the US route 1 traffic circle has gone from 10,200 vehicles per day in 1962, to a high of 29,000 vehicles per day in 1998, a three-fold increase. The traffic circle is approximately 50 years old, and there aren't many more changes that can be made less expensively. Commissioner Kenison from the Department of Transportation testified in favor of the bill. Studies of this nature provide for public input and awareness as well as possible solutions. Vote 16-2.

SB 43, creating a commission to research making Hilton Park in the city of Dover property of that city. INEXPEDIENT TO LEGISLATE

Rep. Leon Calawa, Jr. for Public Works and Highways: The committee felt that this was a local issue and could be better handled by local people and groups. A portion of the land will be needed for future expansion of the Spaulding Turnpike. The department of transportation is supportive of local input in developing properties as this, requested by local groups. This is not a unique situation, as the DOT has worked with local groups in other parts of the state on similar projects. The committee completely supports the concept of this legislation, but believes that it should be local and will support local efforts as necessary. The prime sponsor testified that the city of Dover is not interested in this property. Vote 17-0.

SB 155, relative to the naming of certain bridges in the city of Concord. OUGHT TO PASS

Rep. Candace White Bouchard for Public Works and Highways: This bill provides for the naming of certain roads and bridges as memorial war bridges in Concord. Both the city of Concord and the department of transportation approve of this bill to honor the state's veterans. This bill would rename Concord's Manchester Street bridge to the Korean Veterans Memorial Bridge. The Bridge Street bridge in Concord would be renamed the World War II Veterans Memorial Bridge. The only state bridge affected by this bill is the Interstate 393 bridge over the Merrimack River in the city of Concord. This bridge would be renamed the Vietnam Veterans Memorial Bridge. The cost of design, construction, maintenance and installation of any signage, replacement signage or other markers required under sections 1-3 of this act would be paid for by various veterans' organizations. However, the Department of Transportation shall approve the design, construction and installation of any signage or other markers. The committee felt this bill was an appropriate act to express the state's gratitude and to honor the veterans and their families. Vote 15-0.

THURSDAY, MAY 20

REGULAR CALENDAR

COMMERCE

HB 640-FN, relative to grievance procedures of managed care organizations. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill creates an external appeals process for consumers to access when an insurance claim is denied based on a medically necessary determination from the insurer. Today, policyholders have a right to an internal review only. Many believe this internal process has an inherent conflict of interest since the insurance company reviews itself. This new external process brings an independent panel, certified by the New Hampshire Insurance Department, to review adverse determinations. This is a tremendous step forward in addressing the concerns of managed care. The amendment replaces the entire bill. This bill requires the managed care plan to inform subscribers about this new external appeal. Managed care plans must pay for the appeal and assume all costs of processing the external appeal. There is no fee required of the consumer. Managed care plans must select an independent review agency from a list certified by the Insurance Commissioner. All certified external review agencies must have clinically matched medical professionals to review the case, who have no conflict of interest in the case. The bill requires an expedited appeal process for the life-threatening situations.

This process provides consumers an easy to access, non-judicial, no cost external review. The committee believes this version will have little, if any, effect on insurance premiums. The committee worked hard to develop a bill which considers all viewpoints and has elements from other states and national standards. There are other bills, still in process, which deal with external review. The committee is committed to ensuring an external appeal process becomes law in New Hampshire. Vote 13-1.

EDUCATION

HB 503-FN-L, relative to the authorized regional enrollment area agreement in Conway. OUGHT TO PASS WITH AMENDMENT

Rep. John Alger for Education: This bill resolves a "glitch" in current law. This change requires review of any AREA school agreement or co-operative, if one or more of the districts voted to participate in a charter school under RSA 194-B. The review can be only for the purpose of addressing charter schools. At present, the adoption of charter school law can contradict an existing AREA agreement. The amendment replaces the bill. Vote 18-0.

HB 518-FN-L, relative to a joint maintenance agreement to build a single high school involving the towns of Northwood, Nottingham, and Strafford. INEXPEDIENT TO LEGISLATE

Rep. Susan B. Durham for Education: This bill would allow state building aid for a school built on leased land. The committee asked to recommit to address any new information from Northwood. Northwood continues to meet to address building needs. The committee feels that a long-term lease does not equate to ownership for purposes of state building aid. This is also the advice from the Attorney General's office. Vote 15-3.

HB 633-FN-L, establishing parental choice scholarships. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Russell Cox for the Majority of Education: This bill, as amended, provides scholarship aid up to 80% of the adequate education grant to assist low-income families to choose a school other than the assigned public school for a child. The eligibility is limited to schools that are in the bottom 1/3 of the state assessment tests for two preceding years (the only available measure to identify schools where students may not be getting the education best for them), up to a limit of 5% of the population of any particular school or schools that agree to authorize such scholarships. The scholarships are funded by the school district from the state grant money received and are limited to reimbursements of actual expenses for tuition and supplies, not including transportation. The choice of alternative schools, if admitted, includes other public schools and non-sectarian private schools. The scholarship grants are graduated, depending upon income level of the parents, up to three times the poverty level with the remainder of the grant being retained by the public school district. Vote 12-8.

Rep. John M. White for the Minority of Education: The minority opposes the use of limited public resources outside of the public school system and the policy of identifying failing schools, which the bill institutes. It relies on a single measure, the state assessment tests, to identify schools in the bottom third on these tests without regard to where that third falls in performance. In addition, we feel that HB 633 fails to achieve its stated goal of ensuring low income children access to schools of their parents' choice. Private schools need not accept such pupils and if they do, the parents would be required to supplement the scholarship to meet private school tuition costs and to provide transportation for their children.

HB 690-FN-L, relative to establishing a state board for charter schools. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Warren Henderson for the Majority of Education: As amended, this bill creates an alternative method by which charter schools may be created. The alternative method routes the approval process through the State Board of Education and opens the opportunity to attend to any pupil in the state. Limitations are required in the original law, so no one district is adversely affected. The committee has taken exhaustive testimony for some time, as to the lengthy process needed to create a charter school. It seems clear that if we are to gauge through actual experience the impact of charter schools, we must provide a workable approval process. The process created by this bill involves input by both local and state authorities and provides that the bulk of the approval process may be conducted by the State Board of Education. The bill preserves the original method of gaining approval for a charter school as well. Vote 11-9.

Rep. Charles B. Yeaton for the Minority of Education: This bill permits the establishment of a charter school without the approval of the local school district, thereby overruling local control. While the money for the charter schools is said to be state funds, that money will come from the local districts' allotment as provided by the Claremont settlement.

ENVIRONMENT AND AGRICULTURE

HB 510-FN, relative to monitoring aerial spraying of herbicides. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: RE-REFER TO COMMITTEE.

Rep. David Scanlan for the Majority of Environment and Agriculture: The committee generally shares the concerns of the sponsors relative to the proper use of pesticides. However, this bill specifically targets the aerial spraying of pesticides, a forest management tool that is very important to the North Country timber industry. The large timber companies of the north adhere to the stringent requirements necessary for the proper application of pesticides on forestland. Any attempt to limit the ability of forest landowners to utilize this important tool should be carefully considered and based on solid information. The majority of the committee finds HB 510 inexpedient to legislate. Vote 13-5.

Rep. Betty B. Hall for the Minority of Environment and Agriculture: The Environmental Protection Agency (EPA) has not re-registered insecticides, herbicides, fungicides, and rodenticides as mandated by the Food Quality Protection Act. New Hampshire can be more stringent than the EPA but they need to monitor the results of spraying to be able to develop management plans for the toxic chemicals being used.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 533-FN, changing the composition of the liquor commission. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Michael O'Neil for the Majority of Executive Departments and Administration: Currently, the New Hampshire Liquor Commission has three full-time liquor commissioners. This bill would change the structure of the commission to one full-time

commissioner with an annual salary of \$80,832 and two part-time commissioners with annual salaries of \$2,400. The majority of the committee agreed that the present three-member commission structure is working efficiently and profitably. Total sales increased \$14 million in fiscal year 1998, with a total net profit of \$66 million for the year. The majority feels that the present system of checks and balances enhance the effective operation of the Liquor Commission and that there is no compelling reason to change this structure. Vote 13-4.

Rep. Carolyn A. Virtue for the Minority of Executive Departments and Administration: The minority believes that the time has come to restructure the senior management of the liquor commission. The legislature owes a duty to the taxpayers of New Hampshire to see to it that our state agencies are run efficiently and well. We do not need three commissioners; we need a businesslike management plan that places control of the commission in the capable hands of a single commissioner. Two recent studies have recommended this, and it is time to make the move. The fiscal note demonstrates that we could save \$150,000 per year by doing so.

HB 643-FN-A, transferring the regulation of emergency medical services from the department of health and human services to the department of safety. OUGHT TO PASS WITH AMENDMENT

Rep. Albert W. Hamel for Executive Departments and Administration: This bill will transfer the Emergency Medical Services Program from the Department of Health and Human Services to the Department of Safety. This will create a third division in the Department of Safety dealing with the fire service and related safety programs, the Division of Fire Safety, the Division of Fire Training and the Division of Emergency Medical Services. With the new Fire Academy, this change will provide a training facility for Emergency Medical Services and allow cross training for fire fighters and medical personnel that desire to be trained in both areas. This will be a benefit for the many communities that operate the emergency medical service out of the fire department. Emergency medical services are now funded by a federal grant to the Department of Health and Human Services. Under the proposed financing, the Department of Health and Human Services will reduce the general fund appropriation by an amount of the emergency medical services grant money and the general fund will pick up the appropriation of the Emergency Medical Services Program. There will be no net change in the general fund for this program. Vote 18-0.

HB 720-FN, relative to the practice of midwifery. OUGHT TO PASS WITH AMENDMENT

Rep. Nancy C. Stickney for Executive Departments and Administration: This bill, as amended, updates the law governing midwives in the state of New Hampshire. The bill establishes a midwifery council which will be responsible for the certification and discipline of midwives. The council will be administratively attached to the Department of Health and Human Services. The bill also provides for the immediate certification of midwives who were certified under the former law and also provides a grace period for the certification of midwives who until now have been practicing in the state without certification. Vote 18-0.

HB 735-FN-A, establishing a contributory judicial retirement plan. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: This bill is the result of a study by the Judicial Committee of the House and two years of study by a chapter study committee of the last session. The amendment replaces the entire bill. The amendment proposed by the committee enhances the original plan. This bill establishes a contributory defined contribution plan for full time chief justices and associate justices of the supreme court, superior court, district courts and probate courts. This plan will apply to all appointments made after July 1, 2000. Present justices may change to the new plan prior to July 1, 2001, upon notification of their intent to the Director of the Administrative Office of the Court. Justices and widows presently receiving benefits from the state will not be affected. This is the first defined contribution plan proposed for sworn officers of the state. The plan will be operated by a qualified financial services company with the Administrative Office of the Court providing input to the fund manager from the members. Vote 18-0.

FINANCE

HB 576-FN-A, establishing additional staff positions for child impact seminars, and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Susan W. Almy for Finance: Required seminars for parents involved in divorce or custody/child support disputes are already in statute. They are only provided in four counties because the court system cannot stretch its existing staff to oversee them in the other six. The seminars help the parents focus on impact on their children and are considered successful by both the parents, who pay the full cost, and the court. This bill, as passed earlier by the House, adds 3 ½ staff at a cost of \$223,588 for the biennium to the court system to allow statewide implementation. The amendment clarifies the language. Some committee members questioned whether the parents should also pay the costs of court administration, but the logistics of returning this

payment to the court were considered unwieldy, and the usual practice of the court is to absorb its own administrative costs of court-ordered courses and treatments. Vote 19-5.

HB 612-FN, relative to compensation paid to jurors. OUGHT TO PASS WITH AMENDMENT

Rep. Steve Vaillancourt for Finance: Part I, Article 21 of the New Hampshire constitution states that jurors "ought to be fully compensated for their travel, time, and attendance." The current fee of \$10 per half day cannot be deemed full compensation. The majority determined that, at a minimum, the minimum wage should be the rate to constitute full compensation. Rather than set a specific dollar amount (and thus require a change whenever the minimum wage changes), the amendment uses the prevailing federal hourly minimum wage and defines a half day as three and a half hours. The current minimum wage of \$5.15 would mean a payment of \$18.03 per half day. This would result in an increased cost of approximately \$695,000 for the first full year the bill is in effect. Another \$204,000 is required to meet the mileage increase from the current 20 cents being paid to the prevailing rate for state employees, now 31 cents.

The majority believes this is a small price to pay to come into compliance with our constitution and provide jurors with a more reasonable rate of remuneration. As is evident from the closeness of the vote, some members of Finance disagreed. Some in the minority believed that while desirable, this raise cannot be afforded this year, especially in lieu of the hole in the budget created by the Claremont solution of April 29. There are simply other priorities. Others suggested that "fully compensated" might be thought of in non-financial terms, the satisfaction received from helping out in the process of government, for example.

The majority agrees with the 13-2 vote of the Judiciary Committee that "the juror pool has been expanded with recent changes in the law. More and more self-employed, parents needing day care, and individuals working in companies are being called to serve. This small increase is still a token for their monetary loss."

The majority of Finance concurs. In fact, many of the majority, noting that jury service (unlike being a state rep) is mandatory, would like to see an even larger increase in juror compensation. This was viewed as an affordable compromise, which we can, should, and must accomplish even in these tough times. Vote 13-12.

HB 726-FN, relative to the credentialing of personnel in early care and education programs. OUGHT TO PASS WITH AMENDMENT

Rep. Mary Jane Wallner for Finance: The Committee amended the bill to allow the Department of Health and Human Services to charge fees to child care personnel who request a credential. The intent is that the fee will cover the cost of preparing the credential. The bill appropriates \$5,500 each year to the Department for the purposes of this bill. Vote 24-1.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 545-FN, relative to ambulatory surgical facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Peter Batula for Health, Human Services and Elderly Affairs: This bill would remove ambulatory surgical facilities from under the jurisdiction of the Certificate of Need board. The bill sponsors' intention was to remove the jurisdiction from the C.O.N. board. The sponsor and one of the co-sponsors agreed that this bill, amended to form a study committee to study the overall structure of ambulatory surgical centers, the C.O.N. board and all related issues, was a more appropriate approach to resolve some very complex issues dealing with this matter in a less stressful atmosphere. The committee will consist of three representatives and three senators. Overall, this is one of three similar bills and the most appropriate use of this bill, at this time, is to send it to further study. Vote 22-0.

HB 615-FN-A, establishing a brain and spinal cord injury trust fund and continually appropriating a special fund. OUGHT TO PASS WITH AMENDMENT

Rep. James Pilliod for Health, Human Services and Elderly Affairs: The committee considered extensive testimony on the needs of citizens with severe brain and spine injury. This population suffers long-term consequences of injuries that require ongoing treatment and need for durable medical equipment that has been incompletely met by current programs. The committee strongly supports this bill as ought to pass. Although the committee felt that the proposed services are desperately needed, they did not take a position on the proposed method of financing, believing that this was more appropriately the responsibility of the Finance committee Vote 18-1.

HB 657-FN, relative to the health services planning and review board. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT

Rep. Peter Batula for the Majority of Health, Human Services and Elderly Affairs: As explained in HB 419, the "Certificate of Need Board" was initially mandated into law as a watchdog on escalating medical costs. The board is no longer a federal mandate and many states have repealed the law for various reasons. Those include failure to slow down escalating medical costs as originally intended, and whether intentional or unintentional, it all but puts a moratorium on competition. The board has, at least in perception, created a wide division between physicians and hospitals. For example: Hospitals' cash cows are the operating rooms and in many instances, they build more surgical centers to reap the most often overpriced surgeries profits. If the cost of these additional surgical centers exceeds \$1.5 million, they need C.O.N. approval and they have usually been approved based on past history. The problem arises when perhaps a group of physicians wish to build and open a private freestanding multi-use surgical center, which would obviously compete for the non-emergency type surgeries. If their building costs are expected to exceed \$1,000,000, they need C.O.N. approval. That is where the problem starts, as the C.O.N. board controls not only the destiny of the approval process, but also has the power to shut down competition for the hospitals, even though a Blue Cross/Blue Shield study shows that ambulatory surgical centers reduce surgery costs by 47%, while providing quality, affordable health care for all citizens. 2600 ambulatory surgical centers have opened in the country and not one hospital has closed because of them. The federal government encourages the growth of these centers, due to cost savings. HB 657 restructures the C.O.N. board from seven to nine members, adjusts the capital expenditure threshold of \$1,250,000 and levels the playing field between hospitals and surgical centers. There is and was an attempt to lower the threshold from the \$1,250,000 and if adopted, this would create a moratorium on ambulatory surgical centers, meaning higher surgical costs due to a lack of competition. A vote to lower the threshold (producing a moratorium on competition) is indeed a journey in the wrong direction on the subject of controlling escalating medical costs. Vote 12-8.

Rep. Marion L. Copenhaver for for the Minority of Health, Human Services and Elderly Affairs: The minority of the committee believes that ambulatory surgical centers should be subject to review by the Health Services, Planning and Review Committee (known as the Certificate of Need Board) to determine if there is a public need or to avoid costly duplicative services. The bill as passed, has a threshold of \$1,250,000 which in effect, exempts these ambulatory surgical centers from the public review process. The minority feels the threshold should be \$750,000, in order for the state to maintain a healthy balance of these necessary surgical facilities.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 471, exempting family owned and operated businesses from certain requirements in the workers' compensation act relative to safety programs. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Gary P. Torressen for the Majority of Labor, Industrial and Rehabilitative Services: This bill, as amended, establishes an incentive program that offers small family-owned business with 15 or less employees a reprieve from bureaucratic safety regulatory requirements in return for maintaining a good safety record. All companies with 10 or more employees must now comply with mandatory safety regulations, which require the creation of a safety plan, the establishment of a safety committee and the yearly filing of a safety report. The majority felt that any small family-owned business (15 or less employees) that maintained a 3-year safe, injury-free track record without individual loss time that exceeded two days should be rewarded by permitting them to be exempted from the mandatory requirements to which they had been subject for three years or more. This would assist these businesses by alleviating a little of the bureaucratic paperwork and regulations that now plague many small businesses. We in the majority believe safety is vitally important. We also realize that businesses are becoming increasingly burdened by the regulatory requirements we place on them. We do not believe that businesses will suddenly become safety-insensitive after having striven for three years to achieve a safe, injury -free track record that finally makes them eligible for the exemptions they have been seeking. It makes no sense to believe that having achieved that goal, businesses would abandon their safety programs, knowing that just one individual loss time claim exceeding two days will draw them back into the mandatory systems for at least another three years and forfeit all that they had gained. The ideal situation is for businesses to be safety conscious without the heavy hand of government. The amendment to this bill provides a 3-year "training" period under government supervision in which companies learn to become safety conscious. Once eligible companies have demonstrated through their safe, injury-free track record that they have learned to handle safety issues responsibly it is only right that they be given their "diploma" by relaxing some of the applicable burdensome mandates to which they are now subject. Vote 10-9.

Rep. Rebecca C. Hutchinson for the Minority of Labor, Industrial and Rehabilitative Services: Currently businesses with less than 10 employees are exempt from the safety program requirements. Both the Department of Labor & the BIA did not support the original bill to increase the exemption because of their belief that the safety programs have contributed to the approximate 30% reduction in workers compensation insurance premiums to the employer. The minority did not think it wise to increase the exemption to 15 employees, as the amendment would require. Furthermore, the current reporting requirement is a simple, 10-question form.

HB 578, relative to a recovery against a third party related to a workers' compensation claim. INEXPEDIENT TO LEGISLATE

Rep. Nancy W. Wall for Labor, Industrial and Rehabilitative Services: The present law has worked effectively. The employee is compensated for lost earnings no matter the circumstances, since workers' compensation is a no-fault system. The court recognized double recovery by providing reimbursement to the carrier. The existing statute strikes a delicate balance between the rights of the worker who will receive workers' compensation benefits regardless of who may be at fault. The new provision would allow too much discretion to the court or the Department of Labor. Vote 13-6.

HB 606-FN, relative to compensation for law enforcement officers who are injured in the line of duty. OUGHT TO PASS WITH AMENDMENT

Rep. Nancy W. Wall for Labor, Industrial and Rehabilitative Services: This bill requires the Commissioner of Labor to review workers compensation managed care programs every five years after the initial review; and also raises the per diem from \$150 to \$200 for the attorney who chairs the Compensation Appeals Board. Vote 15-3.

HB 636-FN, relative to public safety employee collective bargaining negotiations under the public employee labor relations act. RE-REFER TO COMMITTEE

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: The committee spent an extreme amount of time and effort on the subject of how to better serve the local communities in reference to collective bargaining. In 1998, the committee spent four months traveling from county to county holding public hearings. This year, the committee has worked for five months trying to reach a consensus among both unions and municipalities. The continued attempt to create a perfect law has raised many more questions, which must be addressed. The committee respectfully requests the House allow us to continue our work by re-referring this bill. Vote 14-5.

MUNICIPAL AND COUNTY GOVERNMENT

HB 536, authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power. OUGHT TO PASS WITH AMENDMENT

Rep. Betsey L. Patten for Municipal and County Government: In order to further the state's policy of promoting the development of a competitive electric supply market in New Hampshire and to give municipalities the ability to attract new electric generation facilities and retain existing generation facilities that have become subject to the economic pressures of a deregulated market, the general court believes that it is desirable to give municipalities the authority to exempt from taxation certain personal property that is used in the manufacture of electricity.

This bill gives the governing body the authority to determine an exemption. The amendment sets up that the determination requires approval by the legislative body of the municipality.

The determination for exemption may be applied to new construction of electric generating facilities, to retain existing electric generation facilities or to foster economic development.

At least four items must be disclosed to and approved by the legislative body: fair market value of equipment exempted, the term of the exemption, any agreement for payments of taxes, and/or agreement for payment in lieu of taxes.

An additional amendment to sunset the availability of this option on July 1, 2004 was adopted by the committee. If an exemption is granted by the legislative body, the agreement is not subject to the sunset date. Vote 11-4.

SCIENCE, TECHNOLOGY AND ENERGY

HB 464, relative to economic development and retention rates and special contracts. OUGHT TO PASS WITH AMENDMENT

Rep. Jeb E. Bradley for Science, Technology and Energy: The committee amendment replaces the entire bill with a set of purpose and findings statements concerning the securitization of electric utility stranded costs. Though the subject matter of the amendment is different than that of the original bill, it has received a proper public hearing. The committee retains another bill, HB 457, that may be used at a later point to provide the actual authorization to use securitization if circumstances justify it.

Securitization (secured bonds) of an electric utility's stranded costs has been used in other states as a refinancing technique to

lower the cost to customers of recovery of past utility investments; i.e., stranded costs that would not be recoverable in a competitive environment. The utility recovers the portion of its stranded costs covered by the secured bonds on an up-front basis in a lump sum payment. Bondholders finance that transaction on the basis of legislation that commits ratepayers to repay the commitment generally over a 10 to 12 year period. Repayment is an irrevocable guarantee. Due to that guarantee the bonds would expect to be AAA rated and, as such, lower the costs to customers of stranded cost recovery.

Utilities stand to benefit through use of these secured bonds. Utilities receive this portion of their stranded costs immediately at a time when having cash for acquisitions is advantageous. Risk of not recovering these stranded costs is removed. Risk removal is very attractive for a utility as self-generation is becoming an increasingly viable option for large electricity users and may well become viable for residential customers in the near future. Risk removal may allow a utility to recapitalize its debt structure and become more attractive as an investment opportunity. Some utilities that have used secured bonds to recover stranded costs have seen substantial stock appreciation.

The committee amendment recognizes these benefits to a utility and sets out corresponding principles of customer benefits that should also be achieved through this process of secured bonding. Those customer benefits include: lower electric rates, effective customer choice of electricity provider, electric rates that approach regional averages in four years, and potential risk sharing by a utility if a regional average is not approached. The principles also include calls for further efforts to reduce the high cost of wood to energy power, the end of litigation against restructuring efforts in New Hampshire, and filing of any proposed settlement with the Public Utilities Commission prior to further consideration of secured bonding legislation.

This committee amendment is a purpose and findings statement only. It does not authorize the use of secured bonds nor does it state how much stranded costs a utility could potentially recover through this process. Further legislation would have to be approved by both the House and Senate after a settlement is reached, prior to using secured bonds. If a settlement is reached, that would be the time to consider further legislation. However, the Science, Technology and Energy Committee feels it is important at this time to state these broad policy principles. Vote 15-0.

L A I D O N T A B L E

CACR 12, relating to a 4-year term for the office of governor. Providing that beginning in the year 2002, the governor shall be elected every 4 years. (Pending question is on ought to pass.)

CACR 21, relating to gender neutral language in the constitution. Providing that all references to persons in part 2 of the constitution shall be gender neutral. (Pending question is on inexpedient to legislate.)

HB 116-FN-A-L, establishing an alternative consumption tax as a source of funding for education and making an appropriation therefor. (Pending question is on re-refer to committee.)

HB 549-L, relative to the minimum vote required for bond issues by municipalities. (Pending question is on inexpedient to legislate.)

HB 550-LOCAL, relative to the date town reports must be made available in towns which have adopted the official ballot referenda form of meeting. (Pending question is on inexpedient to legislate.)

HB 695-FN-A, providing an exemption under the interest and dividends tax for taxpayers on a limited income. (Pending question is on inexpedient to legislate.)

HR 10, affirming revenue estimates for fiscal year 1999. (Pending question is ordering to third reading.)

H O U S E B I L L S A M E N D E D B Y T H E S E N A T E

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses. (House Nonconcurrent; C-of-C 5/13/99)

HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor. (House Nonconcurrent 3/30/99)

HB 112-FN-A, relative to state taxes and other sources of revenue for funding an adequate education; authorizing electronic games of chance at racetracks, grand hotels, and resort hotels; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making

an appropriation therefor. (House Nonconcurrent 4/1/99)

HB 117-FN-A-L, establishing a uniform education property tax and a utility property tax, increasing the business profit and real estate transfer taxes, and including other sources of revenue to provide funding for an adequate public education and making an appropriation therefor. (House Nonconcurrent; C-of-C 4/22/99)

HB 206, relative to restrooms in restaurants. (SJ 16)

HB 207-FN-A, directing the office of state planning to conduct a study of the effects of sprawl in the state and making an appropriation therefor. (House Concurred 4/22/99)

HB 210, reinstating the corporate charter of C. A. B. Real Estate Inc. (House Concurred 4/29/99)

HB 240, prohibiting the reintroduction of wolf populations to the state of New Hampshire. (House Concurred 5/13/99)

HB 249, relative to the membership of the rivers management advisory committee. (House Concurred 4/14/99)

HB 358, relative to the term of office for members of the state board of education. (House Concurred 4/29/99)

HB 442, relative to charitable gift annuities. (House Concurred 5/13/99)

HB 513, relative to approved permissible fireworks. (House Concurred 5/13/99)

HB 664, establishing a study committee on rights of ownership to cemetery plots. (SJ 17)

COMMITTEE OF CONFERENCE

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses. (Reps. Lyman, I. Pratt, Bickford and Moran)

COMMITTEE MEETINGS

MONDAY, MAY 17

FINANCE - (DIVISION I), Room 212, LOB

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

FINANCE - (DIVISION II), ROOM 209, LOB

10:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

PUBLIC HIGHER EDUCATION STUDY COMMITTEE (RSA 187-A:25-a), Room 207, LOB

Noon Regular meeting.

TUESDAY, MAY 18

CHILDREN AND FAMILY LAW, Room 206, LOB

9:30 a.m. Subcommittee work session on **SB 24**, extending the application of certain provisions of the child protection act to all children in out-of-home placements.

10:30 a.m. Executive session on pending legislation.

11:00 a.m. Subcommittee work session on **HB 703-FN-A-LOCAL**, establishing a regional youth center pilot program in the city of Nashua and making an appropriation therefor.

COMMERCE, Room 302, LOB

10:00 a.m. **SB 90**, establishing a committee to study and investigate the needs for small business loans to pay for technical improvements for persons working at home.

10:30 a.m. **SB 69-L**, relative to health care charitable trusts and community benefits.

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

EDUCATION, Room 207, LOB

10:00 a.m. **SB 230**, relative to interstate school districts.

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

ELECTION LAW, Room 308, LOB

10:00 a.m. Executive session on pending legislation.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. Retirement Subcommittee work session on **SB 47-FN**, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997, **SB 186-FN**, relative to additional cost of living adjustments and increased minimum allowances for certain retired group II members, and relative to requiring spousal acknowledgement of a member's election of an optional retirement allowance, **SB 187-FN-L**, relative to payment of group health insurance premiums for eligible retired teachers in the New Hampshire retirement system and **SB 216-FN**, allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces.

11:00 a.m. Executive session on pending legislation.

1:00 p.m. Subcommittee work session on **SB 53-FN**, relative to licensure of physicians providing teleradiology services in this state, **SB 164**, relative to persons exempted from the registration of ophthalmic dispensers, **SB 224**, relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards and **SB 28**, relative to food production and distribution and food service licensure.

FINANCE - (DIVISION I), Room 212, LOB

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

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

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

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

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

10:00 a.m. Executive session on pending legislation.

JUDICIARY, Room 208, LOB

9:00 a.m. Subcommittee work session on **SB 146**, granting district courts exclusive jurisdiction over actions involving certain real estate purchase deposits held in escrow accounts and **SB 101**, relative

to landlord-tenant obligations.

10:00 a.m. ***SB 64***, relative to powers of appointment.

11:00 a.m. ***SB 141***, relative to information not subject to the right-to-know law.

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

1:00 p.m. Subcommittee work session on ***SB 67***, limiting liability resulting from the use of automatic external defibrillation.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. Executive session on pending legislation.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

10:00 a.m. Subcommittee work session on ***SB 135-FN***, relative to water supply land protection grants.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Subcommittee work session on ***HB 733***, relative to a state master plan for the deployment of personal wireless service facilities.

1:00 p.m. Subcommittee work session on ***HB 649-FN***, relative to air pollution emissions from small, high-polluting electricity generators and ***SB 70***, changing the safe drinking water standard for MTBE.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

10:00 a.m. ***SJR 1***, a resolution supporting the reduction of the sulfur content of gasoline.

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

2:30 p.m. Subcommittee work session on ***HCR 8***, urging nonimplementation of the articles of the Kyoto Protocol on global climate change.

WEDNESDAY, MAY 19

COMMERCE, Room 302, LOB

10:00 a.m. Subcommittee work session on ***SB 105***, relative to continuation of coverage of health insurance.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. Subcommittee work session on ***SB 113***, establishing a division of travel and tourism development within the department of resources and economic development.

10:15 a.m. Executive session on pending legislation, if needed.

FINANCE, Rooms 210-211, LOB

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

FINANCE - (DIVISION I), Room 212, LOB

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

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

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

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

JUDICIARY, Room 208, LOB

10:00 a.m. Full committee work session on ***SB 168***, adopting a model statute included in the tobacco litigation master settlement agreement.

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

RESOURCES, RECREATION AND DEVELOPMENT

10:00 a.m. Educational study trip to the Amoskeag Fishway Ladder at Amoskeag Falls in Manchester for an update on the progress of the reclamation and restoring of the salmon and shad to the Merrimack River Watershed.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Subcommittee work session on ***HB 649-FN***, relative to air pollution emissions from small, high-polluting electricity generators and ***SB 70***, changing the safe drinking water standard for MTBE.

11:00 a.m. Executive session on pending legislation.

1:30 p.m. ***SB 159***, relative to early reduction of greenhouse gases.

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

WILDLIFE AND MARINE RESOURCES

10:00 a.m. Educational study trip to the Amoskeag Fishway Ladder at Amoskeag Falls in Manchester for an update on the progress of the reclamation and restoring of the salmon and shad to the Merrimack River Watershed.

THURSDAY, MAY 20

FINANCE - (DIVISION I), Room 212, LOB

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

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

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

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

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

During the lunch recess, executive session on pending legislation.

FRIDAY, MAY 21

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

9:00 a.m. Regular meeting.

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 201, LOB

1:00 p.m. Complaint hearing.

FINANCE - (DIVISION I), Room 212, LOB

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

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

MONDAY, MAY 24

FINANCE - (DIVISION I), Room 212, LOB

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

NEW PUBLIC-PRIVATE PARTNERSHIP TO CONSERVE NEW HAMPSHIRE'S NATURAL, CULTURAL, AND HISTORICAL RESOURCES FEASIBILITY STUDY COMMISSION (SB 493, Chapter 161:2, Laws of 1998), Room 308, LOB

1:00 p.m. Regular meeting.

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

9:30 a.m. Regular meeting.

TUESDAY, MAY 25

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

10:00 a.m. **SB 32**, relative to an employer exemption under the unemployment compensation laws.

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

WEDNESDAY, MAY 26

CHILDREN AND FAMILY LAW, Room 206, LOB

10:00 a.m. Presentation regarding community based child protection system.

WEDNESDAY, JUNE 2

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

9:00 a.m. Regular business.

9:30 a.m. Audits: State of New Hampshire Liquor Commission audit report for the year ended June 30, 1998

WILDLIFE AND MARINE RESOURCES, Room 307, LOB

9:00 a.m. Ad hoc crossbow study committee work session.

FRIDAY, JUNE 4

OSTEOPOROSIS ADVISORY COUNCIL (RSA 126-I:3), Room 205, LOB

9:00 a.m. Regular meeting.

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

9:00 a.m. Regular meeting.

MONDAY, JUNE 7

COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2), Room 103, State House

9:30 a.m. Regular meeting.

TUESDAY, JUNE 8

**NUCLEAR DECOMMISSIONING ELECTRIC GENERATING FACILITIES COMMITTEE, (RSA 162-F:15),
Selectmen's Meeting Room, Town Office Building, Route 1, Seabrook**

7:00 p.m. Public hearing.

FRIDAY, JUNE 11

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

8:30 a.m. Regular meeting.

MONDAY, JUNE 14

**NEW PUBLIC-PRIVATE PARTNERSHIP TO CONSERVE NEW HAMPSHIRE'S NATURAL, CULTURAL, AND
HISTORICAL RESOURCES FEASIBILITY STUDY COMMISSION (SB 493, Chapter 161:2, Laws of 1998), Room 308,
LOB**

1:00 p.m. Regular meeting.

PERINATAL ALCOHOL TOBACCO AND OTHER DRUG USE TASK FORCE (RSA 132:19), Room 101, LOB

9:00 a.m. Regular meeting.

FRIDAY, JUNE 18

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

9:00 a.m. Regular meeting.

OFFICIAL NOTICES

The Sergeant-at-Arms Office can reuse the large manila 10"x13" clasp envelopes that the House Calendars are mailed out in. Any that are brought in will be put to good use.

Rob Johnson, Sergeant-at-Arms

A reminder to Representatives to please keep personal belongings, briefcases, carrying bags etc. under their seats during House sessions. This is in order to keep the floor unobstructed for your row mates moving to and from their seats. Thank you.

Rob Johnson, Sergeant-at-Arms

The Office of Legislative Services has a number of extra copies of softbound volumes of the 1997 Session Laws. They will be available for distribution to House and Senate members on a first come, first served basis in Room 109 of the State House.

Carol J. Holahan, Deputy Director

Office of Legislative Services

REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 66, 67, 69, 108, 109, 116, 118, 119, 120, 124, 224, 237, 245, 274, 395, 453, 477, 494, 495, 522, 537, 546, 549, 565, 574, 579, 601, 602, 616, 620, 624, 625, 639, 641, 645, 650, 652, 655, 672, 676, 685, 689, 692, 693, 694, 695, 696, 698, 699, 715, 719, 722, 727, 733, 734, 735 and 738.

Leo J. Callahan, Assistant Clerk

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

Philip J. McColgan, Jr., 162 Old Gage Road, Pelham, New Hampshire 03076-2635

Karen O. Wadsworth, Clerk of the House
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MEMBERS' NOTICES

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

Members who would like more information on media and violence can check out the web site produced by the National Institute on Media and the Family, www.mediafamily.org. The Institute put on an all day conference for school administrators in NH this winter and they have a free brochure called "12 Tips for Taming the Tube and Safety Tips for Surfing the Net." Their toll free phone number is 888-672-5437.

Rep. Susan B. Durham

The Ranking Democrats will be meeting each Wednesday in Room 101 of the LOB at 9:00 a.m.

Rep. Marion L. Copenhaver

There are a limited amount of new issue "Troopers Are Your Best Protection" bumper stickers donated by the NH Trooper's Association. These bumper stickers are available and may be obtained from Sandy Wheeler, LOB Receptionist.

Rep. Robert J. L'Heureux

The Clarence Ferry Award Dinner, honoring former Senator Eleanor Podles, former Representatives Bill Golding and Mike Morello and the Hon. Francoise Elise, will be held at the Backroom Restaurant, Pappas Room on Wednesday, May 19. Social hour 6:00 p.m. Dinner 6:30 p.m. Tickets \$16. Tickets are available from Reps. Marc Pappas and Winston McCarty.

Rep. Winston H. McCarty

On this Wednesday, May 19th at 8:00 a.m. in the State House Cafeteria the Main Street Republican Caucus will be holding an open forum for legislators on where we stand after the passage of HB 117, and where we go from here. All members, be they Republicans, Democrats or Independents, are encouraged to attend and participate.

Reps. Richard C. Leone and Andrew R. Peterson

All legislators, staff and friends are invited to the NH Women's Lobby's "Spring Celebs '99 Awards Celebration" on Wednesday, May 19 from 4:30 to 6:30 p.m. at the Holiday Inn, Concord. The NH Women's Lobby will be honoring Rep. Sandra Keans, recipient of the Meritorious Service Award; Mary Ann Manoogian, recipient of the Volunteer Award; New Hampshire Public Radio, recipient of the Media Award for its work on the "NH Tax Challenge"; and Kathy Bogle Shields for her work on the Providian Child Care Initiative and the Governor's Commission on Child Care and Early Education. Tickets are available from Rep. Marjorie Smith or Sen. Katherine Wheeler, or other lobby members. Also, for additional information or tickets, call the lobby office at 224-9105.

Rep. Marjorie K. Smith

The Legislative Caucus for Quality Healthcare has rescheduled its meeting to discuss and review information on the sale of New Hampshire Blue Cross Blue Shield to Anthem, Inc. for Thursday, May 20 during the House session lunch break. All interested legislators are invited to attend this "brown bag" lunch meeting – location to be announced.

Rep. Linda Garrish

The Arthritis Foundation, Northern New England Chapter, in conjunction with National Arthritis Awareness Week, will hold an Arthritis Information Day for legislators on Thursday, May 20th from 8:30 a.m. to 1:30 p.m. in the basement of the Legislative Office Building. Become more aware of the resources and programs available for people with arthritis. Light refreshments. Please stop by.

Rep. Leslie Mendenhall

The Osteoporosis Advisory Council invites you to celebrate Osteoporosis Prevention Month with healthy snacks/lunch and information on Thursday, May 20 from 11:00 a.m. to 2:00 p.m. Watch for information regarding the place.

Rep. Barbara C. French

Strafford County Republicans will hold a meeting every third Tuesday of the month at 7:00 p.m. Location will be the Gateway II Restaurant, Somersworth.

Rep. Robert E. McKinley

The Second Annual Golf Tournament to benefit the New Hampshire Veterans Home will be held Saturday, May 22nd in Tilton. Join in a day of fun, food and golf for a good cause. Contact Rep. Fran Wendelboe for details (968-7988).

Rep. Francine Wendelboe

Legislators for Limited Spending will meet at noon at the Upham Walker House on Tuesday, May 25th. Coffee will be served.

Rep. Sylvia A. Holley

The House Republican Alliance will meet at the Upham Walker House (Park Street across from the State House) at 9:00 a.m. on the following Wednesdays: May 26, June 9 and June 23. Refreshments will be served.

Rep. Paul M. Mirski

All Representatives and legislative staff are invited to attend Governor Shaheen's Annual Legislative Barbecue on Wednesday, June 2 at 4:00 p.m. at the Bridges House. Please RSVP by May 28th to Jen Kuzma at 271-2121.

Rep. Peter H. Burling

The New Hampshire Center for Constitutional Studies, Inc. invites all legislators to a seminar featuring David Barton, a world-renowned researcher and lecturer on the Constitution. This event will take place on Friday, June 4th at 7:00 p.m. at St. Anthony's Parish Hall, Main Street Sanbornville and on Saturday, June 5th at the Grace Tabernacle Church, Route 125, Brentwood. The cost is \$10 (includes refreshments). The doors open at 6:30 p.m. For more information and tickets contact Rep. Ronald Nowe at 679-5977.

Rep. Ronald J. Nowe

The New Hampshire Republican Women's Club Annual Lilac Luncheon will be held Monday, June 14th at the Center of New Hampshire. Texas Governor George W. Bush will be the featured speaker. For tickets (\$25) see Reps. Sandy Reeves, Vivian Desmarais or Betsy McKinney.

Rep. Betsy McKinney

NH Pride has again invited legislators to march in the annual parade. It will again be held in Manchester on Saturday, June 19 at 11:00 a.m. beginning at Victory Park with a rally and festivities at Singer Park. Admission is \$15 at the Park arts, crafts, entertainment, music and more. For information contact: Reps. Raymond Buckley, Marlene DeChane and McKim Mitchell.

Rep. Raymond Buckley

NOTICE

The **26th Annual Bill White Memorial Legislative Golf Tournament** is scheduled for Monday, June 21 at the White Mountain Country Club in Ashland. The entry fee for this annual tourney is \$60 per person and includes greens fee, cart, dinner and prizes. A *shot-gun* start is scheduled for 9:00 a.m. The format is "Captain and Crew." Sign-up as a foursome or sign-up by yourself and be placed in a foursome. A maximum of 120 players will be allowed. Please return your entry and payment no later than June 8th to Sandy Wheeler at the LOB Lobby Desk. Please make checks payable to Legislative Golf Tournament, care of David S. Saltmarsh.

Reps. Gene G. Chandler and Peter H. Burling

26th Annual Bill White Memorial Legislative Golf Tournament

Names (1)_(2)

(3)_(4)

Telephone No: _____ Amount Enclosed: _____

Perinatal Alcohol, Tobacco and other Drug Use Task Force invites all legislators to attend a special informational forum on the treatment of substance use during pregnancy. Presentations will include an overview of the scope and effects of alcohol, tobacco and other drug (ATOD) problems during pregnancy and approaches necessary to assist women to avoid, reduce and recover from substance dependence. Members of the Task Force will lead a discussion with policy makers around New Hampshire's current perinatal substance use problem. The forum will take place on Monday, June 21 at the Odyssey Family Center in Canterbury (a residential substance abuse treatment program for pregnant and parenting women and their children) from 10:00 a.m. to noon. Refreshments will be served, followed by tours of the Odyssey Family Center. Come learn about this important issue. For further information, reservations and directions, please call 1-800-852-3345, ext. 6108 or 783-9104. Reservations requested by Wednesday, June 16.

Reps William E. Leber and Barbara Hull Richardson

As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in May, 1999. These listings replace individual notifications in an effort to reduce paper usage and to ensure all members are notified in a timely manner. Please contact the Visitors' Center for further information. Thank you for your continued participation with your School Visitation Program.

Kenneth Leidner, Director

<i>DATE</i>	<i>TIME</i>	<i>GROUP</i>	<i>CLASS/Size</i>
5/17	9:00	Kimball Elem. – Concord	4/25
5/17	10:00 & 11:30	Lincoln Street Elem. – Exeter	4/75
5/18	9:00	Kimball Elem. – Concord	4/25
5/18	10:00 & 11:30	Lincoln Street Elem. – Concord	4/50
5/18	1:00	Newington Public School	3-6/34
5/18	2:30	U.S. Express Tours	Adults/45
5/19	9:00	Kimball Elem. – Concord	4/25
5/19	10:15	Barnstead Elem.	4/43
5/20	9:30 & 11:00	Thornton's Ferry – Merrimack	4/50
5/21	10:00	Gilmanton Elem. – Gilmanton Ironworks	4/42
5/21	11:00 & 12:30	Lakeway Elem. – Littleton	4/90
5/21	1:30	Pierce Elem. – Bennington	4/17

5/24	9:30 & 11:00	Thornton's Ferry – Merrimack	4/50
5/24	1:00 & 2:00	McClelland School – Rochester	4/45
5/25	9:30 & 11:00	Thornton's Ferry – Merrimack	4/50
5/25	1:00 & 2:00	McClelland School – Rochester	4/45
5/26	10:00 & 11:00	Fred C. Underhill School – Hooksett	3/50
5/26	12:30	Greenfield Elem. – Greenfield	4/20
5/27	9:00	St. John's School – Concord	4/30
5/27	11:00 & 12:00	Little Harbor School – Portsmouth	4/40
5/28	10:00	Lyndeboro Central Elem.	5/25
5/28	11:00 & 12:00	Little Harbor School – Portsmouth	4/40
5/28	1:30	Conway Elem.	4/55

- The Department of Transportation will hold the following meetings:
- May 17 – Ossipee Town Hall, 6:30 p.m. Land use regulation workshop, Ossipee pilot study.
- May 20 – Gorham Middle/High School, 120 Main Street, 7:00 p.m. Public informational meeting, Pinkham's Grant, NH 16 rock removal.
- May 24 – Rye Town Hall, 10 Central Road, Rye, 6:30 p.m. Public informational meeting, Rye, Foyes Corner intersection.
- May 24 - Ossipee Town Hall, 6:30 p.m. Land use regulation workshop, visitor center workshop.
- May 25 – Vic Geary Center, 18 Greenough Road, Plaistow, 7:00 p.m. Public informational meeting, Plaistow, replacement of the NH 121 Bridge over B&M Railroad.
- May 26 – Northwood Town Hall, 6:00 p.m. Combined Selectmen's Meeting, Northwood and Nottingham, Northwood-Nottingham, intersections US 4/NH 152.
- May 27 – Sheraton Wayfarer Inn, Bedford, 8:00 a.m. Statewide bike/pedestrian meeting, bicycle/pedestrian conference.
- May 27 – Auburn Town Hall, 47 Chester Road, Auburn, 7:00 p.m. Public informational meeting, Auburn, replacement of NH 28 bypass bridge over Lake Massabesic.
- June 2 - Vic Geary Center, 18 Greenough Road, Plaistow, 7:00 p.m. Public informational meeting, Plaistow, replacement of the Kingston Road Bridge over B&M Railroad.
- June 3 – Green Acres School , Gymnasium, 10 Aurora Avenue, off Mammoth Road, Manchester, 7:00 p.m. Combined public officials/public informational meeting, Manchester, rehabilitation of I-293 including new bridges over Brown Avenue.
- June 8 – James R. Morrill Municipal Building (Gym), NH Route 10, Haverhill, 7:30 p.m. Combined public officials/public informational meeting, Haverhill, improvements to NH Route 116.
- June 9 – Exeter Town Hall, Nowak Room, Exeter, 7:00 p.m. Combined public officials/public informational meeting, Exeter, rail platform/parking.

June 9 – Nottingham West Elementary School Cafeteria, Hudson, 7:30 p.m. Public hearing (commission), Hudson, NH Route 3A.

June 12 – Tamworth Elementary , Tamworth, 9:00 a.m. Charette, Tamworth, pilot study.

June 17 – Stratford Town Hall, Route 3, Stratford, 7:00 p.m. Public hearing (commission), Stratford, US Route 3.

Rep. Edwin O. Smith, Chairman

Public Works and Highways

THURSDAY, MAY 20

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

1999-0939h

Amendment to HB 443

Proposed by the Committee on Commerce - C

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

- 1 Alcoholic Beverages; Liquor Licenses and Fees; Beverage Manufacturer License; Direct Distribution. Amend RSA 178:10, VI to read as follows:
- VI. Each beverage manufacturer shall have the right to transport the beverage they manufacture in barrels, kegs, bottles, or other closed containers ***to New Hampshire licensed wholesalers or retailers for resale consistent with paragraph VII and*** to the state border for transportation and sale outside the state to holders of a United States basic permit issued under the federal Alcoholic Administration Act.
- VII. A holder of a beverage manufacturer license who manufactures 15,000 barrels or less during its licensing period may elect to distribute its beverages directly to retail licensees and/or to distribute its beverages pursuant to RSA 180, provided that total in-state direct retail sales do not exceed 5,000 barrels.
- 2 Alcoholic Beverages; Liquor Licenses and Fees; Brew Pub License; Direct Distribution. Amend RSA 178:10-a to read as follows:
- 178:10-a Brew Pub License.
- I. The manufacture of beer, not to exceed 2,500 barrels annually, shall be permitted under rules adopted by the commission under RSA 541-A and under such terms as are not inconsistent with the provisions of the Constitution of the United States or federal law. No beer manufactured in this state by any brew pub shall be sold or delivered in this state in any manner which is inconsistent with the provisions of this title.
- II. Brew pub licenses shall authorize the licensee to manufacture and sell beer to individuals for on-sale consumption, for off-sale consumption and additionally to sell the beer it manufactures to wholesale distributors for distribution within the state and to transport the beer the brew pub manufactures ***to New Hampshire licensed retailers or wholesalers for resale or*** to the state line for sale outside the state. A brew pub, as a functional part of its premises, shall maintain a full service restaurant and may subsequently serve beverage and liquor as permitted by RSA 178:19, II(a)(1) and RSA 178:20, V(q). Off-sales of beer brewed by a brew pub, not to exceed 180 fluid ounces per person per day shall be made in containers ordinary and customary to the industry which shall be approved by the commission.
- III. Each brew pub shall maintain records showing all transactions associated with the business and file reports with the commission on or before the tenth day of the following month, which shall indicate the sales made under paragraph II.
- IV. A brew pub licensee shall pay the same monthly fee as required by RSA 178:30 for each gallon of ~~[alcoholic beverage]~~ ***beer*** transferred to, sold, or furnished in its full service restaurant, ~~[and]~~ for each gallon of ~~[alcoholic beverage]~~ ***beer*** sold to the

general public for off-premises consumption, **and for each gallon of beer sold to retail licensees for resale.** Fees shall be paid to the commission on or before the tenth day of the following month.

V. A holder of a brew pub license who manufactures 2,500 barrels or less during its licensing period may elect to distribute its beverages directly to retail licensees and/or to distribute its beverages pursuant to RSA 180.

VI. The annual fee for a brew pub license shall be the same as required for a beverage manufacturer under RSA 178:27.

3 Alcoholic Beverages; Liquor Licenses and Fees; Wholesale Distributor License; Purchases by Retail Licensees. Amend RSA 178:13, IV to read as follows:

IV. Retail licensees shall purchase **beverages** only from holders of a wholesale distributor license, **a beverage manufacturer license, or a brew pub license,** or from direct shippers.

4 Alcoholic Beverages; Liquor Licenses and Fees; Beverage Representative Licenses; Issuance. Amend RSA 178:14, I-II to read as follows:

I. A beverage representative license shall only be issued upon the recommendation of the wholesale distributor, beverage vendor importer, **brew pub,** or beverage manufacturer licensee whom the beverage representative represents.

II. A beverage representative license issued upon the recommendation of the wholesale distributor **or self-distributing brew pub or beverage manufacturer** licensee shall authorize the representative to offer for sale or solicit orders for sale from retail licensees for the sale of beverages.

5 Alcoholic Beverages; Enforcement, Requirements, and Penalties; Limited Credits; Report of Delinquency; Reference Added. Amend RSA 179:13, I to read as follows:

I. Each holder of a wholesale distributor, **brew pub,** or beverage manufacturer license shall report to the commission the name and license number of any on-sale or off-sale licensee who is delinquent in making payment of accounts over a total of \$100 within 10 days, including Sundays and holidays, from the date of delivery of beverages on the premises of such on-sale or off-sale licensee or on the premises of a liquor/wine/beverage warehouse storing the beverages for an on-sale or off-sale licensee. Each holder of a wholesale distributor license, brew pub license, beverage manufacturer license, beverage vendor license, or beverage vendor importer license shall report to the commission the name and license number of any holder of a wholesale distributor license who is delinquent in making payments of accounts within 30 days from the date of delivery of beverages on the premises of such holder of a wholesale distributor license. Such report to the commission shall include the amounts purchased and the dates when payments were due and shall be forwarded to the commission within 5 days after said accounts become delinquent, unless the fifth day of such period is a Sunday or holiday in which case the report shall be forwarded the day following such Sunday or holiday.

6 Alcoholic Beverages; Enforcement, Requirements, and Penalties; Limited Credits; Notification of Delinquency; Reference Added. Amend RSA 179:13, V to read as follows:

V. Each wholesale distributor, brew pub licensee, or beverage manufacturer shall notify any retailer reported to the commission pursuant to RSA 179:13, I who is delinquent in making payment of accounts. Notification shall be delivered in writing to the licensee by a representative of the wholesaler, **brew pub licensee,** or beverage manufacturer. Proof of notification shall be forwarded to the commission, whose enforcement division shall issue an administrative notice for a violation of the provisions of RSA 179:13, I and shall forward a report of violation for administrative action. Any license issued to any business violating the provisions of RSA 179:13, I may be suspended by the commission for nonpayment of accounts which are delinquent more than 15 days from the date of the wholesale distributor's, brew pub licensee's, or beverage manufacturer's notification, providing the requirements of this section have been met.

7 Alcoholic Beverages; Enforcement, Requirements, and Penalties; Reports; Reference Added. Amend RSA 179:14 to read as follows:

179:14 Reports. Each beverage manufacturer licensee, beverage vendor licensee, beverage vendor importer licensee, **brew pub licensee,** and wholesale distributor of beverages within the state shall, on or before the tenth day of each month, furnish to the commission, on a form prescribed, a statement under penalty of perjury showing the quantity of beverages sold for resale and the quantity of beverages sold under an off-sale license during the preceding calendar month, within the state.

8 Alcoholic Beverages; Enforcement, Requirements, and Penalties; Purchase and Supply Restrictions; Sizes of Beer Containers,

Promotions, Notification; Transactions and Prices. Amend RSA 179:33, III-IV to read as follows:

III. All details of transactions between **retailers and** wholesale distributors, **beverage manufacturers, or brew pubs** ~~and retailers~~ shall be reflected on pertinent invoices. Promotions shall be clearly identified by both brands and sizes and cash discounts shall be shown as credit and itemized as such. All items noted on delivery slips shall also be noted on wholesale distributor's account receivable ledger records.

IV. All wholesale distributors, **beverage manufacturers, and brew pubs** shall make their current prices **for wholesale sales** available to the commission in writing by brand package. Prices shall remain in effect until such time as they are changed in writing by the wholesale distributor, **beverage manufacturer, or brew pub** to the commission. Price changes shall be in the commission offices no later than 5 working days prior to any change of prices.

9 Alcoholic Beverages; Beverage Distributor Agreements; Definitions; Beverage Sales Territory; Direct Distribution. Amend RSA 180:1, II to read as follows:

II. "Beverage sales territory" means the area of primary sales responsibility expressly or impliedly designated by any agreement between a wholesale distributor and a brew pub, beverage manufacturer, beverage vendor, or beverage vendor importer for the brand or label of a beverage manufacturer or brew pub, **or an area designated in a filing with the state liquor commission for self-distribution by a brew pub or beverage manufacturer.**

10 Alcoholic Beverages; Beverage Distributor Agreements; Acts Prohibited; Multiple Agreements. Amend RSA 180:2, III to read as follows:

III. After designating a sales territory for which any wholesale distributor shall be primarily responsible, enter into any agreement with any other wholesale distributor for the purpose of establishing an additional agreement for its brand or label in the same territory served by a wholesale distributor with that particular brand or label, **or file with the commission for self-distribution in the designated territory.** No wholesale distributor, **brew pub, or beverage manufacturer** ~~[granted a sales territory]~~ shall make any sale or delivery of a beverage to any on-sale or off-sale licensee whose place of business is not within the territory ~~[granted]~~ **designated.**

11 Alcoholic Beverages; Beverage Distributor Agreements; Exclusive Wholesale Distributor Territorial Agreements; References Added. Amend RSA 180:9 to read as follows:

180:9 Exclusive Wholesale Distributor Territorial Agreements. It shall be unlawful for a wholesale distributor, **brew pub, or beverage manufacturer** to sell any brand of beverage in this state except in the territory described in a distribution agreement authorizing sale ~~[by the wholesale distributor]~~ of that brand or label within a designated area, and within that designated area the wholesale distributor, **brew pub, or beverage manufacturer** shall service all dealer and retailer licensees without discrimination. The distribution agreement shall be in writing and shall specify the brand or label it covers. When a beverage manufacturer, beverage vendor, or beverage vendor importer sells several brands, the agreement need not apply to all brands sold by the beverage manufacturer, beverage vendor, or beverage vendor importer and may apply only to one brand. No beverage manufacturer, brew pub, beverage vendor, beverage vendor importer, or other supplier shall provide by the written distribution agreement for the distribution of a brand or label to more than one distributor for all or any part of the designated territory.

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

1999-1193h

Amendment to HB 449-FN

Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 270-D:13, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The director shall issue a temporary certificate of boating safety education to a person who passes a temporary boating safety examination, consisting of 20 questions, administered by a person approved to offer the temporary boating safety examination. The minimum passing grade for the examination shall be 80 percent. The temporary certificate of boating safety education shall be valid for up to 14 days and shall entitle the holder only to operate a vessel on the public waters of New Hampshire. Any dealer or renter of boats or employee thereof, who has passed the boating safety education course as provided in RSA 270-D:13, I(a), shall be approved by the director to administer the temporary boating safety examination and to issue a

temporary certificate.

1999-1182h

Amendment to HB 464

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

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

AN ACT relative to electric rate reduction financing.

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

1 Statement of Purpose.

I. The state of New Hampshire and Public Service Company of New Hampshire (PSNH) are in the process of negotiating a settlement to resolve the outstanding issues concerning the implementation within PSNH's service territory of electric utility restructuring pursuant to RSA374-F. Any settlement proposal that results from these negotiations will in all likelihood include a component for securitizing a portion of PSNH's stranded costs.

II. It is important that the general court, through the declaration of purpose and findings of RSA 369-A:1, express its understanding of securitization and the criteria that are essential to meet prior to authorizing the use of securitization.

2 New Chapter; Electric Rate Reduction Financing. Amend RSA by inserting after chapter 369 the following new chapter:

CHAPTER 369-A

Electric Rate Reduction financing

369-A:1 Declaration of Purpose and Findings. The general court finds that:

I. Restructuring of electric utilities to provide greater competition and more efficient regulation has been found by the general court to be in the public good and New Hampshire is now aggressively pursuing restructuring and increased customer choice in order to provide electric service at lower and more competitive rates.

II. The transition to competitive markets for electricity is a complex endeavor and requires the development of creative and flexible mechanisms to facilitate the movement from monopoly to competition.

III. The establishment of structured financing options for public utilities will enhance and facilitate the expeditious transition to competition, choice for retail electric customers, and reductions in electric rates for all customer classes consistent with the near term rate relief principle of RSA 374-F:3, XI, without creating any debt or obligation of the state or other adverse impacts upon the state's finances or credit rating. Structured financing options may facilitate and help mitigate stranded cost recovery that the commission determines is appropriate, equitable, and balanced pursuant to authority granted in RSA 374-F:3, XII and 374-F:4.

IV. Structured finance options are best pursued in the context of settlement agreements between a utility and the commission concerning the implementation of competition.

V. Rate reduction bonds are instruments underwritten for recovery by a guaranteed promise of customer repayment as part of the stranded cost recovery charge on a customer's bill. These bonds' irrevocable guarantee of repayment creates a secure expectation of performance and thus allows for an attractive rate of refinancing of a utility's stranded costs.

VI. Stranded costs are at significant risk of not being recovered under traditional rate regulation and market pressures. Electricity prices in New Hampshire are so high as to cause customers to aggressively consider fuel switching, conservation, or self generation. Technological innovation may soon allow small scale self generation units to be viable in the near future. Over time, technological innovation will increasingly threaten the recovery of stranded costs.

VII. Once stranded costs are securitized through rate reduction bonds, a utility immediately recovers through a lump sum payment that portion of its stranded costs underwritten by the bond. As such, the risk of not recovering that portion of a utility's stranded costs is completely removed. The utility may then favorably recapitalize its debt structure taking advantage of its

improved risk profile.

VIII. A lump sum payment derived from a rate reduction bond provides a large infusion of cash with which a utility may repay its debt. This infusion of cash also gives a utility a tremendous opportunity to become a major participant in deregulated electric generation markets or deregulated telecommunication markets.

IX. The financial and security advantages that accrue to a utility in the form of improved debt structure, risk reduction, and new cash resources could make such a utility an attractive investment opportunity. It is likely that any such utility's publicly traded stock value would rise considerably, especially for a utility that had faced significant investor uncertainty.

X. The extraordinary benefits that utilities and their investors will receive through issuance of rate reduction bonds are appropriate and fair, but only to the extent that customers also receive equitable and extraordinary benefits. Unless these customer benefits can be achieved at the same time that utilities receive the extraordinary benefits of securitization, the use of revenue reduction bonds and the irrevocable obligation they create for customers is not in the public interest. The benefits to customers should be substantially consistent with the following principles:

(a) The opportunity to choose among a range of competitive suppliers in a manner that promotes public trust in the benefits of competitive options. Public trust is not achieved if a utility uses rate reduction bonds to maintain a commanding presence in all of the traditional utility functions of transmitting, distributing, and generating electricity.

(b) Electricity prices consistent with RSA 374-F:3, XI, the near term rate relief principles for all customer classes.

(c) Electricity prices that approach the regional average within 4 years.

(d) Electricity prices that do not create another rate gap for New Hampshire customers.

(e) Risk sharing by the utility of the non securitized portion of the utility's stranded cost should regional average prices not be approached in 4 years.

(f) The continued opportunity for end users to generate electricity for their own use without an exit fee.

(g) Further renegotiations between representatives of the 6 wood-to-energy facilities, Public Service Company of New Hampshire, the public utilities commission, and other interested parties in order to reduce customer cost of this source of electricity.

(h) The cessation of any dispute, litigation, or regulatory proceedings concerning any electric restructuring issue, in any forum where the utility's position is adverse to the state of New Hampshire, the commission, or the New Hampshire Electric Cooperative prior to use of structured financing options.

(i) Retention of commission jurisdiction over any proposed settlement.

(j) Filing of any proposed settlement at the public utilities commission prior to further legislative consideration of authorization to use structured financing options.

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

AMENDED ANALYSIS

This bill expresses certain legislative purposes and findings relative to electric rate reduction financing.

1999-0795h

Amendment to HB 471

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

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

AN ACT exempting certain family owned and operated businesses from certain requirements in the workers' compensation act relative to safety programs.

Amend RSA 281-A:64, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Subparagraph (a) shall not apply to family owned and operated businesses of 15 employees or less, provided that the employer does not have lost time claims over a 3-year period which exceed 3 days for any employee.

Amend RSA 281-A:64, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Subparagraph (a) shall not apply to family owned and operated businesses of 15 employees or less, provided that the employer does not have lost time claims over a 3-year period which exceed 3 days for any employee.

AMENDED ANALYSIS

This bill exempts certain family owned and operated businesses from certain requirements under the workers' compensation act relative to safety.

1999-1232h

Amendment to HB 503-FN-LOCAL
Proposed by the Committee on Education - R

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

AN ACT relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas.

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

1 AREA Schools; Procedure for Establishment Amended. Amend RSA 195-A:3, V to read as follows:

V. An area school planning board may recommend that there be established an authorized regional enrollment area plan for elementary or secondary schools, or both, or any other reasonable combination of grades, composed of all the school districts represented by its membership or any specified combination thereof. The planning board shall prepare a written plan for the proposed regional enrollment area, which shall be signed by at least a majority of the membership of such board, which shall set forth the following: (a) the name or names of each area school or schools proposed, and the receiving district in which such schools shall be located; (b) the sending districts or portions thereof which, together with the receiving district, shall form the region which each area school or schools shall serve; (c) the grades for which each area school or schools shall be responsible (which may include a combination of elementary and secondary grades or any other reasonable classification); (d) the formula for calculation of tuition; (e) the manner in which any form of state aid shall be credited, unless otherwise expressly provided by law; (f) the existing school buildings in the several school districts which shall be discontinued; (g) the existing school buildings in the receiving district which shall be designated as an area school or schools including any existing buildings to be initially enlarged; (h) the proposed new area school building or buildings to be initially constructed in the receiving district and the initial location of same; (i) the estimated initial enrollment in each area school from each of the sending districts and from the receiving district; (j) the proposed date or dates of operating responsibility of each planned area school, which date may be subsequently postponed by the state board upon petition of a receiving or sending district, in the event of unforeseen circumstances or for good cause shown; (k) the scheduled date or dates during each year upon which tuition payments shall be made by the sending districts to the receiving districts and whether the tuition shall be payable in installments, or in a lump sum; (l) procedure for improvement or changes in curriculum and other school programs and services; (m) the method, time, and manner in which the plan may be amended, subject to state board approval, where not incompatible with law; (n) *the term of the plan which shall be for a minimum of 10 years unless otherwise provided by mutual agreement of the school districts consistent with the provisions of RSA 195-A:3, IX; (o) the manner in which the interests of the school boards of the sending districts will be addressed; (p) whether the districts within the area plan shall adopt the provisions of RSA194-B, and how the adoption of such provisions and the adoption of the open enrollment percentage limitations will affect the districts within the area plan; (q) any other matters, not incompatible with law, which the area school planning board may consider appropriate to include in such written plan.*

2 AREA School Plans; Modifications. Amend RSA 195-A:16 to read as follows:

195-A:16 Modification. Parties to any authorized regional area agreement may, either at the time of the original agreement, or at any subsequent modification of the agreement, specify that the agreement shall cover less than 100 percent of the student population of the sending district. *In the event that a charter school is established within a sending or receiving district, after final approval by the state board, an area review board shall be convened pursuant to RSA 195-A:14*

solely for the purpose of considering an amendment to the area agreement relative to the adoption of the charter school provisions under RSA 194-B. Any such amendment shall be consistent with the provisions of RSA 195-A:3, V(p). An area plan amended under this section shall be submitted to the state board for approval no later than December 1 of the year of amendment.

- 3 New Section; Cooperative Schools; Modification. Amend RSA 195:31 by inserting after section 30 the following new section:
- 195:31 Modification. In the event that the cooperative district adopts the provisions of RSA194-B, and the cooperative district also adopts open enrollment percentage amounts pursuant to RSA 194-B:4, the percentage of pupils authorized by a vote of the cooperative district shall be permitted to attend a charter school which may be established in the district and approved by the voters in accordance with RSA 194-B:3.
- 4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill provides for the amendment of the terms of a authorized regional enrollment area agreement in the event one or more such districts adopt the provisions of the charter school and open enrollment law, or establish a charter school within the cooperative or area plan.

1999-0571h

Amendment to HB 524

Proposed by the Committee on Executive Departments and Administration - C

- Amend the title of the bill by replacing it with the following:
- AN ACT increasing the alternate members on the public employee labor relations board.
- Amend the bill by replacing all after the enacting clause with the following:

- 1 Intent. It is the intent of this act to create another alternate neutral or "public" member to the public employee labor relations board. This would give a depth of 3 board members for each constituency represented. Labor and management already have 3 such members and alternates, and by this act public members would increase to 3 members and alternates. There is no fiscal impact to this legislation because the creation of the third neutral member would merely facilitate the board's ability to meet and conform with quorum requirements as set forth in RSA273-A:2, III. Per diem expenditures for the new member appointed under the provisions of this act shall be taken from appropriated funds.
- 2 Public Employee Labor Relations Board; Alternate Public Member Added. Amend RSA273-A:2, I-a to read as follows:
- I-a. The governor and council shall appoint, in addition to the regular board members specified in paragraph I, ~~[3]~~ **4** alternate board members. One member shall have extensive experience representing organized labor, one member shall have extensive experience in representing management interests, and ~~[one member]~~ **2 members** shall represent the public at large, ~~[and]~~. **The members representing the public at large** shall not hold elective or appointive public office, or elective or appointive office, or membership in, organized labor at the time of ~~[his]~~ appointment or during ~~[his]~~ **their** term. Alternate board members shall serve a 6-year term, and may be removed by the governor and council.
- 3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill adds an alternate public member to the public employee labor relations board.

1999-1063h

Amendment to HB 536

Proposed by the Committee on Municipal and County Government - R

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

1 Purpose. In order to further the state's policy of promoting the development of a competitive electric supply market in New Hampshire and to give municipalities the ability to attract new electric generation facilities and retain existing generation facilities that have become subject to the economic pressures of a deregulated market, the general court believes that it is desirable to give municipalities the authority to exempt from taxation certain personal property that is used in the manufacture of electricity.

2 Personal Property Used in Manufacture of Electricity; Exemption from Property Tax Authorized. Amend RSA 72:8 to read as follows:

72:8 Electric Plants and Pipe Lines.

I. All structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, shall be taxed as real estate in the town in which said property or any part of it is situated; provided that no electric power fixtures which would otherwise be taxed under this section shall be taxed under this section if they are employed solely as an emergency source of electric power.

II.(a) A governing body of a municipality may exempt from taxation under this section any portion of the personal property employed in the generation and production of electric power that would otherwise be subject to taxation under paragraph I in accordance with this paragraph. If a municipality exempts any such property from taxation, the exemption shall apply to all owners of such property within the municipality.

(b) The governing body of each municipality shall make the determination to exempt from taxation so much of the equipment for the generation and production of electric power and for such a term of years as the governing body determines will attract new construction of electric generation facilities, retain existing electric generation facilities, or foster economic development.

(c) Such determination, including but not limited to the fair market value of the equipment exempted, the term of the exemption, any agreement for payment of taxes, and/or any agreement for payment in lieu of taxes, shall be subject to approval of the legislative body of the municipality.

3 Repeal. RSA 72:8, II, relative to an optional exemption from the property tax for personal property used in the manufacture of electricity, is repealed.

4 Applicability. The repeal of RSA 72:8, II under section 3 of this act shall not affect the validity of the terms of any exemption granted by a municipality under RSA 72:8 prior to the effective date of section 3 of this act.

5 Effective Date.

I. Section 3 of this act shall take effect July 1, 2004.

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

AMENDED ANALYSIS

This bill authorizes municipalities to exempt from the local property tax any portion of personal property employed in the generation and production of electric power that would otherwise be subject to taxation. The authority to grant this exemption is repealed on July 1, 2004.

1999-1020h

Amendment to HB 545-FN

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

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

AN ACT establishing a committee to study ambulatory surgical facilities.

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

1 Committee Established. There is established a committee to study the overall structure of ambulatory surgical centers, the

health services planning and review board, and any and all issues relating to these subject matters.

2 Membership and Compensation.

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

(a) Three members of the house of representatives, one of whom shall be from the health, human services and elderly affairs committee, appointed by the speaker of the house.

(b) Three members of the senate, one of whom shall be from the public institutions, health and human services committee, appointed by the president of the senate.

II. The committee shall solicit information and advice from the following:

(a) The New Hampshire Hospital Association.

(b) The New Hampshire Medical Society.

(c) Any other group the committee deems necessary.

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

3 Duties. The committee's study shall include, but not be limited to, a study of the overall structure of ambulatory surgical centers, the health services planning and review board, and any and all issues relating to these subject matters. The committee shall also study the potential for establishing an external review committee for the board to obtain advice as to costs it oversees, the potential effects of ambulatory surgical centers in rural and semi-rural areas, and investigation of the potential for ambulatory surgical center openings in New Hampshire border communities in abutting states.

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 house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four 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 senate president, the house clerk, the senate 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 committee to study ambulatory surgical facilities.

1999-1189h

Amendment to HB 576-FN-A

Proposed by the Committee on Finance - R

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

AN ACT establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor.

Amend the bill by replacing sections 1-3 with the following:

1 Seminar for Parents Involved With Child Custody and Support Issues; Chapter Title Amended. Amend the chapter heading of RSA 458-D to read as follows:

~~[SEMINAR FOR PARENTS INVOLVED WITH CHILD CUSTODY AND SUPPORT ISSUES]~~

CHILD CUSTODY AND SUPPORT IMPACT SEMINARS

2 Child Impact Seminars; Positions Created. There are hereby created 3 full-time court assistant III positions and one-part-time

court assistant III position within the child impact program for the purpose of managing statewide child custody and support impact seminars pursuant to RSA 458-D.

3 Appropriation. The sum of \$111,794 for the fiscal year ending June 30, 2000, and the sum of \$111,794 for the fiscal year ending June 30, 2001, are hereby appropriated to the judicial branch for the purpose of establishing additional positions to manage statewide child custody and support impact seminars. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill authorizes and appropriates funds for the establishment of additional positions within the child impact program for the purpose of managing statewide child custody and support impact seminars.

1999-1152h

Amendment to HB 586

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic.

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

1 Definition; Duty of Board. Amend RSA 316-A:1 to read as follows:

316-A:1 Definition. The science of chiropractic deals with the analysis of any interference with normal nerve transmission and expression, the procedure preparatory to, and complementary to the correction thereof, by an adjustment of the articulations of the vertebral column and its immediate articulations for the restoration and maintenance of health; it includes the normal regimen and rehabilitation of the patient using the procedures which are currently taught in accredited chiropractic colleges at the time of matriculation without the use of drugs, surgery, or colonic irrigation. The term analysis is construed to include physical examination, the use of x-ray and other analytical instruments generally used in the practice of chiropractic. ***The terms adjustment, manipulation, and subluxation are primary to the practice of chiropractic and shall therefore be specifically defined in rules adopted by the board of chiropractic examiners.***

2 Rulemaking Authority; Approval of Commissioner Removed. Amend the introductory paragraph of RSA 316-A:3 to read as follows:

The board~~[-with the approval of the commissioner of the department of health and human services;-]~~ shall adopt rules, pursuant to RSA 541-A, relative to:

3 New Paragraph; Rulemaking; Define Terms. Amend RSA 316-A:3 by inserting after paragraph XVIII the following new paragraph:

XIX. Defining the specific terms "adjustment," "manipulation," and "subluxation," in the practice of chiropractic.

4 Penalties; Unlawful Practice. Amend RSA 316-A:25 to read as follows:

316-A:25 Penalties; ***Unlawful Practice.***

I. Whoever, not being licensed as provided in this chapter, shall advertise oneself or in any way hold oneself out as qualified to practice chiropractic, ~~[or shall practice chiropractic;]~~ or whoever does so after receiving notice that the person's license has been revoked, and whoever, being licensed as provided in this chapter, shall advertise or call oneself, or allow oneself to be advertised or called a physician or a doctor, or use any physician's or doctor's insignia as such, except "Doctor (name of chiropractor), chiropractor", shall be guilty of a misdemeanor and, upon conviction, shall, if licensed, have such license revoked.

II. No person shall practice chiropractic as defined in this chapter without first obtaining a license from the board; provided that nothing in this chapter shall prohibit persons licensed under any other provision of New Hampshire law from performing activities within the scope of such a license. Any person who violates this paragraph shall be guilty of a misdemeanor.

5 Repeal. RSA 316-A:4, relative to monitoring by commissioner of health and human services of rulemaking activity of the board, is repealed.

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

AMENDED ANALYSIS

This bill makes changes to the rulemaking authority of the board of chiropractic examiners and removes the requirement that the commissioner of health and human services monitor such rulemaking. The bill also adds a provision concerning the unlawful practice of chiropractic.

1999-0962h

Amendment to HB 606-FN

Proposed by the Committee on Labor, Industrial and Rehabilitative Services - R

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

An Act relative to managed care programs under workers' compensation and relative to certain members of the compensation appeals board.

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

1 Managed Care Programs. RSA 281-A:23-a, VI is repealed and reenacted to read as follows:

VI.(a) The commissioner shall monitor approved managed care programs and shall review the effectiveness of the various programs, cost savings achieved by such programs, and the appropriateness and timeliness of services delivered to the injured employee by such programs. The commissioner shall review each managed care program for purposes of determining the program's continued compliance with the standards for approval and delivery of service. Such review shall take place prior to the expiration of 3 years from the date the program's approval was ratified by the advisory council. Additional review shall take place at least once every 5 years thereafter, or whenever the commissioner determines that such review is required to ensure the program is in compliance with this section. Upon such review, if the commissioner determines after a hearing that a managed care program has failed to maintain compliance with the standards for approval, the commissioner shall withdraw approval of the plan and immediately notify the chairperson of the advisory council of such withdrawal. The commissioner's decision to withdraw approval of a managed care program shall be submitted to the advisory council within 5 days of such a decision and shall be deemed accepted by the advisory council unless, at its first regularly scheduled meeting held at least 19 days after the commissioner's decision, the council, by a majority vote of all its members qualified to vote on ratification, declines to ratify the decision, stating in writing the reasons why the program continues to comply with the requirements of this section and rules adopted pursuant to it. Neither the commissioner nor the insurance commissioner shall be qualified to vote on ratification.

(b) If the commissioner determines that a managed care program has failed to comply with the provisions of this section or the rules adopted to implement such section, but that such failure does not warrant withdrawal of approval of the program, the commissioner may, after notice to the managed care program and hearing assess a civil penalty of not more than \$100 for each such failure. If a managed care program fails to pay such penalty the commissioner shall recover the penalty in a civil action in the superior court of the county of jurisdiction.

(c) The commissioner, with the approval of the workers' compensation advisory council and the governor and council, may enter into such contracts as may be necessary to analyze and study the effectiveness of managed care programs. The cost of any contracts entered into under this subparagraph shall be a charge against the workers' compensation administration fund, established under RSA 281-A:59.

2 Appeals Board; Per Diem for Certain Board Members. Amend RSA 281-A:42-a, III to read as follows:

III. **Attorney members of the board shall receive \$200 per diem and all other** members of the board shall each receive \$150 per diem for each day devoted to the work of the board and shall be reimbursed for necessary travel expenses.

3 Hearings and Awards; Board Added. Amend RSA 281-A:43, II to read as follows:

II. A decision of the commissioner ~~or~~, the commissioner's authorized representative, **or the board** shall take effect upon the

date of notification and shall become final, in the absence of an appeal from it, 30 days after notification. Payment of weekly compensation and entitlement to medical and vocational benefits, if necessary and so ordered by the commissioner, shall begin or continue as soon as possible, but no later than 5 working days after the decision's effective date, and shall not be terminated except in accordance with the terms of the decision or of a final court determination. If the commissioner determines that the employer has failed to comply with the order, then the commissioner may assess a penalty not to exceed \$100 for each day of noncompliance, beginning on the date of notification of its assessment. Upon continued failure to comply with an order to make payment of the compensation or medical benefits, or to institute vocational rehabilitation, or to pay the penalty, or any combination thereof, the commissioner shall petition the superior court for an injunction to comply. The commissioner shall deposit with the state treasurer any penalty collected under this section.

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

AMENDED ANALYSIS

The bill requires the commissioner of labor to review workers' compensation managed care programs every 5 years after the initial review. The bill also raises the per diem for attorney members of the compensation appeals board.

1999-1011h

Amendment to HB 612-FN

Proposed by the Committee on Finance - R

Amend the bill by replacing section 1 with the following:

1 Jurors' Fee and Mileage Increased. Amend RSA 500-A:15, I to read as follows:

I. Grand and petit jurors' fees and mileage shall be paid by the state. The jurors' fees shall be ~~[\$10]~~ **3 ½ times the prevailing federal hourly minimum wage** for each half day's attendance before a ~~[superior]~~ court; for each mile's travel to and from the place where the juror serves, mileage shall be paid at the **state employee** rate ~~[of \$.20 per mile, mileage to be allowed]~~ for each day's attendance when the juror is required to leave the town or city in which ~~[he]~~ **the juror** resides.

1999-0698h

Amendment to HB 615-FN-A

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

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

AN ACT establishing a brain and spinal cord injury trust fund and continually appropriating a special fund and establishing a registry for brain and spinal cord injuries.

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

4 New Section; Trust Fund Established. Amend RSA 137-K by inserting after section 3 the following new section:

137-K:4 New Hampshire Brain and Spinal Cord Injury Trust Fund Established. There is hereby established in the office of the state treasurer a fund to be known as the New Hampshire brain and spinal cord injury trust fund. Receipts from additional license fees under Title 21 as provided in RSA 263:42, V shall be deposited into the fund. The fund shall be expended by the commissioner of the department of health and human services, after consultation with the advisory council, for direct service provision, including but not limited to, case management, family support, advocacy, and vocational support. The moneys in the fund shall be nonlapsing and shall be continually appropriated to the department for the purpose of the fund.

5 New Section; Definitions. Amend RSA 137-K by inserting after section 1 the following new section:

137-K:1-a Definitions. In this chapter:

I. "Brain and spinal cord injury" means any injury to the brain or spinal cord which causes death or requires medical care and treatment or results in long-term disability.

II. "Commissioner" means the commissioner of the department of health and human services.

III. "Department" means the department of health and human services.

IV. "Prevention services" means organized activities which are capable of reducing the incidence and prevalence of brain and spinal cord injuries.

V. "Risk assessment" means the measurement and evaluation of the threat resulting from these injuries.

VI. "Facility" means a governmental or private agency, department, institution, clinic, laboratory, hospital, health maintenance organization, association, physician, or other similar unit diagnosing or providing treatment for brain and spinal cord injuries.

6 Reference Change. Amend the introductory paragraph of RSA 137-K:2, I to read as follows:

I. There is established the New Hampshire brain and spinal cord injury advisory council in the department [~~of health and human services~~]. The advisory council shall consist of the following members:

7 Reference Change. Amend the introductory paragraph of RSA 137-K:3 to read as follows:

137-K:3 Rulemaking. The commissioner [~~of health and human services~~] shall, after consultation with the advisory council established in RSA 137-K:2, adopt rules under RSA 541-A relative to:

8 Rulemaking Added. Amend RSA 137-K:3, V to read as follows:

V. Conducting prevention and screening services and delivering education programs.

VI. Content and design of all forms and reports required by this chapter.

VII. Procedures for disclosure of information gathered by the brain and spinal cord registry, by monitoring and evaluating health data, and from completed risk assessments.

VIII. Any other matter necessary for the administration of this chapter.

9 New Sections; Duties; Registry Established. Amend RSA 137-K by inserting after section 5 the following new sections:

137-K:5 Duties. The commissioner shall:

I. Educate the public regarding factors associated with the risk of brain and spinal cord injuries.

II. Monitor the morbidity and mortality of brain and spinal cord injuries.

III. Evaluate available health data for use in delivering prevention services.

IV. Offer prevention services to population groups at risk of developing brain and spinal cord injuries.

V. Undertake risk assessment activities.

137-K:6 Brain and Spinal Cord Injury Registry Established. There shall be established in the department a brain and spinal cord injury registry for compilation and analysis of information relating to the incidence, diagnosis, and treatment of brain and spinal cord injuries.

137-K:7 Reporting. All facilities shall provide a report to the brain and spinal cord injury registry containing information regarding a brain and spinal cord injury diagnosed or being treated.

137-K:8 Disclosure; Confidentiality.

I. A report provided to the brain and spinal cord injury registry disclosing the identity of an individual, who was reported as having a brain and spinal cord injury, shall only be released to persons demonstrating a need which is essential to health-related research, except that the release shall be conditioned upon the personal identities remaining confidential.

II. Analyses and compilations of data prepared under RSA 137-K:5 which do not disclose the identity of an individual and which cannot be used to surmise an identity shall be available to the public under RSA 91-A.

III. The physician-patient privilege shall not apply to reports prepared pursuant to RSA137-K:7.

137-K:9 Maintenance of Reports. Reports provided to the brain and spinal cord injury registry under RSA 137-K:7, and analyses and data prepared under RSA 137-K:5 shall be maintained by the department in a manner suitable for brain and spinal cord injury research purposes, and shall be available to persons as prescribed in RSA 137-K:8.

10 Fee Increased. Amend RSA 263:42, V to read as follows:

V. Whenever a driver's license has been suspended or revoked, or notwithstanding RSA263:56-a, III, whenever the holder of a commercial driver license has been disqualified for a period of greater than 15 days, a fee of [~~\$50~~] **\$100** shall be paid by the licensee for the restoration of such license or commercial driver license. Under certain conditions the commissioner may waive the restoration fee for a default or suspension. The commissioner shall adopt rules, under RSA 541-A, relative to such waiver procedures. ***Fifty dollars of each such fee shall be forwarded to the state treasurer, who shall credit such moneys to the New Hampshire brain and spinal cord injury trust fund, established in RSA 137-K:4.***

11 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Moneys received under and RSA 263:42, V, which shall be credited to the NewHampshire brain and spinal cord injury trust fund, established in RSA 137-K:4.

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

AMENDED ANALYSIS

This bill establishes a brain and spinal cord injury trust fund. The fund is to be capitalized by an increased fee for suspended or revoked licenses.

This bill also establishes a registry for compilation and analysis of information relating to brain and spinal cord injuries.

1999-1192h

Amendment to HB 633-FN-LOCAL

Proposed by the Majority of the Committee on Education - R

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

1 Education; School Boards, Transportation and Instruction of Pupils; Definitions; Average Daily Membership in Residence; Parental Choice Scholarship Students Added. Amend RSA 189:1-d, IV to read as follows:

IV. "Average daily membership in residence" means the average daily membership of students enrolled in public schools within the district ***or students attending a public or private school with parental choice scholarship assistance from the district*** or students whose tuition is being paid by the district to another approved public or private school for a given school district in a given school year.

2 New Chapter; Parental Choice Scholarships. Amend RSA by inserting after chapter 194-C the following new chapter:

CHAPTER 194-D

Parental Choice Scholarships

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

- I. Ensure that school-age children of low-income families have current access to schools that are satisfactory to the parents.
- II. Allow more parents to choose among public and nonpublic schools best suited to their children's needs and talents and the parents' educational philosophy regardless of family income and place of residence.
- III. Encourage the establishment and operation of diverse learning environments designed to meet the individual educational needs and talents of New Hampshire's children.
- IV. Encourage all schools to reach beyond educational adequacy to educational excellence.

194-D:2 Definition. In this chapter, "parent" means a parent, guardian, or person having legal custody of a child.

194-D:3 Eligibility and Limitations.

I. Notwithstanding the provisions of RSA 198:2 or any other law to the contrary, and except as otherwise provided in this chapter, a parent shall be eligible to receive a parental choice scholarship if:

(a) The public school within the district or the school to which the child has been assigned has average scores in the bottom 1/3 on a statewide basis in the state assessment tests for both of the 2 years preceding the parent's initial application for a scholarship; or

(b) The governing body or legislative body of the school district to which the child has been assigned has voted to authorize parental choice scholarships.

II.(a) No parent shall receive a parental choice scholarship whose total household adjusted gross income for federal income tax purposes is greater than 300 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services.

(b) Parents whose total household adjusted gross income for federal income tax purposes is not greater than 200 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 100 percent of the parental scholarship award amount established in RSA 194-D:4, II.

(c) Parents whose total household adjusted gross income for federal income tax purposes is greater than 200 percent but not greater than 250 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 75 percent of the parental scholarship award amount established in RSA 194-D:4, II.

(d) Parents whose total household adjusted gross income for federal income tax purposes is greater than 250 percent but not greater than 275 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 50 percent of the parental scholarship award amount established in RSA 194-D:4, II.

(e) Parents whose total household adjusted gross income for federal income tax purposes is greater than 275 percent but not greater than 300 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 25 percent of the parental scholarship award amount established in RSA 194-D:4, II.

III. No parent shall apply for a parental choice scholarship from a school district other than the district of the child's legal residence, as defined in RSA 193:12.

IV. No parental choice scholarship shall be awarded in violation of a tuition contract or an area plan under RSA 195-A existing on the effective date of this section. Tuition contracts and area plans approved and adopted after the effective date of this section shall not preclude receipt of a school choice scholarship by an otherwise eligible parent.

V. Parents shall apply for parental choice scholarships during the November or December before the academic year, unless the time limitation is waived.

VI. Once a parent receives a parental choice scholarship, the parent shall remain eligible for future scholarships until the child completes the final grade offered at the school to which the child was originally assigned, so long as the child remains a resident of the district and the parent meets the requirements of paragraph II.

VII. Notwithstanding the provisions of this chapter, school districts operating a parental choice program on the effective date of this section may continue to operate such program.

VIII. Parental choice scholarships shall be granted for no more than 5 percent of the total students assigned to the school. Scholarships shall be awarded to qualifying parents in the order that the applications are received by the school district.

194-D:4 Parental Choice Scholarships; Funding.

I. Parental choice scholarships shall be applied to tuition, textbooks, curricular materials, services, and expenses paid for kindergarten through grade 12 at a public or nonpublic school within or outside the state.

II. Parental scholarship award amounts shall be equal to 80 percent of the adequate education grant amount distributed to the school district pursuant to RSA 198:42 divided by the weighted average daily membership in residence or the actual costs of the

school, whichever is less.

III. Parental choice scholarships shall be paid by the school district to the parent twice each school year upon submission of documentation that school services shall be provided.

IV.(a) Scholarship awards may only be applied towards attendance at a nonpublic school if the school meets the criteria set forth in the rules of the state board of education adopted pursuant to RSA 186:11, XXIX.

(b) All children attending nonpublic schools with parental choice scholarship assistance shall be given an academic achievement test chosen by the nonpublic school at least once every year. The nonpublic school shall pay the expense of the test. The test results shall be made available to the department of education upon request.

V. Parents may supplement scholarships with funds from their own or any other public or private sources, including scholarships from a school of choice.

194-D:5 Scholarship Program Requirements and Options.

I. A school district may enter into a contractual or other relationship with an approved nonpublic or charter school within or outside the state and may provide funds, services, equipment, materials, or personnel to a nonpublic school in order to effectuate the purposes of this chapter.

II. A school district may enter into a tuition contract with an approved nonpublic or charter school within or outside the state.

III. For purposes of this chapter, RSA 189:6, RSA 189:8, and RSA 189:9, relative to transportation services, shall be optional for school districts.

IV. Parental choice scholarship funds shall not be applied towards attendance at a secular school.

194-D:6 Educationally Disabled Pupils; Discrimination Prohibited.

I. In accordance with department of education rules, the funding and educational decision-making process for educationally disabled pupils attending nonpublic schools shall be the responsibility of the local education agency and shall retain all current options available to the parent and to such agency.

II. In order for an attending pupil's parents to be eligible for a parental choice scholarship, a nonpublic school shall certify to the department of education that the school shall not discriminate in any manner prohibited by law and shall not discriminate against educationally disabled pupils. For the purposes of this chapter and in conformance with federal regulations, nonpublic schools shall provide an appropriate education to educationally disabled pupils including the provision of auxiliary aids and services unless doing so would fundamentally alter the nature of the program or would be an undue burden to the nonpublic school.

194-D:7 Liability Limited.

I. Except as specifically provided in this chapter, nonpublic schools shall not be required to comply with additional laws or rules as a result of attendance by pupils whose parents receive parental choice scholarship awards.

II. No nonpublic school shall be required to accept pupils whose parents receive parental choice scholarship awards.

III. No school district shall be held liable for damages in an action to recover for bodily injury, personal injury, property damage as defined in RSA 507-B:1, or failure to educate pupils, where the action arises out of a parent's exercise of options under the provisions of this chapter.

194-D:8 Construction. The provisions of this chapter shall be controlling over any provisions of law that are contradictory to or inconsistent with this chapter.

194-D:9 Rulemaking. The state board of education shall adopt rules, pursuant to RSA 541-A, necessary to administer the provisions of this chapter.

194-D:10 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid , such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

3 Report by Department of Education; Parental Choice Scholarship Program. The department of education shall report annually to the house and senate education committees on the parental choice scholarship program. Each report shall be submitted by November 1 and shall include, but not be limited to, the number of parental choice scholarships granted in each school district, test results of parental choice scholarship students, a statistical analysis of the incomes of parents receiving parental choice scholarships, and any information specifically requested by the committee chairpersons.

4 Effective Date. This act shall take effect July 1, 2000.

1999-1120h

Amendment to HB 640-FN
Proposed by the Committee on Commerce - R

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

1 New Paragraph; Definitions Added. Amend RSA 420-J:3 by inserting after paragraph III the following new paragraph:

III-a. "Authorized representative" means a person to whom a covered person has given consent to represent the covered person in an external review. Authorized representative may include the covered person's treating provider.

2 New Paragraphs; Definitions Added. Amend RSA 420-J:3 by inserting after paragraph XVI the following new paragraphs:

XVI-a. "External review" means a process by which a covered person may request that an adverse determination be reviewed by an external review organization.

XVI-b. "External review agent" or "review agent" means a clinical peer employed or under contract with an external review organization.

XVI-c. "External review organization" means an organization which employs or contracts with clinical peers to act as external review agents.

3 New Section; External Review. Amend RSA 420-J by inserting after section 5 the following new section:

420-J:5-a External Review Process.

I.(a) There is hereby established an external review process for the purposes of a managed care plan's covered person or the covered person's authorized representative appealing an adverse determination. A plan's covered person shall have the right to an external review when:

- (1) A covered person has exhausted the internal appeals process of the contracted plan for a covered benefit and the outcome resulted in an adverse determination;
 - (2) A health carrier has upheld an adverse determination upon a second level review of a grievance or has failed to render a decision pursuant to RSA 420-J:5, V;
 - (3) The covered person's cost for the amount in controversy is, or is anticipated to be, equal to or in excess of \$500; and
 - (4) The covered person submits a request, in writing, for such review to the plan within 90 days from the date of receipt of the final internal appeals determination by the managed care plan.
- (b) The covered person shall have recourse to an expedited external review for emergency or life threatening situations which would seriously jeopardize the life or health of the covered person, provided that the provisions of subparagraphs I(a)(1) and (2) are met and when:

- (1) The individual files a request for expedited external review no later than 72 hours after the managed care plan has issued its final adverse determination or has failed to render a decision pursuant to RSA 420-J:5, V; and
- (2) The attending provider certifies that taking the time to complete the standard external review process would seriously jeopardize the life or health of the covered person.

II. Managed care plans shall:

(a) Maintain contracts with at least 2 external review organizations that are certified by the commissioner. A managed care plan shall not contract with an external review organization if the organization performed utilization review functions on behalf of the managed care plan for the specific case under consideration. A managed care plan shall not contract with an external review organization if the external review organization or its review agents have a conflict of interest, as described in subparagraph III(a)(3), with the managed care plan.

(b) Within 3 business days of the carrier's receipt of notification by the covered person of a request for external review, the plan shall select a certified external review organization.

(c) Within 10 business days of the carrier's receipt of notification by the covered person, the plan shall submit to the external review organization all information that was submitted to the plan by the covered person or the covered person's health care provider in support of the covered person's request for coverage under the plan's internal appeals procedures and all other evidence relied upon by the carrier in making its determination.

(d) When an expedited external review is warranted pursuant to subparagraph I(b) of this section, forward information described in subparagraph II(c) to the external review organization within one business day of receipt of the request for an expedited external review.

(e) Be responsible for the reasonable fees and costs of the external review organization, such that fees and costs of an external review shall not exceed \$1,500.

III.(a) An external review conducted by an organization at the request of a managed care plan shall meet, at a minimum, the following standards for purposes of being certified by the commissioner. Any such organization that performs an external review may apply to the commissioner and be certified upon demonstrating that it complies, at a minimum, with the standards established in this paragraph.

(1) Any external review organization which meets the criteria under this paragraph, shall conduct its review pursuant to a written plan.

(2) Expert reviewers assigned by the external review organization shall be physicians or other appropriate health care professionals who meet the following requirements:

(A) Be an expert in the treatment of the covered person's medical condition and knowledgeable about the recommended service or treatment through actual clinical experience;

(B) Hold a non-restricted license in a state of the United States, and for physicians, a current certification by a specialty board recognized by the American Board of Medical Specialties in the areas appropriate to the subject of review;

(C) Have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restriction, taken or pending by any hospital, health carrier, government or regulatory body; and

(D) Have agreed to disclose any potential conflict of interest.

(3) Neither the expert reviewer, nor the external review organization, shall have any material, professional, familial, or financial conflict of interest with any of the following:

(A) The health carrier.

(B) Any officer, director, or management employee of the carrier.

(C) The physician, the physician's medical group, or the independent practice association (IPA) proposing the service or treatment.

(D) The institution at which the service or treatment would be provided.

(E) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review.

(F) The covered person or authorized representative.

(4) The commissioner may determine, in specific cases, that an affiliation with a hospital, an institution, an academic medical

center, or a health carrier provider network does not in and of itself constitute a conflict of interest.

(5) The following organizations are not eligible for certification as external review organizations:

(A) Professional or trade associations of health care providers.

(B) Subsidiaries or affiliates of such provider associations.

(C) Health carrier or health plan associations.

(D) Subsidiaries or affiliates of health plan or health carrier associations.

(6) Any external review organization shall have a documented process to review and evaluate the effectiveness of its external review program.

(7) The external review organization shall consider anew all previously determined facts, allow the introduction of new relevant information and make a decision that is not bound by decisions or conclusions made by the health carrier during internal review.

(8) Any external review organization shall not compensate an individual rendering review determinations based upon the number of adverse determinations upheld or denied.

(9) Any external review organization shall have a documented process for compliance with all applicable medical record confidentiality statutes and regulations.

(10) Any external review organization shall base its determination on the plan's applicable coverage documents, including any terms that are defined thereunder, and shall not expand the contractually agreed upon coverage.

(b) The external review organization shall submit the determination to the commissioner, the plan, and the covered person within 30 business days of the receipt of the request for review. For an expedited external review, the review agent shall issue a determination within 3 business days of receipt of the request. All statutory standards, other than time standards, applicable to external reviews shall apply to expedited external reviews. Reversal of the internal review decision made by the health plan shall be without prejudice to the health plan when the external review organization certifies that it has received new documentation which:

(1) Represents a material change in the submitted information upon which the external review agent based its adverse determination or upon which the managed care plan based its denial; and

(2) Has been made available to the health plan in a manner which failed to provide the plan with sufficient time, not less than 3 business days, to consider such documentation, and amend or confirm the adverse determination.

(c) When rendering a determination, any such external review organization shall consider and rely upon utilization review criteria for the specific case pursuant to the clinical standards of the plan. The external review organization shall examine the attending health care provider's recommendation, and shall consider the applicable generally accepted practice guidelines developed by the federal government or through national or professional medical societies, boards and associations.

(d) The determination shall be in written form and shall state the reasons the requested service or treatment should or should not be covered under the terms and conditions set forth in the evidence of coverage. The determinations shall specifically cite the relevant provisions in the evidence of coverage, the covered person's specific medical condition, and the relevant documents provided, to support the determination.

(e) An external review organization acting in good faith shall have immunity from any civil or criminal liability or professional discipline as a result of acts or omissions with respect to any external review, unless the acts or omissions constitute willful and wanton misconduct.

IV. The commissioner:

(a) Shall review and verify compliance criteria for the certification of an external review organization that contracts with managed care plans for the conduct of the external review as provided in paragraph III.

(b) Shall notify the certified entities of the \$1,500 fees and cost limitation for conducting an external review.

(c) May grant up to an additional 5 business days for the external review organization to submit a determination, upon request of the external review organization, the covered person, the covered person's health care provider, or the managed care plan.

(d) Shall collect data regarding the nature of the service or treatment undergoing external review, the outcome determination, the external review organization, and the plan. The commissioner shall submit an annual report no later than November 1 of each year to the governor, the speaker of the house and the president of the senate.

V.(a) The determination of the review agent shall be binding on all parties.

(b) Decisions relating to the following health care services or treatments shall not be reviewed under this section:

(1) Health care services provided to beneficiaries of managed care plans regulated by the federal government through medicaid, the state children's health insurance program (Title XXI of the Social Security Act), medicare or services provided under these programs but through a contracted health carrier.

(2) Health care services provided to inmates by the department of corrections.

(c) The procedure set forth in this section shall not apply to claims or allegation of health provider malpractice, professional negligence, or other professional fault against participating providers.

3 External Review; Notification to Covered Persons, Amend 420-J:5, II(a)-(d) to read as follows:

(a) A description of the grievance procedure for adverse determinations, ***including a description and availability of the external review process*** and other matters which shall be set forth in or attached to the policy, certificate, membership booklet, or other evidence of coverage provided to covered persons.

(b) A statement of a covered person's right to contact the commissioner's office for assistance at any time. The statement shall include the toll-free telephone number and address of the commissioner.

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

(d) ~~[Staff assistance in filing a grievance]~~ ***Upon exhausting the second level grievance review process, a statement of the covered person's right to access to the external review process, including what the covered person must do to initiate the external review process and the availability of expedited external review under certain circumstances generally described.***

4 Availability of External Review. Amend RSA 420-J:5, V(a)(3) to read as follows:

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

5 Availability of External Review. Amend RSA 420-J:5, V(b)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; ~~[and]~~ a statement of the covered person's right to file an external appeal as provided in RSA 420-J:5, VIII; ***and a description of the availability of an expedited external review, how to initiate an expedited external review and the written procedures governing an external review, including the required time frame for review and notice of***

decision.

6 Repeal. RSA 420-J:5, VIII and IX, relative to an external review process, are hereby repealed.

7 Effective Date. This act shall take effect January 1, 2000.

1999-0850h

Amendment to HB 643-FN-A-LOCAL

Proposed by the Committee on Executive Departments and Administration - R

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

1 Intent. This bill establishes a division within the department of safety which will be responsible for the regulation of emergency medical services and the licensing of emergency medical services providers. By transferring the regulation for emergency medical services from the department of health and human services to the department of safety, the legislature recognizes that emergency medical services should be regulated by the same state department which regulates other emergency and public safety services.

2 New Subparagraph; Emergency Medical Services Added. Amend RSA 21-P:2, II by inserting after subparagraph (d) the following new subparagraph:

(e) Administering and enforcing laws relative to emergency medical services.

3 New Section; Division of Emergency Medical Services. Amend RSA 21-P by inserting after section 12-a the following new section:

21-P:12-b Division of Emergency Medical Services.

I. There is established within the department a division of emergency medical services under the supervision of an unclassified director of emergency medical services. The director of emergency medical services shall be nominated by the commissioner of safety for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor is appointed. The director of emergency medical services shall be academically and technically qualified to hold the position. The director shall be a citizen of this state or become a citizen of this state within one year of the director's appointment. The director shall receive the salary specified in RSA 94:1-a for the director of emergency medical services.

II. The director shall:

(a) Be responsible for the day-to-day operations of the division of emergency medical services.

(b) Plan, and provide operational resources as available, for the coordination of emergency medical and adult and pediatric trauma services recommended throughout the state with and between private units and local, county, and state agencies. Such a plan shall include provisions for response to mass casualty incidents. The plan shall be tested by exercises from time to time in coordination with other appropriate local and state agencies.

(c) Carry out public information and education relative to the availability and appropriate use of the emergency medical and trauma services system.

(d) Facilitate the establishment and maintenance of a communications network that addresses citizen access to the emergency medical and trauma services system and communications among emergency medical service units, health care facilities, and other local, county, and state agencies involved in the care or transportation of persons in need of appropriate medical attention.

(e) Provide for the training and for the written and practical testing of emergency medical care providers, in accordance with RSA 153-A:11.

(f) License emergency medical care providers, emergency medical service units, emergency medical service instructor/coordinators, emergency medical service training agencies, emergency medical services dispatchers, and emergency medical service vehicles, including wheelchair vans for hire.

(g) Establish a data collection and analysis capability that provides for the evaluation of the emergency medical and trauma services system and for modifications to the system based on identified gaps and shortfalls in the delivery of emergency medical

and trauma services. The data and resulting analysis shall be provided to the bodies established under this chapter, provided that such use does not violate the confidentiality of recipients of emergency medical care. The provisions of RSA 126 shall be followed with regard to other uses of this data for research and evaluation purposes, and for protecting the confidentiality of data in those uses. All analyses shall be public documents, provided that the identity of the recipients of emergency medical care are protected from disclosure either directly or indirectly.

- (h) Carry out investigations as provided under RSA 153-A:14.
- (i) Provide administrative support, within the limits of available funding, to the coordinating board, emergency medical services medical control board, trauma medical review committee, and the councils.
- (j) With the approval of the commissioner, be authorized to employ part-time instructors, evaluators, and practical skill examination aides for the purpose of delivering training and written and practical examinations.
- (k) Prepare budgets and grant requests for funds needed to maintain an effective emergency medical and trauma services system, and plan initiatives related to improving the general health of the public.
- (l) With the approval of the commissioner, accept in the name of the state any and all donations, fees for tuition, rents, services and any and all moneys and grants from any governmental unit, public agency, institution, person, firm, or corporation and receive, utilize, expend, and dispose of such funds subject to budgetary provisions, consistent with the rules of the department of safety and the purposes or conditions of the donation or grant.

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

4 New Subparagraph; Rulemaking; Commissioner of Safety. Amend RSA 21-P:14, II by inserting after subparagraph (bb) the following new subparagraph:

(cc) Licensing of emergency medical care providers and administration and enforcement of emergency medical and trauma care services under RSA 153-A.

5 Unclassified Salary. Amend RSA 94:1-a by inserting in group N the following: director of emergency medical services, department of safety.

6 New Chapter; Emergency Medical and Trauma Services. Amend RSA by inserting after chapter 153 the following new chapter:

CHAPTER 153-A

EMERGENCY MEDICAL AND TRAUMA SERVICES

153-A:1 Declaration of Policy and Purpose.

- I. The general court declares that it is the policy of the state of New Hampshire to save lives and speed the healing of persons in need of medical services by providing an emergency medical and trauma services system that will bring an injured or sick person under the care of properly trained individuals in the shortest practical time, and that will provide safe transportation to the most appropriate treatment center prepared to receive the sick or injured person. It is the policy of the state of New Hampshire to insure that the sick or injured person is safely transported in properly equipped vehicles which are designed to supply supportive care and which are able to communicate with medical treatment centers. The use of properly licensed wheelchair vans for hire is to ensure that patients confined to a wheelchair are transported in equipped vehicles driven by personnel approved by the division.
- II. The general court recognizes that traumatic injury is a health problem in the state of New Hampshire and a cause of unnecessary death and that an organized system for the delivery of trauma care services in NewHampshire should be available. Emergency medical services in rural and wilderness areas require adequately trained and equipped personnel to treat and transport trauma victims. Therefore, the general court declares that the establishment of a coordinated statewide trauma and injury prevention system will benefit all residents and visitors to NewHampshire by reducing the incidence of traumatic injury

and minimizing human suffering and disability.

III. The general court, recognizing that the provision of emergency medical and trauma services at the local level is a continuation of a long and valued tradition of neighbor helping neighbor that should be encouraged and maintained, and that the individual providers of emergency medical care must be part of a comprehensive system of care delivery, declares that it is the purpose of this chapter to assure the development, coordination and administration of an emergency medical and trauma services system that reflects the differing needs and abilities of the state's communities and regions.

IV. The general court further recognizes that the delivery of adequate pre-hospital care is reliant on the thorough cooperation of the emergency medical care providers and, therefore, the general court urges the emergency medical care providers to cooperate with and follow the lead of each emergency medical service unit's medical resource hospital.

V. The general court recognizes that volunteers make up a large portion of the staffing of the emergency medical service units, especially in the northern portion of the state. Therefore, the general court believes that the training levels for minimum certification as an emergency medical care provider should continue to allow future volunteer emergency medical care provider participation.

VI. The general court declares that, to the extent it is possible, it is the policy of the state of New Hampshire to allow patients to be transported to the hospital, medical facility, or location of their choice in their area, if there is no compelling medical reason to the contrary. Further, the general court declares that, if appropriate, durable power of attorney for health care and the living will statutes should be taken into consideration in providing emergency medical and trauma services.

153-A:2 Definitions. In this chapter:

I. "Coordinating board" means the emergency medical and trauma services coordinating board established in RSA 153-A:3.

II. "Commissioner" means the commissioner of the department of safety.

III. "Director" means the director of the division of emergency medical services, department of safety.

IV. "Division" means the division of emergency medical services, department of safety.

V. "Emergency medical care provider" means an employee or volunteer member of a public or private organization having responsibility for the delivery of health services to individuals experiencing illness or injury at a location other than a hospital or other medical facility. The term shall not include lifeguards at swimming facilities or members of ski patrols, unless said individuals are performing invasive patient care procedures.

VI. "Emergency medical services" means the pre-hospital assessment and treatment of a sick or injured individual initiated at the scene of an incident and continued through the transport and transfer, if found appropriate, of the individual to a medical facility or other appropriate location in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

VII. "Emergency medical services instructor/coordinator" means a person who has completed the requirements of an instructor training program under RSA153-A:20, VIII.

VIII. "'Emergency medical services training agency" means an organization, public or private, which assumes the responsibility for providing emergency medical services education and which has completed the requirements of an agency training program which meets the requirements of rules adopted under RSA 153-A:20, VIII.

IX. "Emergency medical service unit" means an organization, public or private, operating alone or as part of a larger organization, which has the responsibility to provide emergency medical services. The term shall not include ski patrols., unless a ski patrol is providing invasive patient care procedures.

X. "Emergency medical service vehicle" means a land, air, or water vehicle designed, equipped, and used for the transport of sick or injured individuals.

XI. "Facility" means a hospital as defined in RSA 151-C:2, XX.

XII. "Local option" means a protocol for which a medical resource hospital and the local medical control physician have complete authority and jurisdiction, including training, implementation, and quality assurance. A local option may be more restrictive but shall not be less restrictive than the minimum state standard protocols approved and issued by the emergency medical

services medical control board.

XIII. "Mass casualty incident" means any emergency event that cannot be resolved through the use of the emergency resources that are available locally on a regular daily basis.

XIV. "Emergency medical services medical control board" means the board established in RSA 153-A:5.

XV. "Medical control" means medical supervision and medical accountability for emergency medical care and includes direction and advice from a physician provided through:

(a) "Off-line" medical control which includes education, protocol development, critique, leadership, advice, and quality control.

(b) "On-line" medical control which exists when pre-hospital providers communicate directly with a physician or the physician designee at a receiving or medical resource hospital. Such direction may be based on the personal preference of the specific on-line physician, but more ideally it is based on protocols for the management of specific problems. This physician assumes responsibility and gives orders for individual patient's care.

XVI. "Patient" means an individual who, as a result of illness or injury, needs immediate medical attention, whose physical or mental condition is such that the individual is in imminent danger of loss of life or significant health impairment, or who may otherwise be incapacitated as a result of a physical or mental condition.

XVII. "Protocol" means a written description of a patient care process specifying the circumstances under which emergency medical care providers may function under their own licenses or through medical control. Protocols are approved and issued by the emergency medical services medical control board.

XVIII. "Public agency" means the state or any of its political subdivisions, which provide police, firefighting, emergency medical, ambulance, or other emergency services.

XIX. "Response expense" means reasonable costs incurred by a public agency in making an appropriate response to an incident. This definition shall include, but not be limited to, the costs of police, firefighters, and rescue and emergency medical services, including the salaries of such persons.

XX. "Trauma hospital" means an acute care hospital licensed under RSA 151 to operate as a hospital and classified by the department according to the level of trauma care it is capable of providing.

XXI. "Trauma patient" means a person who has sustained a physical injury that may require immediate medical and surgical intervention to preserve life or prevent permanent disability.

XXII. "Trauma system" means the organized, managed, and rapid delivery of appropriate pre-hospital, hospital, and rehabilitative care to the injured person whose injury may require the services of trauma care specialized personnel and facilities to ensure an optimal outcome.

153-A:3 Emergency Medical and Trauma Services Coordinating Board.

I. The emergency medical and trauma services coordinating board is created, consisting of 22 members appointed as set out in paragraphs II and III.

II. The governor shall appoint persons to the board as follows:

(a) One member from the New Hampshire Ambulance Association.

(b) One member from the New Hampshire chapter of the American College of Emergency Physicians.

(c) One member from the New Hampshire Municipal Association.

(d) One member from the New Hampshire Hospital Association.

(e) One member from the New Hampshire Emergency Nurses Association.

(f) One member from the American Red Cross.

(g) One member from the New Hampshire Heart Association.

- (h) One member from the New Hampshire Association of Fire Chiefs.
- (i) One member from the New Hampshire Association of Emergency Medical Technicians.
- (j) One member from the New Hampshire Medical Society.
- (k) One member from the New Hampshire Paramedic Association.
- (l) One member from the emergency medical services medical control board.
- (m) One member from the Professional Firefighters of New Hampshire.
- (n) Three members from the general public, representing geographic divisions of the state.
- (o) One representative from the New Hampshire chapter of the American College of Surgeons, Committee on Trauma.
- (p) One member from the New Hampshire chapter of the Academy of Pediatrics.
- (q) One representative from the trauma medical review committee established in RSA153-A:8.
- (r) One representative from the New Hampshire Association of Rehabilitation Administrators.
- (s) One representative from an organ/tissue donor organization.
- (t) One member from the New Hampshire fire standards and training commission.

III. Each member from subparagraphs II(a)-(m) and (o)-(t) shall be nominated by the appropriate organization to the governor for appointment. The term of a member shall be 3 years or until a successor is appointed and qualified. The governor shall fill any vacancy in the same manner as the original appointment. In case of a vacancy other than by expiration of the term, the appointment shall be for the balance of the unexpired term and shall be considered a term for the purposes of the limitation on terms. No member shall serve more than 3 consecutive terms or 9 consecutive years.

IV. The members of the board shall elect a chair and a vice-chair who shall both serve for a term of 2 years. The director, or designee, shall serve as a nonvoting member and shall be the executive secretary of the board.

V. The board shall meet at least 4 times a year and at the call of the chair.

VI. Members shall receive no compensation.

153-A:4 Powers and Duties of the Coordinating Board. The board shall:

- I. Develop and routinely update a plan for the operation of a statewide system of emergency medical services that reflects the abilities and needs of each municipality.
- II. Routinely assess the delivery of emergency medical services, based on information and data provided by the department and from other sources the board deems appropriate, with particular attention to the quality and availability of care.
- III. Review and offer comments on to the commissioner recommendations for rules required and other such rules as deemed necessary to carry out the purposes of this chapter.
- IV. Review and offer comments on rules proposed by the commissioner prior to their adoption under RSA 541-A.
- V. Designate emergency medical services regions and districts in the state, in accordance with RSA 153-A:6. The council established for a region shall include a New Hampshire licensed physician with a background in emergency medicine.
- VI. Approve statewide trauma policies, procedures, and protocols of the statewide trauma system and the establishment of minimum standards for system performance and patient care proposed by the commissioner prior to their adoption under RSA 541-A.
- VII. Coordinate interstate cooperation and delivery of emergency medical and trauma services.

153-A:5 Emergency Medical Services Medical Control Board; Chair; Duties; State Medical Director.

I. There is established an emergency medical services medical control board which shall consist of:

(a) A minimum of 5 physicians representing different geographic areas of the state who shall be nominated by the councils established under RSA 153-A:6 and confirmed by the board and a physician representative of the trauma medical review committee.

(b) The commissioner, or designee, who shall serve as a nonvoting member and as executive secretary.

II. The terms of each member shall be 3 years. The chair shall be appointed by the commissioner, and the appointed chair shall become the state medical director. The emergency medical services medical control board shall nominate one of its members to the governor for appointment to the coordinating board established in RSA 153-A:3.

III. The duties of the emergency medical services medical control board shall include, but not be limited to, the following:

(a) Assisting the coordinating board in the coordination of a system of comprehensive emergency medical services and the establishment of minimum standards throughout the state by advising the coordinating board on policies, procedures, and protocols.

(b) Providing technical services required by the division pursuant to RSA153-A:7, I and the coordinating board.

(c) Serving as a liaison with medical personnel throughout the state.

(d) Submitting to the commissioner protocols concerning patient care to consider for adoption as rules under RSA 541-A.

(e) With the concurrence of the state pharmacy board, specifying noncontrolled prescription drugs that emergency medical care providers licensed under this chapter may possess for emergency use as authorized in RSA 318:42, X.

(f) With the concurrence of the state pharmacy board, specifying controlled prescription drugs that advanced emergency medical care providers licensed under this chapter may possess for emergency use as authorized in RSA 318-B:10, V.

(g) Approving the protocols and procedures to be used by emergency medical care providers under their own licenses or through medical control.

153-A:6 Regions and Districts. The coordinating board shall delineate emergency medical services regions and districts and shall establish councils to oversee each designated area. The coordinating board shall assure that each council meets its responsibilities in a manner consistent with the emergency medical care needs of the area it serves. The council established for a region shall include a licensed, board-certified emergency physician or a licensed physician experienced in emergency medicine. The director shall implement the provisions of this section.

153-A:7 Duties of the Commissioner.

I. The commissioner is responsible for the statewide supervision of emergency medical services.

II. The commissioner shall:

(a) Adopt rules with the advice and assistance of the coordinating board, the emergency medical services medical control board, and the trauma review committee, in accordance with RSA153-A:20.

(b) Oversee the administration of the division by the director.

III. The commissioner may establish standing or ad hoc committees on a regional or statewide basis as deemed necessary.

153-A:8 Trauma Medical Review Committee.

I. There is established a trauma medical review committee which shall consist of:

(a) A minimum of 5 physicians representing the surgical disciplines of neurosurgery, general surgery, pediatric surgery, orthopedic surgery, and other physicians experienced in the treatment of adult and pediatric trauma patients.

(b) One member from the New Hampshire chapter of the American College of Emergency Physicians.

(c) One member from the New Hampshire Paramedic Association.

- (d) One member from the New Hampshire Emergency Nurses Association.
- (e) One trauma nurse coordinator.
- (f) One member from the New Hampshire Association of Emergency Medical Technicians.
- (g) The state medical examiner or designee.
- (h) One member of the emergency medical services medical control board.
- (i) One representative from a New Hampshire acute care hospital nominated by the New Hampshire Hospital Association.
- (j) One representative of the Professional Firefighters of New Hampshire.
- (k) One representative of the New Hampshire Association of Fire Chiefs.

II. Each member shall be appointed by the commissioner.

III. The commissioner or the commissioner's designee shall serve as a nonvoting member and as executive secretary.

IV. The term of each member shall be 3 years. The chair shall be appointed by the commissioner. The trauma medical review committee shall nominate one of its members to the governor for appointment to the coordinating board established in RSA 153-A:3.

V. The committee shall:

- (a) Develop and routinely update the adult and pediatric trauma system plan.
- (b) Review statewide trauma system operations, including monitoring adherence to established guidelines and standards, the availability of appropriate resources, and the periodic review of trauma hospital classification criteria.
- (c) Review the delivery of emergency medical services by providers and units concerning the provision of care to trauma patients.
- (d) Make recommendations to the coordinating board based on the reviews described in subparagraphs (b) and (c).
- (e) Recommend to the emergency medical services medical control board modifications of the protocols of trauma care as a result of system-wide review.
- (f) Assist trauma hospitals in the development and implementation of trauma quality improvement programs.
- (g) Establish such subcommittees as deemed appropriate to carry out the functions of the committee.
- (h) Assist the coordinating board in the coordination of a system of comprehensive emergency medical services and the establishment of minimum standards throughout the state by advising the coordinating board on policies, procedures, and protocols.

153-A:9 Proceedings Confidential; Liability.

I. As used in this section, "records" means records of interviews and all reports, statements, minutes, memoranda, charts, statistics, and other documentation generated during the activities carried out by the trauma medical review committee and its subcommittees under RSA 153-A:8, V(b) and (c). Records shall not mean original medical records or other records kept relative to any patient in the course of the business of operating a hospital or an emergency medical service unit.

II. Records of the trauma medical review committee shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding.

III. No hospital, trustee, medical staff, employee of a hospital, nor any emergency medical service unit or volunteer or employee of a unit shall be held liable in any action for damages or other relief arising from the provision of information to the trauma medical review committee.

153-A:10 Licensure of Emergency Medical Service Units and Emergency Medical Service Vehicles.

- I. A person shall not engage in the business or service of providing emergency medical services or the transportation of patients, upon any public way of the state, unless such person holds a license issued by the commissioner for engaging in such a business or service.
- II. A person shall not operate an emergency medical service vehicle on public ways in this state if the vehicle is not licensed as an emergency medical service vehicle by the commissioner in accordance with this chapter.
- III. The licensing requirements of this section shall not apply to out-of-state emergency medical service units which provide back-up services to New Hampshire emergency medical service units under written mutual aid agreements. In the event of a mass casualty incident, and if vehicles licensed under this chapter are not sufficient to transport the injured or sick, the vehicle licensing provisions of this chapter shall not apply for the period of the incident.
- IV. A license shall become invalid if there is any change of ownership of a licensed emergency medical service vehicle, or of a business or service operating as an emergency medical services unit.
- V. No license shall be required under this section for an emergency medical service vehicle, its owners, the driver, or its attendants, if the vehicle is owned by a nonresident and is licensed as an emergency medical service vehicle in another state, and is being operated on the public ways of this state to transport patients who are picked up out of state and brought to treatment centers in this state.
- VI. If there is a hardship imposed on any applicant for a license under this section because of an unusual circumstance, the applicant may apply to the commissioner for a temporary waiver of the licensing provisions of this section. The commissioner may for good cause waive the licensing provisions of this section.

153-A:11 Licensure of Emergency Medical Care Providers.

- I. A person shall not provide emergency medical services as a paid or volunteer member of a public or private emergency medical services unit in this state, or as a paid or volunteer member of any police or fire department who, as a condition of employment, may be expected to routinely provide emergency medical services in the line of duty, without being licensed by the commissioner.
- II. The commissioner shall establish, by rule, levels of individual licensure and application forms for licensure under this section. The commissioner may use the guidelines established by the American College of Surgeons' Board of Regents as a standard or other such standards, except that a felony conviction shall not necessarily disqualify an applicant. The commissioner shall establish a separate licensure category of advanced emergency medical care provider for individuals who are qualified as emergency medical technician intermediates, paramedics, registered nurse emergency medical technicians and physician assistant emergency medical technicians.
- III. Any applicant seeking a license under this section, other than an apprentice license, shall be 18 years of age or older. Nothing in this chapter shall be construed to prohibit persons under 18 years of age from enrolling in any course necessary for licensing.
- IV. Persons seeking the minimum level of licensure shall be required to pass examinations, as set forth in rules adopted by the commissioner.
- V. If there is a hardship imposed on any applicant for a license under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary waiver of the licensing provisions of this section. The commissioner may for good cause waive the licensing provisions for this section.
- VI. No license shall be required for students in established training programs leading to licensure as an emergency medical care provider, provided that the student is supervised in accordance with rules adopted under this chapter and the training program is authorized according to rules adopted under this chapter.

153-A:12 Authority for Licensed Advanced Emergency Medical Care Providers. An advanced emergency medical care provider licensed under this chapter may render advanced emergency medical care, rescue, and lifesaving services in those areas of training for which such person is licensed, as defined and approved in accordance with the rules adopted under this chapter, at the scene of an emergency, during transportation to a hospital or while in the hospital emergency department, until care is directly assumed by a physician or authorized hospital personnel, and within the hospital in accordance with hospital policies.

153-A:13 Revocation of License.

I. The commissioner shall deny an application for issuance or renewal of a license, or suspend or revoke a license, when the commissioner finds that the applicant is guilty of any of the following acts or offenses:

(a) Negligence or incompetency in performing authorized services.

(b) Rendering treatment not authorized under this chapter.

(c) Fraud in procuring a license.

(d) Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of his or her profession, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

(e) The illegal use of drugs.

(f) Fraud in representations as to skills or ability.

(g) Willful or repeated violations of this chapter or of rules adopted pursuant to this chapter.

(h) Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the practice of an emergency medical care provider. A certified copy of the record of conviction or plea of guilty is prima facie evidence of a violation.

(i) Having a license or registration to practice as an emergency medical care provider revoked or suspended, or having other disciplinary action taken by a licensing or registering authority of another state, territory, country or the National Registry of Emergency Medical Technicians. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence of such action.

(j) Negligent, unsafe or illegal operation of an emergency medical service vehicle, or negligent or unsafe use or maintenance of the safety systems of an emergency medical service vehicle.

(k) Unauthorized disclosure of information regarding an individual who has received care or the services rendered to an individual.

(l) Delivering emergency medical care while drug or alcohol impaired.

II. A determination of mental incompetence by a court of competent jurisdiction automatically suspends a license for the duration of the license, unless the commissioner orders otherwise.

III. A denial, suspension, or revocation under this section shall be in accordance with RSA541-A.

153-A:14 Investigations. The director shall investigate any complaint regarding the actions of any licensee licensed under this chapter or when the director has reason to believe that any licensed or unlicensed individual or entity is in violation of this chapter or any rules adopted pursuant to this chapter.

153-A:15 Fees. The commissioner may charge a fee for licensure of an emergency medical service unit, an emergency medical service vehicle, or an emergency medical care provider. However, no fee shall be charged to a nonprofit corporation or volunteer association.

153-A:16 Exception for Physician, Registered Nurse, and Physician Assistant.

I. This chapter shall not be construed to restrict a licensed physician, registered nurse, or physician assistant from serving on an emergency medical service unit at any level of licensure, provided that they have been certified by the commissioner as having education and training appropriate to the delivery of emergency medical services. The commissioner shall establish the qualifications required for such certification. The qualifications for certification shall be adopted as rule under RSA 153-A:20.

II. A physician, registered nurse, or physician assistant providing services in accordance with this section shall be immune from liability under RSA 153-A:17. Nothing in this section shall be construed as restricting the authority or practice of any registered nurse, who cares for any patient while that patient is being transported by an emergency medical service vehicle, or other means of conveyance, from one hospital to another hospital under orders from a physician caring for that patient.

153-A:17 Liability.

I. No approved emergency medical services training program nor any entity or person participating as part of an approved educational program, as authorized by this chapter, shall be liable for any civil damages as a result of teaching or following primary and continuing educational practices as taught to and practiced by enrolled students under proper supervision, unless guilty of gross or willful negligence.

II. No licensed emergency medical care provider who in good faith attempts to render emergency medical services authorized by this chapter at an emergency scene while en route to a place of employment shall receive any form of reprimand or penalty by an employer as a result of late arrival at the place of employment. An employer may request written verification from any such licensed emergency medical care provider, who shall obtain the written verification from either the police officer, fire officer, or emergency medical services personnel in charge at the emergency scene.

III. No person who is an emergency medical services instructor or assistant instructor employed or retained by the department of safety or who is an emergency medical services instructor or assistant instructor employed or retained by a hospital, nonprofit fire department or emergency medical service unit shall be held personally liable in any action to recover for personal injury, bodily injury or property damage arising out of any act performed or occurring in the furtherance of such instructor's official educational or training duties and responsibilities. Nothing in this section shall affect the liability of such person for damages arising out of willful misconduct, gross negligence, or providing educational or training services while under the influence of drugs or alcohol.

IV. The department of safety, its employees, and individuals under contract to the department for the purpose of administering or proctoring examinations, either written or practical, shall be held harmless in any lawsuit alleging that the testing was insufficient, inappropriate, or in any way deficient, if carried out in accordance with rules adopted under RSA 153-A:20, VIII. This paragraph shall not hold harmless any individual charged with conducting written or practical examinations who is negligent in his or her actions.

153-A:18 Limitation of Liability for Failure to Obtain Consent. No licensed emergency medical care provider or any health professional shall be subject to civil liability based solely upon failure to obtain consent in rendering emergency medical services to any person, regardless of age, where the person is unable to give consent for any reason, including minority, and where there is no other person reasonably available who is legally authorized to give consent to the providing of such care, provided that the licensed emergency medical care provider, or health professional, has acted in good faith without knowledge of facts negating consent.

153-A:19 Mutual Aid.

I. The system of emergency medical services in this state shall include provisions for appropriate system response to incidents beyond the resource capabilities of individual emergency medical service units available on a regular daily basis. Written mutual aid arrangements may be established with neighboring emergency medical services systems to insure integration of care and shall consider the role of nonemergency medical services public safety agencies, their roles, relationships, and responsibilities in standard operation. A written mutual aid arrangement shall specify who shall be responsible for the direction of medical care at the scene. In the absence of a written agreement, while in the performance of their duties extending emergency medical services in a mutual aid situation, emergency medical care providers shall be under the overall direction of the local authority having jurisdiction but subject to medical control, as defined under RSA 153-A:2, XIV, and such providers shall have the immunities and privileges as if performing the same duties within their respective service areas.

II. Any emergency medical service unit may enter into a mutual aid agreement with other emergency medical service units, within or outside the state, for purposes of rendering aid.

III. Nothing in this chapter shall be construed to prohibit any emergency medical service unit extending such aid from donating equipment and services and assuming the damage or loss to such equipment or personnel. Any mutual aid agreement may authorize the head of the emergency medical service unit to extend such aid, subject to such conditions and restrictions, as may be prescribed in the agreement.

IV. There shall be no liability imposed by law on the emergency medical service unit, on any municipality, or on the personnel of the emergency medical service unit, for failure to respond or to respond reasonably for the purpose of rendering aid under a mutual aid agreement. This immunity is not intended to be exclusive of other immunities existing by statute, or at common law.

153-A:20 Rulemaking. The commissioner shall adopt rules, under RSA 541-A, relative to:

I. The licensing and operation of emergency medical service units, emergency medical service vehicles, and emergency medical

care providers, including advanced emergency medical care providers.

II. Protocols recommended by the emergency medical services medical control board for provision of emergency medical care, which shall provide for the provision of local options under medical control. The protocols shall address living wills established under RSA137-H, durable powers of attorney for health care established under RSA 137-J, and patient-requested, physician generated orders relative to resuscitation.

III. Necessary equipment and staffing for emergency medical service vehicles, including standards of suitability for such vehicles used in the transportation of patients in relation to health, sanitation, safety, communications, maintenance, on-board medical equipment, safety equipment, extrication equipment, markings, garaging conditions, and care and condition of the emergency medical service vehicle and its equipment.

IV. Reporting by emergency medical service units and maintenance of patient records, including protecting the confidentiality of patient records.

V. Length of licensure and procedures for issuance, renewal, limitation, suspension, and revocation of licensure authorized under this chapter.

VI. Levels of qualifications for licensure, including demonstration of coverage for financial liability.

VII. Procedures for hearings and investigations.

VIII. Training, including training programs for students and emergency medical services instructor/coordinators, requirements for training agencies, testing and student supervision.

IX. Communication.

X. Patient triage and transfer.

XI. Mass casualty response.

XII. Certification standards for licensed physicians, registered nurses, and physician assistants, in accordance with RSA 153-A:16.

XIII. Fees required under this chapter.

XIV. Operation of emergency medical care units.

XV. Responsibilities and authority for councils established under RSA 153-A:6.

XVI. Methods of providing data to bodies established under this chapter while maintaining confidentiality as required under RSA 21-P:12-b, II(g).

XVII. What constitutes good cause for waiver of a license under RSA 153-A:10, VI and 153A:11, V.

XVIII. A schedule of administrative fines imposed under RSA153-A:22 for violation of this chapter or the rules adopted pursuant to it.

XIX. Procedures for notice and hearing prior to the imposition of an administrative fine imposed under RSA 153-A:22.

XX. The categories of classification of hospitals which provide adult and pediatric trauma services.

XXI. Procurement, storage, and security of noncontrolled and controlled prescription drugs approved for use by emergency medical care providers in accordance with RSA 318 and RSA 318-B.

153-A:21 Prohibited Acts; Penalties.

I. Any person providing emergency medical services who knowingly implies that such person is a licensed emergency medical care provider, or who uses any other term to indicate or imply that the person is a licensed emergency medical care provider, or who acts as a licensed emergency medical care provider, without having obtained the appropriate license under this chapter, shall be guilty of a misdemeanor for the first offense and a class B felony for subsequent offenses.

II. An owner of an emergency medical service unit or vehicle who operates or purports to operate an emergency medical services unit or vehicle, or who uses terms to indicate or to imply such licensure without having obtained the appropriate license under this chapter, shall be guilty of a misdemeanor for the first offense and a class B felony for subsequent offenses.

153-A:22 Administrative Fines. The commissioner, after notice and hearing, pursuant to rules adopted under RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person or entity licensed under this chapter who violates any provision of this chapter or rules adopted under this chapter. Rehearings and appeals from a decision of the director shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties or administrative actions under this chapter. The commissioner shall adopt rules in accordance with RSA 541-A relative to administrative fines which shall be scaled to reflect the scope and severity of the violation. The sums obtained from the levying of administrative fines under this chapter shall be forwarded to the state treasurer to be deposited into the general fund.

Reimbursement for Public Agency

Response Services

153-A:23 Statement of Intent. This subdivision is intended to provide for the recovery of expenses of a public agency response which are due to certain actions of persons which result in a public agency response. This subdivision shall not be construed to replace any other provisions of civil or criminal law relating to the recovery of such expenses.

153-A:24 Responsibility for Public Agency Response Services.

I. A person shall be liable for response expenses if, in the judgment of the court, such person:

- (a) Negligently operates a motor vehicle, boat, off highway recreational vehicle, or aircraft while under the influence of an alcoholic beverage or controlled drug and thereby proximately causes any incident resulting in a public agency response;
- (b) Takes another person or persons hostage or threatens to harm himself or another person, thereby proximately causing any incident resulting in an appropriate public agency response; or
- (c) Recklessly or intentionally creates a situation requiring an emergency response.

II. A person's liability under this subdivision for response expenses shall not exceed \$10,000 for any single public agency response incident.

153-A:25 Collections; Insurance. The response expense shall be a debt owed by the person responsible and shall not be paid by an insurance company. The public agency which incurred the expense may collect the debt in the same manner as in the case of an obligation under a contract, expressed or implied. Public agency expenses may include reasonable attorney fees.

153-A:26 Admissibility in Criminal Proceedings. Any testimony, admission, or other statement made by the defendant in any civil proceeding brought pursuant to this subdivision, or any evidence derived from such proceeding, shall not be admitted or otherwise used in any criminal proceeding arising out of the same incident.

153-A:27 Court Order. When a person is sentenced for any criminal offense which resulted in a public agency response, the sentencing court may order that the person be required to pay the expenses of any public agency response or to perform up to 500 hours of uncompensated community service.

7 Reference Changes; Dealing in or Possessing Prescription Drugs. Amend RSA 318:42, X to read as follows:

X. The possession, for emergency use only, by emergency medical care providers licensed under RSA ~~[151-B]~~ **153-A** of such noncontrolled prescription drugs as are specified by the state emergency medical services medical control board, with the concurrence of the pharmacy board, provided that there has been prior establishment of medical control for possession of such drugs. The emergency medical care provider may only administer such prescription drugs upon receipt of orders to do so from a supervising physician or an emergency/trauma advanced registered nurse practitioner. Such orders may be transmitted either directly or by telephone or by radio or by other communication medium, or by standing order of local medical control delineated in a protocol as defined in RSA ~~[151-B]~~ **153-A**.

8 Reference Changes. Professional Use of Narcotic Drugs. Amend RSA 318-B:10, V to read as follows:

V. An advanced emergency medical care provider licensed under RSA~~[151-B]~~ **153-A** may possess, for emergency use only, such

controlled prescription drugs as are specified by the state emergency medical services medical control board, with the concurrence of the pharmacy board, provided that there has been prior establishment of medical control for the possession of such drugs. The advanced emergency medical care provider may only administer such controlled prescription drugs upon receipt of orders to do so from a supervising physician or an emergency trauma advanced registered nurse practitioner, practicing within such nurse practitioner's specialty. Such orders may be transmitted either directly or by telephone or by radio or by other communication medium, or by standing order of local medical control delineated in a protocol as defined in RSA ~~[151-B]~~ **153-A**.

9 Reference Change; Persons Excepted; Physicians and Surgeons. Amend RSA 329:21, XIV to read as follows:

XIV. To such emergency medical services personnel as are approved and licensed by the commissioner of the department of ~~health and human services under RSA 151-B]~~ **safety under RSA 153-A**.

10 Reference Changes. Limitation of Liability. Amend RSA 508:12-a, I and II to read as follows:

I. No licensed physician, registered nurse or hospital shall be liable in a suit for damages as a result of any act or omission related to advice, consultation or orders given in good faith to emergency medical care providers licensed under RSA ~~[151-B]~~ **153-A**, by radio, telephone or other remote means of communication under emergency conditions and prior to arrival of the patient at the hospital, clinic, office or other health facility from which the emergency communication to the emergency medical care provider is made, unless the act or omission was a result of gross negligence or willful misconduct.

II. No emergency medical care provider licensed under RSA ~~[151-B]~~ **153-A** shall be liable in a suit for damages as a result of any act or omission made within the level of his training and certification and in good faith based upon advice, consultation or orders by remote communication as described in paragraph I unless said act or omission was a result of gross negligence or willful misconduct.

11 Repeal. RSA 151-B, relative to emergency medical and trauma services, is repealed.

12 Transition.

I. All existing rules, regulations and procedures in effect, in operation or adopted in or by the former department of health and human services, office of community and public health, bureau of emergency medical services are declared in effect and shall continue in effect until rescinded, revised or amended by the commissioner of the department of safety.

II. All of the functions, powers, duties, and responsibilities of the department of health and human services, office of community and public health, bureau of emergency medical services are transferred to the department of safety, division of emergency medical services. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, including the balance of the funds appropriated in the fiscal year 1999 budget or other available funds in any account or subdivision of an account of the department of health and human services and authorized for use by the office of health management, bureau of emergency medical services, actions and other property or obligations of any kind of the department of health and human services, office of community and public health management, bureau of emergency medial services.

III. The transfer of the office of community and public health management, bureau of emergency medical services from the department of health and human services to the department of safety, division of emergency medical services shall not affect the terms or appointments of current members of the emergency medical and trauma services coordinating board, established under RSA153-A:3, the emergency medical services control board, established under RSA 153-A:5, and the trauma medical review committee, established under RSA153-A:8.

IV. Notwithstanding the provisions of RSA 21-P:3, II and RSA 21-P:12-b, the first term of the director of emergency medical services shall be for a period of one year.

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

1999-0896h

Amendment to HB 657-FN

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

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

AN ACT relative to the health services planning and review board and the certificate of need process.

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

1 Legislative Findings; Public Interest; Review and Assessment of New Health Services. Amend RSA 151-C:1, III to read as follows:

III. The state has an interest in promoting and stimulating **competition and** collaboration among providers in the health care marketplace as a means of managing the increases in health care costs.

2 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (c) to read as follows:

(B) ~~[Three]~~ **Four** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) ~~[Two]~~ **Three** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The ~~[other]~~ **second** provider shall be nominated by the New Hampshire Health Care Association. **The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.**

3 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve only for one 3-year term, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. **Members of the board are not eligible for reappointment upon expiration of their terms.**

4 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII. (a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. **The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.** The commissioner shall also provide space for the board and staff and other assistance and materials as necessary; **provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire.**

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his **or her** duties.

5 Expenditure Decreased. Amend RSA 151-C:5, II(a) to read as follows:

(a) The construction, development, expansion, or alteration of any acute care facility requiring a capital expenditure of more than ~~[\$1,500,000]~~ **\$1,250,000**. ~~[The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index.]~~ **Beginning in 2000, and using that year as a base, the capital expenditure threshold shall be adjusted annually by the rate of change in the Consumer Price Index for medical care in New Hampshire as reported by the Bureau of Labor Statistics of the United States Department of Labor.**

6 Expenditure Increased. Amend RSA 151-C:5, II(f) to read as follows:

(f) The construction, development, expansion, renovation, or alteration of any nursing home, ambulatory surgical facility, rehabilitation hospital, psychiatric hospital, specialty hospital, or other health care facility requiring a capital expenditure of more than ~~[\$1,000,000]~~ **\$1,250,000**. ~~[The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index.]~~ **Beginning in 2000, and using that year as a base, the capital expenditure threshold shall be adjusted annually by the rate of change in the Consumer Price Index for medical care in New Hampshire as reported by the Bureau of Labor Statistics of the United States Department of Labor.**

7 Definition. Amend RSA 151-C:2, I to read as follows:

I. "Ambulatory surgical facility" means a facility ~~[which is not physically attached to a health care facility and]~~ which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

8 Definition; Major New Facilities. Amend RSA 151-C:2, XXV to read as follows:

XXV. "Major new facilities" means the construction, development, or other establishment of a new health care facility, the total cost of which is in excess of ~~[\$1,000,000]~~ **\$1,250,000**.

9 Duties of Staff. Amend RSA 151-C:3, VII to read as follows:

VII.(a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. The commissioner shall also provide space for the board and staff and other assistance and materials as necessary. ***Notwithstanding this paragraph or any other provision of law to the contrary, the staff members shall report to the board.***

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter~~[- for the conduct of the staff,]~~ and shall timely and appropriately execute ~~[his]~~ ***the director's*** duties.

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

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire. For the purposes of certificate of need, the bill increases the expenditure for certain proposed new facilities from \$1,000,000 to \$1,250,000 and decreases the expenditure for acute care facilities from \$1,500,000 to \$1,250,000.

The bill also requires the staff appointed to serve the board to report to the board.

1999-1145h

Amendment to HB 657-FN

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

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

AN ACT relative to the certificate of need process and ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

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

1 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (c) to read as follows:

(B) ~~[Three]~~ **Four** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) ~~[Two]~~ **Three** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The ~~[other]~~ **second** provider shall be nominated by the New Hampshire Health Care Association. ***The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.***

2 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve only for one 3-year term, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. ***Members of the board shall not serve more than 2***

consecutive terms.

3 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII. (a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. ***The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.*** The commissioner shall also provide space for the board and staff and other assistance and materials as necessary; ***provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire. Notwithstanding this paragraph or any other provision of law to the contrary, the staff members shall report to the board***

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his ***or her*** duties.

4 Ambulatory Surgical Facilities. Amend RSA 151-C:5, II(f) to read as follows:

(f) The construction, development, expansion, renovation, or alteration of any nursing home~~[-ambulatory surgical facility]~~, rehabilitation hospital, psychiatric hospital, specialty hospital, or other health care facility, ***except ambulatory surgical facilities***, requiring a capital expenditure of more than \$1,000,000. The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index;

(g) The construction, development, expansion, renovation, or alteration of any ambulatory surgical facility or unit of any such facility, subject to the following:

(1) Any conduct that requires a capital expenditure of more than \$750,000, provided that for ambulatory surgical facilities having a capital cost between \$750,000 and \$1,250,000 the board shall adopt rules under RSA 541-A providing for an expedited hearing procedure; or

(2) Any conduct that results in the addition to any institutional health care facility of an operating room used exclusively for outpatient surgery, provided that for circumstances where such conduct results in the addition of only one such operating room, the board shall adopt rules under RSA 541-A providing for an expedited hearing procedure.

5 Reference Addition. Amend RSA 151-C:13, I(f) to read as follows:

(f) Facilities and services which are intended to serve only outpatients and which do not require construction of greater than the appropriate threshold level, as determined under RSA 151-C:5, II(a) or RSA 151-C:5, II(f) ***and (g)*** or new equipment costing more than \$400,000;

6 Ambulatory Surgical Facilities; Definitions. Amend RSA 151-C:2, I to read as follows:

I. "Ambulatory surgical facility" means a facility ~~[which is not physically attached to a health care facility and]~~ which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

7 Definition Added. Amend RSA 151-C:2 by inserting after paragraph XXVI the following new paragraph:

XXVI-a. "Operating room" means any room in a licensed hospital or ambulatory surgical facility equipped and used exclusively for outpatient surgical cases.

8 Reference Addition. Amend RSA 151-C:2, XII to read as follows:

XII. "Construction" includes actual commencement of any construction or fabrication of any new building, or addition to any existing facility, or any expenditure of more than the appropriate threshold level, as determined under RSA 151-C:5, II(a) or RSA 151-C:5, II(f) ***and (g)***, relating to the alteration, remodeling, renovation, modernization, improvement, relocation, repair, or replacement of a health care facility or health maintenance organization, including expenditures necessary for compliance with life and health safety codes.

9 Committee Established. There is established a committee to study the structure and duties of the health services planning and review board.

10 Membership and Compensation.

I. The members of the committee 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.

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

11 Duties. The committee's study shall include, but not be limited to, a review of the structure and duties of the health services planning and review board.

12 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. Four members of the committee shall constitute a quorum.

13 Report. The committee 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 December 1, 1999.

14 Applicability. This act shall not apply to applications or requests filed with the health services planning and review board on or before May 4, 1999.

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

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire. The bill requires the staff appointed to serve the board to report to the board.

This bill establishes a committee to study the structure and duties of the health planning services planning and review board.

The bill also establishes new procedures for ambulatory surgical facilities under the certificate of need law.

1999-0768h

Amendment to HB 688

Proposed by the Committee on Executive Departments and Administration - C

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-8 to read as 2-9, respectively:

1 New Paragraph; Abandoned Intangible Property. Amend RSA 471-C:3 by inserting after section VI the following new paragraph:

VII.(a) Unless otherwise provided by law, intangible property is subject to the custody of this state as unclaimed property awaiting claim by another state pursuant to RSA 471-C:27, I(b), if the conditions raising a presumption of abandonment under RSA 471-C:2 or RSA 471-C:5-18 are satisfied and the last known address of the apparent owner, as shown on the records of the holder, is in another state.

(b) Tangible and intangible property awaiting claim by another state pursuant to RSA 471-C:27, I(b) shall be reported to the administrator, subject to the dormancy periods set forth in this chapter, in accordance with the requirements of RSA 471-C:19.

Amend the bill by replacing section 9 with the following:

9 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 2000.

1999-1209h

Amendment to HB 690-FN

Proposed by the Majority of the Committee on Education - R

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

AN ACT relative to charter schools and open enrollment districts.

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

1 Open Enrollment and Charter Schools; Admission Preference Amended. Amend RSA 194-B:2, VIII to read as follows:

VIII. ~~[A]~~ ***Any*** pupil who meets the admission requirements of an open enrollment or charter school ~~[, and who is a resident of the district where the school is located,]~~ shall be ~~[given absolute admission preference over a nonresident pupil]~~ ***admitted to the open enrollment or charter school***. Once admitted and unless expelled, open enrollment and charter school pupils need not reapply for admission for subsequent years.

2 New Paragraph; Charter Schools; Establishment and Application Procedures Amended. Amend RSA 194-B:3 by inserting after paragraph I the following new paragraph:

I-a. Persons eligible to submit an application to establish a charter school under this chapter shall have the option of initiating a charter school application with the school board of the district in which the charter school intends to be located or, in the alternative, with the state board of education.

3 Charter Schools; Establishment and Application; Role of State Board of Education. Amend the introductory paragraph of RSA 194-B:3, II to read as follows:

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

4 Charter Schools; Establishment and Application Procedures Amended. Amend the introductory paragraph of RSA 194-B:3, II (cc) to read as follows:

(cc) In addition to an application, each charter school applicant, in consultation with ***either*** the local school board ***or the state board depending on which body receives the charter school applicant's initial application***, shall prepare a proposed contract. The contract shall include, but shall not be limited to, the following elements:

5 Charter Schools; Establishment and Application Procedures Amended. Amend RSA 194-B:3, III (a)-(d) to read as follows:

(a) Applications for approval of a charter school shall not be submitted to the school board ***or to the state board*** until the provisions of RSA 194-B:4, I(d)(1) have been adopted by the school district legislative body.

(b) Proposed applications and contracts to establish a charter school shall be presented by July 1 of the year preceding intended operation of the charter school by its prospective board of trustees to the school board of the district in which the charter school intends to be located ***or to the state board, depending on which body the applicants select to review the initial charter school application***.

(c) By September 15 of the given year, the school board ***or the state board*** shall have completed its review of the proposed application and shall have granted or denied its approval. In its review the school board ***or state board*** shall grant or deny the proposed application, using as its criteria whether or not the proposed application and contract contain and address the elements required under RSA 194-B:3, II. The school board ***or state board*** reserves the right to suggest amendments or additions to the proposed application as it deems necessary to assure its completeness and compliance with this chapter. ~~[The]~~ ***For those applications initiated with the school board, the*** school board shall forward the proposed application and contract, along with its approval or denial and a written statement specifying any areas deemed deficient, to the state board and to the applicant's prospective board of trustees. ***Applications initiated with the state board shall be retained by the state board and reviewed pursuant to RSA 194-B:3, III(d).***

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

6 Charter Schools; Establishment and Application Procedures Amended. Amend RSA 194-B:3, XI to read as follows:

- XI.(a) A charter grantee may apply to the school board **or state board** for amendment to its application and contract, which shall be granted or denied within 30 days at the ~~[school board's]~~ discretion **of the school board or state board**. The school board **or state board** shall notify the school in writing of the decision to grant or deny the proposed amendment, providing reasons for the decision. An approved amended contract shall be promptly signed by the school board within one month of approval.
- (b) A charter grantee may appeal the denial **by the school board** of a proposed application and contract amendment to the state board. The state board shall review the proposed amendment and within 30 days shall notify the school ~~[and the school board]~~ in writing of the decision to grant or deny the amendment, providing reasons for the decision. **For applications initiated with the state board, the school may, in writing, petition the state board to reconsider its decision to deny a proposed application and contract amendment. Upon granting reconsideration, the state board shall within 30 days notify the school in writing of its reconsideration decision on the proposed amendment, providing reasons for the decision.**
- (c) Within one month of receipt of a notice of approval from the state board ~~[on appeal from a school board denial]~~, the school board shall promptly execute the proposed amended contract.

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

9 Charter Schools; Funding Provisions Amended. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school, the pupil's resident district shall pay to such school an amount equal to ~~[not less than 80 percent of that district's average cost per pupil]~~ **the per pupil adequate education cost** as ~~[determined by the department of education using the most recent available data as reported by the district to the department]~~ **established in RSA 198:40**. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, funding for a pupil attending a charter or open enrollment school shall be paid on the same time schedule as the resident district, or on such other terms as the school and the funding source may find mutually acceptable.

10 Repeal. RSA 194-B:3, IV(a) and (b), relative to an appeal from a denial of a charter school application by a school board is repealed.

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

AMENDED ANALYSIS

This bill amends the current law relative to establishment and application procedures for charter schools by authorizing a proposed charter school application to be submitted directly to the state board of education. The bill also provides that the payment for all pupils attending a charter school shall be equal to the per pupil adequate education cost.

1999-1150h

Amendment to HB 720-FN

Proposed by the Committee on Executive Departments and Administration - R

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

1 Reference Deletion. Amend RSA 132:6, I to read as follows:

I. The physician, hospital, nurse midwife, ~~[lay]~~ midwife, or other health care provider attending a newborn child shall, after washing the lids and adjacent tissues immediately following birth, place into each eye of every child a single drop of a one percent solution of nitrate of silver or some equally efficient solution.

2 Reference Deletion. Amend RSA 132:10-a to read as follows:

132:10-a Newborn Screening Tests Required. The physician, hospital, nurse midwife, [lay] midwife, or other health care provider attending a newborn child shall test a newborn child for metabolic disorders. Such tests shall include, but not be limited to, phenylketonuria, galactosemia, homocystinuria, maple syrup urine disease, and hypothyroidism.

3 New Section; Pharmacists Not Liable. Amend RSA 318 by inserting after section 29-c the following new section:

318:29-d Pharmacists Not Liable. A pharmacist who dispenses drugs to a midwife certified under RSA 326-D shall not be liable for any adverse reactions caused by any method of use by the midwife.

4 New Paragraph; Certified Midwives Added. Amend RSA 318:42 by inserting after paragraph II the following new paragraph:

II-a. Midwives certified pursuant to RSA 326-D, from obtaining, possessing or administering prescription drugs to meet the immediate medical needs of their patients Such authority to obtain, possess or administer shall be limited to those drugs listed in RSA 326-D:12. Nothing shall prohibit a pharmacist, in good faith, from selling and dispensing drugs listed in RSA326-D:12 to midwives certified pursuant to RSA 326-D.

5 Certified Midwives Added. Amend RSA 318:52-c, I to read as follows:

I. Hypodermic syringes, needles or any instrument adapted for the administration of drugs by injection shall not be sold except in registered pharmacies. No person shall sell, furnish, or give to any person or persons other than a duly licensed physician, dentist, veterinarian, nurse, **midwife certified pursuant to RSA 326-D**, podiatrist, pharmacist, or embalmer, or a hospital, sanitarium, clinical laboratory or any other medical institution or a state or governmental agency, or a regular dealer in medical, dental or surgical supplies, or a resident physician or intern or advanced registered nurse practitioner of a hospital, sanitarium or other medical institution, an instrument commonly known as a hypodermic syringe, hypodermic needle or any instrument adapted for the administration of drugs by injection without the written or oral prescription of a duly licensed physician, dentist, veterinarian, or advanced registered nurse practitioner. Such prescription shall contain the name and address of the patient, the date of the prescription, the description of the instrument prescribed and the number of instruments prescribed.

6 Certified Midwives Added. Amend RSA 318:52-e to read as follows:

318:52-e Control or Possession of Hypodermic or Like Instruments Without Prescription Prohibited. No person shall have under his **or her** control or possess a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of drugs by injection, except a duly licensed physician, dentist, nurse, pharmacist, podiatrist, **midwife certified pursuant to RSA326-D**, veterinarian, embalmer, a manufacturer or dealer in embalming supplies, registered wholesale druggist, manufacturing pharmacist, manufacturer of surgical instruments, official of any government having possession of the articles covered by this section by reason of his **or her** official duties, paramedical personnel acting under the direction of a physician, dentist, or advanced registered nurse practitioner, employees of a hospital, sanitarium or other licensed medical institution acting under the direction of its superintendent or officer in immediate charge, a carrier or messenger engaged in the transportation of such articles during the official performance of his **or her** duties, or a person who has received a written or oral prescription issued under RSA 318:52-c. For the purpose of this subdivision, no such prescription shall be valid which has been outstanding for more than one year. Provided, however, that the industrial use of hypodermic syringes, needles or instruments in any manufacturing process not utilizing drugs shall not be prohibited, so long as such use is under the proper supervision of a designated person or persons; and such hypodermic syringes, needles or instruments may be purchased for such use from a registered drug store without a written or oral prescription issued under RSA 318:52-c.

7 New Section; Midwifery Not the Practice of Nursing. Amend RSA 326-B by inserting after section 25 the following new section:

326-B:25-a Midwifery Not the Practice of Nursing. Midwives certified under RSA 326-D, and practicing midwifery, as defined by RSA 326-D:2, V, shall not be construed as practicing nursing under this chapter.

8 Midwifery. RSA 326-D is repealed and reenacted to read as follows:

CHAPTER 326-D
MIDWIFERY

326-D:1 Purpose.

- I. The general court finds that the practice of midwifery has been a part of the culture and tradition of New Hampshire since colonial days and that it is in the public interest to remove impediments to the practice of midwifery.
- II. For personal and economic reasons some New Hampshire citizens will have home births. It is the intent of the general court to preserve the rights of women to deliver children at home, to remove obstacles to safe out-of-hospital deliveries, and to assure quality care.
- III. The general court further finds that childbirth is a culmination of pregnancy and is a natural process rather than an illness.
- IV. The general court acknowledges that the services of a certified midwife are a reasonable alternative for healthy pregnant women.
- V. The general court hereby intends that the scope of practice of midwifery shall be modeled on The International Definition of Midwifery as accepted by the World Health Organization and the International Confederation of Midwives. However, in no event shall the scope of midwifery practice exceed the parameters of the definition of "midwifery" under RSA 326-D:2, V.

326-D:2 Definitions. In this chapter:

- I. "Client" means a woman who has retained the services of a midwife for the duration of her pregnancy, labor and the postpartum period and as defined in the scope of practice adopted by the council pursuant to RSA 541-A.
- II. "Council" means the midwifery council established in RSA 326-D:3.
- III. "Commissioner" means the commissioner of the department of health and human services.
- IV. "Midwife" means one who is certified to practice midwifery pursuant to this chapter.
- V. "Midwifery" means the practice, by persons other than physicians or surgeons licensed under RSA 329, nurses registered under RSA 326-B, or physician's assistants licensed under RSA 328-D, of:
 - (a) Providing the necessary supervision, care and advice to women during pregnancy, labor and the postpartum period;
 - (b) Conducting vaginal deliveries on the midwife's own responsibility, and caring for the newborn and the infant; such care to mother and child to include preventive measures, the detection of abnormal conditions, the procurement of medical assistance, and the execution of emergency measures in the absence of medical help; and
 - (c) Consulting with a physician whenever there are significant deviations from normal or whenever there is a medical emergency in either the mother or the infant.

326-D:3 Council Established.

- I. There shall be a midwifery council consisting of 6 members to be appointed by the governor with the advice and consent of the executive council. Members shall be appointed for 4-year terms. No member shall be appointed to more than 2 consecutive terms. All members of the council shall have been residents of this state for at least 5 years preceding appointment and shall include:
 - (a) An obstetrician licensed to practice medicine under RSA 329 with experience in working with midwives certified pursuant to this chapter.
 - (b) A pediatrician licensed to practice medicine under RSA 329 with experience in working with midwives certified pursuant to

this chapter.

(c) Three midwives certified under this chapter, who have each attended at least 50 deliveries as midwives.

(d) One member of the general public who has familiarity with the practice of midwifery.

II. Members appointed to the council shall serve without compensation.

III. The council shall be administratively attached, under RSA 21-G:10, to the department of health and human services.

IV. Members of the council shall elect a chairperson annually from among their members. The council shall meet at least quarterly and may hold additional meetings at such times as it may deem necessary. A quorum of the council shall consist of no fewer than 4 members.

326-D:4 Powers and Duties of the Council.

I. The powers and duties of the council shall include:

(a) Certifying eligible applicants for certification under this chapter.

(b) Establishing fees for examination of applicants, certification and renewal of certification.

(c) Investigating complaints against persons certified under this chapter.

(d) Undertaking, when appropriate, disciplinary proceedings and disciplinary action against persons certified under this chapter.

(e) Reporting to the commissioner immediately on all complaints received and disciplinary action taken.

II. The council shall have the power to subpoena witnesses and administer oaths in any hearing or disciplinary proceedings, and to compel, by subpoena duces tecum, the production of papers and records. Witnesses summoned before the council shall be paid the same fees as witnesses summoned to appear before the superior court, and such summons shall have the same effect as though issued for appearance before such court.

326-D:5 Rulemaking.

I. The council shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Qualifications for the practice of midwifery.

(b) The teaching of midwifery.

(c) The scope of practice and procedures in the practice of midwifery, including policies for professional direction and supervision.

(d) Procedures for the certification of midwives and the issuance of certificates of midwifery, including procedures for provisional certification and recertification after certification has lapsed.

(e) Renewal procedures, including requirements for continuing education and peer review.

(f) Diagnostic and laboratory tests midwives may administer and perform and the proper administration of RSA 326-D:12.

(g) Standards for reciprocity.

(h) Establishing all fees authorized under RSA 326-D:4, I(b); provided that the fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the council for the previous fiscal year.

(i) Establishing all administrative fines authorized under RSA 326-D:8, III(a)(4).

(j) Reporting requirements relative to client information and notification of transfers.

II. No rule relative to the scope of midwifery practice shall exceed the parameters of the definition of "midwifery" under RSA 326-D:2, V.

III. Notwithstanding RSA 541-A:16, I(b)(2), the council shall adopt the model rules for adjudicative hearings adopted by the attorney general under RSA 541-A:30-a. The council may adopt supplements or modifications to the model rules pursuant to RSA 541-A:30-a, IV. Rehearings and appeals to the council shall be conducted pursuant to the provisions of RSA 541.

326-D:6 Certification.

I. No person shall practice midwifery in this state without first obtaining certification from the council. The council shall certify for the practice of midwifery any person applying for such certification who meets the qualifications adopted under RSA 326-D:5, I(a) and who submits the certification fee established by the council pursuant to RSA 326-D:4, I(b).

II. Certification issued under this chapter shall be subject to renewal every 2 years and shall expire unless renewed in accordance with rules adopted by the council and upon payment of the renewal fee established under RSA 326-D:4, I(b).

III. The title "certified midwife" shall be used only by persons certified under this chapter. No person shall continue to represent himself or herself as a certified midwife after certification has been suspended under this chapter. Any person whose certification under this chapter has been suspended or revoked by the council for disciplinary action under RSA 326-D:8, shall not engage in the practice of midwifery unless and until the suspension or revocation of certification has been lifted. Any person violating any provision of this chapter shall be guilty of a violation.

326-D:7 Qualifications. In order to be certified as a midwife by the council, a person shall:

I. Have completed high school or its equivalent.

II. Complete one college-level course in human anatomy and physiology, or pass a college-level equivalency program or credit by exam.

III. Express an intent to engage in the active practice of midwifery in the state.

IV. Submit an affidavit disclosing any criminal convictions. If the council determines that such conviction has a direct bearing on the applicant's ability to serve as a midwife, such conviction may serve as a basis for denial of certification.

V. Meet practical experience requirements prescribed by the council, including specific numbers of prenatal visits, post-partum follow-up exams, attendance at live births as an observer and primary birth attendant under supervision, performance of newborn examinations, performance of laceration repairs, performance of postpartum visits, and observation of in-hospital births.

VI. Present evidence of technical skills as prescribed by the council.

VII. Present evidence of a passing grade on a certification examination approved by the council.

VIII. Pass both a written and an oral examination administered by the council. Such examinations shall include, but shall not be limited to, questions relative to New Hampshire laws and rules governing midwives.

326-D:8 Disciplinary Action.

I. The council may undertake disciplinary proceedings:

(a) Upon its own initiative; or

(b) Upon written complaint of any person which charges that a person certified by the council has committed misconduct under paragraph II and which specifies the grounds for the misconduct.

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) The practice of fraud or deceit in procuring or attempting to procure certification to practice under this chapter.

(b) Conviction of any crime which demonstrates unfitness to practice midwifery.

(c) Demonstrable gross incompetence of the certificate holder.

(d) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the certificate holder unfit to practice

under this chapter.

(e) A legal finding of mental incompetence.

(f) Willful or repeated violation of the provisions of this chapter.

(g) Suspension or revocation without subsequent reinstatement of certification, similar to one issued under this chapter, in another jurisdiction.

III.(a) The council may take disciplinary action in any one or more of the following ways:

(1) By public or private reprimand.

(2) By suspension, limitation, or restriction of certification

(3) By revocation of certification.

(4) By assessing administrative fines in amounts established by the council which shall not exceed \$2000 per offense, or in the case of a continuing offense, \$250 for each day the violation continues.

(b) Disciplinary action taken under this paragraph may be ordered by the council in a decision made after a hearing in the manner provided by the rules adopted by the council and reviewed in accordance with RSA 541.

326-D:9 Report. The council shall report biennially to the commissioner of the department of health and human services concerning the practice of midwifery in this state. The report shall include any recommendations of the council to increase the quality and safety of midwife services and generally to assure competence in the practice.

326-D:10 Powers and Duties of Commissioner. The powers and duties of the commissioner shall include:

I. Providing the public with such information, relative to certification in and the practice of midwifery, as the commissioner deems sufficient to enable the public to make informed decisions in selecting a competent midwife.

II. Providing administrative services to the council created under this chapter.

326-D:11 Certificate Renewal; Continuing Education. Every person certified under this chapter shall apply to the council for certificate renewal every 2 years. Renewals of certificates shall be contingent upon presentation of satisfactory evidence to the council of having met the continuing education requirements established by the council pursuant to RSA 326-D:5, I(e) and shall be accompanied by the renewal fee established pursuant to RSA 326-D:4, I(b). All certificates shall automatically lapse 2 years after the date of issuance unless a timely and complete renewal application has been filed with the council. In no event shall a certificate, for which a timely and complete application for renewal has been submitted, expire before the council has taken final action upon the application.

326-D:12 Administration of Drugs and Medications.

I. A midwife certified under this chapter may obtain, possess and administer the following medications under the conditions indicated:

(a) Rh immune globin (Rhogam), if indicated.

(b) Eye prophylaxis in accordance with RSA 132:6.

(c) Oxygen for fetal distress and infant resuscitation.

(d) Lidocaine Hydrochloride by infiltration and suture material, but only for the purpose of postpartum repair of tears, lacerations, or episiotomy.

(e) Vitamin K by injection or oral vitamin K for control and prevention of acute and late onset hemorrhagic disease in the newborn.

(f) Oxytocins such as pitocin, ergotrate, and methergine, by injection or orally, only for postpartum control of maternal hemorrhage.

(g) Intravenous fluids such as Ringer's Lactate with or without D5W and Normosol-R with or without D5W, with no additional medications unless specifically ordered by physician.

(h) Other drugs or medications as prescribed by a physician, consistent with the scope of midwifery practice as defined by the council.

II. A midwife certified pursuant to this chapter may lawfully purchase and have possession of the medications named in RSA 326-D:12, I, and the equipment normally required for administration. The labels attached to such medications and equipment shall indicate that they are for administrative use only.

III. A pharmacist who dispenses such medications to a certified midwife shall not be liable for any adverse reactions caused by any method of use by the midwife.

326-D:13 Reciprocity. The council may certify any applicant who is licensed in any other state, provided the other state's licensing or certification requirements are substantially equivalent to or higher than those of this state.

326-D:14 Exceptions.

I. Any person who was certified as a lay-midwife under the previous provisions of RSA326-D shall be immediately eligible for certification as a midwife upon the effective date of this section.

II. Residents of this state who held themselves out as midwives prior to July 1, 1999, may continue to practice in this state without certification until June 30, 2001. Such midwives, however, shall obtain certification under this chapter by July 1, 2001 in order to practice midwifery. Such midwives may be certified under this chapter, if they meet all of the qualifications under RSA326-D:7, except that experience requirements under RSA 326-D:7, V, shall be waived if the applicant can document at least 50 successful home births.

9 New Paragraph; Midwifery Not the Practice of Medicine. Amend RSA 329:21 by inserting after paragraph XIV the following new paragraph:

XV. Midwives certified pursuant to RSA 326-D and practicing midwifery pursuant to RSA326-D:2, V.

10 Initial Appointments. The initial council appointees shall consist of one midwife and the obstetrician for a term of 4 years, one midwife and the pediatrician for a term of 3 years, and one midwife and the public member for a term of 2 years.

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

AMENDED ANALYSIS

This bill changes references from "lay-midwife" to "midwife." The bill replaces the advisory committee for the practice of lay-midwifery with a midwifery council. The council is administratively attached to the department of health and human services and is granted rulemaking authority for the purposes of the bill. The bill also requires certified midwives to comply with a continuing education requirement.

1999-0954h

Amendment to HB 722-FN

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

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

1 Statement of Purpose.

I. It is the public policy of this state to prevent and deter domestic violence through equal enforcement of the criminal laws and the provision of judicial relief for domestic violence victims.

II. It is the purpose of this act to preserve and protect the safety of the family unit for all family or household members by entitling victims of domestic violence to immediate and effective police protection and judicial relief. This act shall be liberally construed to the end that its purpose may be fulfilled.

2 Cross Reference Revised; Department of Safety Investigations. Amend RSA159-C:2, I(a) to read as follows:

(a) Review its criminal history records and any protective order records in its possession, if any, to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law or protective order under RSA ~~[173-B:6]~~ **173-B**;

3 Chapter Revised; Protection of Persons From Domestic Violence. RSA 173-B is repealed and reenacted to read as follows:

CHAPTER 173-B

PROTECTION OF PERSONS FROM DOMESTIC VIOLENCE

173-B:1 Definitions. In this chapter:

I. "Abuse" means the commission or attempted commission of one or more of the following acts by a family or household member or current or former sexual or intimate partner and where such conduct constitutes a credible threat to the plaintiff's safety:

(a) Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3.

(b) Criminal threatening as defined in RSA 631:4.

(c) Sexual assault as defined in RSA 632-A:2 through RSA 632-A:5.

(d) Interference with freedom as defined in RSA 633:1 through RSA 633:3-a.

(e) Destruction of property as defined in RSA 634:1 and RSA 634:2.

(f) Unauthorized entry as defined in RSA 635:1 and RSA 635:2.

(g) Harassment as defined in RSA 644:4.

II. "Applicant" means any private, town, city or regional agency or organization applying for funds under RSA 173-B:16.

III. "Commissioner" means the commissioner of the department of health and human services.

IV. "Contact" means any action to communicate with another either directly or indirectly, including, but not limited to, using any form of electronic communication, leaving items, or causing another to communicate in such fashion.

V. "Coordinator" means the agency or organization appointed by the commissioner to administer the domestic violence grant program.

VI. "Cross orders for relief" means separate orders granted to parties in a domestic violence situation where each of the parties has filed a petition pursuant to this chapter on allegations arising from the same incident or incidents of domestic violence.

VII. "Deadly weapon" means "deadly weapon" as defined in RSA 625:11, V.

VIII. "Department" means the department of health and human services.

IX. "Domestic violence" means abuse as defined in RSA 173-B:1, I.

X. "Family or household member" means:

(a) Spouses, ex-spouses, persons cohabiting with each other, and persons who cohabited with each other but who no longer share the same residence.

(b) Parents and other persons related by consanguinity or affinity, other than minor children who reside with the defendant.

XI. "Firearm" means any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by force of gunpowder.

XII. "Foreign protective order" means an order enforceable under RSA 173-B:13.

XIII. "Fund" means the special fund for domestic violence programs established by RSA 173-B:15.

XIV. "Grantee" means any private, town, city, or regional agency or organization receiving funds under RSA 173-B:16.

XV. "Intimate partners" means persons currently or formerly involved in a romantic relationship, whether or not such relationship was ever sexually consummated.

XVI. "Mutual order for relief" means an order restraining both parties from abusing the other originating from a petition filed by one of the parties and arising from the same incident or incidents of domestic violence.

XVII. "Program" means services or facilities provided to domestic violence victims.

173-B:2 Jurisdiction and Venue.

I. All district courts shall have concurrent jurisdiction with the superior court over all proceedings under this chapter.

II. If the plaintiff has left the household or premises to avoid further abuse, the plaintiff shall have the option to commence proceedings pursuant to RSA 173-B:3 in the county or district where the plaintiff temporarily resides.

III. Proceedings under this chapter may be transferred to another court upon the motion of any party or of the court as the interests of justice or the convenience of the parties may require.

IV. In any county where the family division is located, the family division shall have jurisdiction over domestic violence cases consistent with 1995, 152.

173-B:3 Commencement of Proceedings; Hearing.

I. Any person may seek relief pursuant to RSA 173-B:5 by filing a petition, in the county or district where the plaintiff or defendant resides, alleging abuse by the defendant. Any person filing a petition containing false allegations of abuse shall be subject to criminal penalties. Notice of the pendency of the action and of the facts alleged against the defendant shall be given to the defendant, either personally or as provided in paragraph III. The plaintiff shall be permitted to supplement or amend the petition only if the defendant is provided an opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions filed under this section shall include the home and work telephone numbers of the defendant, if known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be provided to the plaintiff by the court.

II.(a) The minority of the plaintiff shall not preclude the court from issuing protective orders against a present or former intimate partner, spouse, or ex-spouse under this chapter.

(b) A minor plaintiff need not be accompanied by a parent or guardian to receive relief or services under this chapter.

III. No filing fee or fee for service of process shall be charged for a petition or response under this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer or the sheriff's department shall serve process under this section. Any proceeding under this chapter shall not preclude any other available civil or criminal remedy.

IV. The clerks of the district and superior courts shall supply forms for petitions and for relief under this chapter designed to facilitate pro se proceedings. All such petitions shall contain the following words: I swear that the foregoing information is true and correct to the best of my knowledge. I understand that making a false statement on this petition will subject me to criminal penalties.

V. Upon entry of any action in a district court, where the court determines that there is pending in the superior court a cause of action involving the same parties arising out of the same situation on which the district court action is based, the case shall be transferred to the superior court to be heard as if originally entered in the superior court, unless the district court determines that the interests of justice or expediency require the district court to exercise jurisdiction. Any transfer to the superior court under this paragraph shall be made as soon as practicable following entry of the action.

VI. The findings of facts shall be final, but questions of law may be transferred from the district court to the supreme court in the same manner as from the superior court.

VII. The court shall hold a hearing within 30 days of the filing of a petition under this section or within 10 days of service of process upon the defendant, whichever occurs later.

VIII. In any proceeding under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material.

173-B:4 Temporary Relief.

I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a district or superior court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the district court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing justice. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the court.

(3) Restraining the defendant from withholding items of the plaintiff's personal property which are specified in the order. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(4) Awarding custody of minor children to either party or, upon actual notice, to the department when it is in the best interest of a child.

(5) Denying the defendant visitation, ordering that visitation shall be supervised, or ordering a specific visitation schedule. Visitation shall only be ordered on an ex parte basis where such order can be entered consistent with the following requirements. In determining whether visitation can be safely ordered, the court shall consider the following factors:

(A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.

(B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation.

(C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(6) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(7) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(8) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(9) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:4, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant, for the duration of the protective order.

(b) Other relief, including but not limited to:

(1) Awarding to the plaintiff the exclusive use and possession of an automobile, home and household furniture, if the defendant has the legal duty to support the plaintiff or the plaintiff's minor children, or the plaintiff has contributed to the household expenses. The court shall consider the type and amount of contribution to be a factor.

(2) Restraining the defendant from taking any action which would lead to the disconnection of any and all utilities and services to the parties' household, or the discontinuance of existing business or service contracts, including, but not limited to, mortgage or rental agreements.

II. The defendant may be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing the peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant and if the court has reason to believe that all such firearms and ammunition and specified deadly weapons have not been relinquished by the defendant.

173-B:5 Relief.

I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court.

(3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(5) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(6) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:5, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant.

(b) Other relief including, but not limited to:

(1) Granting the plaintiff the exclusive use and possession of the premises and curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.

(2) Restraining the defendant from withholding items of the plaintiff's personal property specified by the court. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(3) Granting to the plaintiff the exclusive right of use and possession of the household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns such personal property and the defendant has no legal duty to support the plaintiff or minor children.

(4) Ordering the defendant to make automobile, insurance, health care, utilities, rent, or mortgage payments.

(5) Awarding temporary custody of the parties' minor children to either party or, where appropriate, to the department, provided that:

(A) Where custody of the parties' minor children with the department may be appropriate, the department shall receive actual notice of the hearing 10 days prior to such hearing provided that, if necessary, such hearing may be continued 10 days to provide the department adequate notice.

(B) The department may move at any time to rescind its custody of the parties' minor children.

(6) Establishing visitation rights with regard to the parties' minor children. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children. This may include orders denying visitation or requiring supervised visitation, where such order can be entered consistent with the following requirements. In determining whether visitation shall be granted, the court shall consider whether visitation can be exercised by the non-custodial parent without risk to the plaintiff's or children's safety. In making such determination, the court shall consider, in addition to any other relevant factors, the following:

- (A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.
- (B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation.
- (C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(7) Directing the defendant to pay financial support to the plaintiff or minor children, unless the defendant has no legal duty to support the plaintiff or minor children.

(8) Directing the abuser to engage in a batterer's intervention program or personal counseling. If available, such intervention and counseling program shall focus on alternatives to aggression. The court shall not direct the plaintiff to engage in joint counseling services with the defendant. Court-ordered and court-referred mediation of cases involving domestic violence shall be prohibited.

(9) Ordering the defendant to pay the plaintiff monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, damage to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

(10) Ordering the defendant to pay reasonable attorney's fees.

II. The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant.

III. Reconciliation after a previous order, prior to filing the current action, shall not be grounds for denying or terminating a new or existing protective order. Furthermore, the court shall not deny the plaintiff protective orders based solely on a lapse of time between an act of domestic violence and the filing of a petition, provided that the underlying act presents a credible threat to the plaintiff's current safety.

IV. No order made under this section shall supersede or affect any court order pertaining to the possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C, or 169-D; support or custody made under RSA 458; or custody of children of unwed parents as determined by a superior court, probate court, or family division court, or title to real or personal property.

V.(a) Mutual orders for relief shall not be granted. A foreign mutual order for relief shall only be granted full faith and credit in New Hampshire if it meets the requirements set out in RSA173-B:13, VII.

(b) Cross orders for relief may be granted only if:

- (1) The court has made specific findings that each party has committed abuse against the other; and
- (2) The court cannot determine who is the primary physical aggressor.

VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

VII. Both parties shall be issued written copies of any orders issued by the court, and all orders shall bear the following language: "A willful violation of this order is a crime, as well as contempt of court. Violations of the protective provisions shall result in arrest and may result in imprisonment." Orders shall clearly state how any party can request a further hearing and how the plaintiff may bring a criminal complaint if there is a violation of any court order.

VIII.(a) No order issued under this chapter shall be modified other than by the court. Temporary reconciliations shall not revoke an order.

(b) If either party wishes the defendant to be excused from any provisions of an order of protection, the remedy is to petition the court for modification of such order.

(c) A defendant who is restrained from contacting the plaintiff or entering the premises of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining order has been modified by the court.

(d) This paragraph shall give unequivocal direction to peace officers that orders for protection are to be enforced as written and that no action by a party relieves them of the duty to enforce the order.

IX.(a) A copy of each protective order issued under this chapter shall be transmitted to the administrative office of the courts by facsimile or computer. An emergency protective order issued telephonically shall be transmitted by telephone or facsimile to the department of safety.

(b) The administrative office of the courts shall enter information regarding the protective orders into the state database which shall be made available to police and sheriff departments statewide. The department of safety shall make available information regarding emergency protective orders issued telephonically to police and sheriff departments statewide.

(c) The administrative office of the courts shall update the database upon expiration or termination of a protective order.

(d) Notwithstanding any other provision of law, the administrative office of the courts or the department of safety, its employees and agents, and law enforcement officials shall not be held criminally or civilly liable for action taken under this chapter or RSA 458:16, provided they are acting in good faith and without gross negligence, and within the scope of their duties and authority.

X.(a) Within 15 days prior to the expiration of the protective orders, the defendant may request, by motion to the court, the return of any and all firearms and ammunition and specified deadly weapons held by the law enforcement agency while the protective order was in effect. Upon receipt of such a motion, the court shall schedule a hearing no later than 15 days after the expiration of the order. The court shall provide written notice to the plaintiff who shall have the right to appear and be heard, and to the law enforcement agency which has control of the firearms, ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

(1) Establishing whether the defendant is subject to any state or federal law or court order that precludes the defendant from owning or possessing a firearm; and

(2) Under circumstances where the plaintiff has requested an extension of the protective order, whether the plaintiff has established by a preponderance of the evidence that the defendant continues to represent a credible threat to the safety of the plaintiff.

(b) If the court finds that the defendant is not subject to any state or federal law or court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's request to extend the protective order, the court shall issue a written order directing the law enforcement agency to return the requested firearms, ammunition, or deadly weapon to the defendant.

(c) Law enforcement agencies shall not release firearms and ammunition and specified deadly weapons without a court order granting such release. The law enforcement agency may charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost incurred by the law enforcement agency for the storage of the firearms and ammunition and specified deadly weapons. The defendant may make alternative arrangements with a federally licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval of the court. Such firearms shall be turned over to the appropriate law enforcement agency for transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement agency responsible for their transfer to the storage facility pursuant to a court order as prescribed in this paragraph.

(d) No law enforcement agency shall be held liable for alleged damage or deterioration due to storage or transportation to any firearms and ammunition and specified deadly weapons held by a law enforcement agency, so long as due care is used.

173-B:6 Guardian Ad Litem. In all proceedings under this chapter, the court may appoint a guardian ad litem to represent the interests of the children of either or both parties. The guardian ad litem may continue to serve after the final disposition of the case.

173-B:7 Minority Not a Preclusion for Services. The minority of any individual seeking assistance from any domestic violence program, as defined by RSA 173-B:1, shall not preclude provision of such requested services.

173-B:8 Notification.

I. A copy of any order made under this chapter which prohibits any person from abusing another shall be promptly transmitted to the local law enforcement agency having jurisdiction to enforce such order.

II. Temporary orders shall be promptly served on the defendant by a peace officer. Subsequent orders shall be sent to the defendant's last address of record. The defendant shall be responsible for informing the court of any changes of address. Law enforcement agencies shall establish procedures whereby a peace officer at the scene of an alleged violation of such an order may be informed of the existence and terms of such order.

III. Any court-ordered changes or modifications of the order shall be effective upon issuance of such changes or modifications, and shall be mailed or otherwise provided to the appropriate local law enforcement agency and transmitted to the department of safety within 24 hours of the entry of such changes or modifications.

173-B:9 Violation of Protective Order; Penalty.

I.(a) When the defendant violates either a temporary or permanent protective order issued or enforced under this chapter, peace officers shall arrest the defendant and ensure that the defendant is detained until arraignment. Such arrests may be made within 6 hours without a warrant upon probable cause, whether or not the violation is committed in the presence of a peace officer.

(b) Subsequent to an arrest, the peace officer shall seize any firearms and ammunition in the control, ownership, or possession of the defendant and any deadly weapons which may have been used, or were threatened to be used, during the violation of the protective order. The law enforcement agency shall maintain possession of the firearms, ammunition, or deadly weapons until the court issues an order directing that the firearms, ammunition, or deadly weapons be relinquished and specifying the person to whom the firearms and ammunition or deadly weapons will be relinquished.

II. The prosecution and sentencing for criminal contempt for a violation of a protective order shall not preclude the prosecution of or sentencing for other criminal charges underlying the contempt.

III. A person shall be guilty of a class A misdemeanor if such person knowingly violates a protective order issued under this chapter, or RSA 458:16, III, or any foreign protective order enforceable under the laws of this state. Charges made under this chapter shall not be reduced to a lesser charge, as permitted in other instances under RSA 625:9.

IV. Any person convicted under RSA 173-B:9, III, or who has been convicted in another jurisdiction of violating a protective order enforceable under the laws of this state, who, within 6 years of such conviction or the completion of the sentence imposed for such conviction, whichever is later, subsequently commits and is convicted of one or more offenses involving abuse may be charged with an enhanced penalty for each subsequent offense as follows:

(a) There shall be no enhanced charge under this section if the subsequent offense is a class A felony or an unclassified felony;

(b) If the subsequent offense would otherwise constitute a class B felony, it may be charged as a class A felony;

(c) If the subsequent offense would otherwise constitute a class A misdemeanor, it may be charged as a class B felony;

(d) If the subsequent offense would otherwise constitute a class B misdemeanor, it may be charged as a class A misdemeanor.

(e) If the subsequent offense would otherwise constitute a violation, it may be charged as a class B misdemeanor.

V. A victim of domestic violence shall be entitled to all rights granted to victims of crime under RSA 21-M:8-k.

173-B:10 Protection by Peace Officers.

I. Whenever any peace officer has probable cause to believe that a person has been abused, as defined in RSA 173-B:1, that officer shall use all means within reason to prevent further abuse including, but not limited to:

(a) Confiscating any deadly weapons involved in the alleged domestic abuse and any firearms and ammunition in the defendant's control, ownership, or possession.

(b) Transporting or obtaining transportation for the victim and any child, to a designated place to meet with a domestic violence counselor, local family member, or friend.

(c) Assisting the victim in removing toiletries, medication, clothing, business equipment, and any other items determined by the court.

(d) Giving the victim immediate and written notice of the rights of victims and of the remedies and services available to victims of domestic violence. The written notice shall include a statement substantially as follows:

"If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency telephonic order for protection. You may also request that the officer assist you in obtaining from your premises and curtilage, toiletries, medication, clothing, business equipment, and any other items as determined by the court, and in locating and taking you to a local safe place including, but not limited to, a designated meeting place to be used as a crisis center, a family member's or friend's residence, or a similar place of safety. If you are in need of medical treatment, you have the right to request that the officer assist you in obtaining an ambulance. You may request a copy of the report filed by the peace officer, at no cost, from the law enforcement department."

II. Pursuant to RSA 594:10, an arrest for abuse may be made without a warrant upon probable cause, whether or not the abuse is committed in the presence of the peace officer. When the peace officer has probable cause to believe that the persons are committing or have committed abuse against each other, the officer need not arrest both persons, but should arrest the person the officer believes to be the primary physical aggressor. In determining who is the primary physical aggressor, an officer shall consider the intent of this chapter to protect the victims of domestic violence, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between these persons if that history can reasonably be obtained by the officer.

173-B:11 Notice to the Victim.

I. Notwithstanding the peace officer's obligations in RSA 173-B:9 and RSA 173-B:10, all peace officers shall give victims of abuse immediate and adequate notice of their right to go to the district or superior court of their county to file a petition asking for protective orders against the abusive person and to seek a private criminal complaint.

II. The clerk of the court shall be responsible for advising victims of their right to request that the judge issue an order which may include removing any and all firearms and ammunition in the control, ownership, or possession of the defendant and may include:

(a) Restraining the defendant from abusing the victim.

(b) Directing the defendant to leave and stay away from the victim's premises and curtilage.

(c) Giving the victim custody of any minor children, denying the defendant visitation, or requiring that visitation be supervised to ensure safety for the victim and minor children.

(d) Directing the defendant to support the victim and any minor children if the defendant has the legal responsibility to support either or both.

(e) Restraining the defendant from contacting the victim, or entering the victim's place of employment, school, or any specified place frequented regularly by the victim or by any family or household member.

(f) Restraining the defendant from abusing, in any way, the victim, household members, or victim's relatives, regardless of their place of residence.

(g) Restraining the defendant from taking, converting, or damaging property in which the victim may have a legal or equitable interest.

(h) Directing the defendant to temporarily relinquish to the peace officer specific deadly weapons in the control, ownership or possession of the defendant which may have been used, or were threatened to be used, in an incident of abuse against the victim or any member of the victim's household.

(i) Ordering the defendant to pay the victim monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, damage to property, out-of-pocket losses

for injuries sustained, and moving and shelter expenses.

(j) Ordering the defendant to pay reasonable attorney's fees.

173-B:12 Emergency Care; Limitation and Liability. Any act or omission of any peace officer rendering emergency care or assistance to a victim of domestic violence including, but not limited to transportation, shall not impose civil liability upon the peace officer or the peace officer's supervisors or employer if the care or assistance is rendered in good faith, unless the act or omission is a result of gross negligence or willful misconduct.

173-B:13 Orders Enforceable.

I. Any protective order issued under this chapter shall be effective throughout the state.

II. Any protective order issued by any other state, tribal, or territorial court related to domestic or family violence, including an ex parte order, shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory, and the person against whom the order was made was given reasonable notice and opportunity to be heard. There shall be a presumption of validity where an order appears facially valid.

III. Any valid protective order, as defined in paragraph II, shall be accorded full faith and credit throughout the state.

IV. A person entitled to protection under a foreign protective order, as defined in paragraph II, may file such order in any district or superior court by filing with the court a certified copy of the order. Such person shall swear under oath in an affidavit to the best of such person's knowledge that the order is presently in effect as written. Such filing shall be without fee or cost. The clerk of the district or superior court shall forward such order to the state police who shall enter such order in the state database. Such filing shall not be a precondition to arrest or enforcement of a foreign order.

V. A peace officer may rely upon a copy of any protective order issued under this chapter, or under RSA 458, or upon a copy of a foreign protective order, as defined in this section, which has been provided to the peace officer by any source.

VI. Law enforcement personnel may rely on the statement of the person protected by the order that the order remains in effect as written.

VII. A mutual protective order issued by any other state, tribal, or territorial court against one who has petitioned, filed a compliant, or otherwise filed a written pleading for protection relating to domestic or family violence shall be accorded full faith and credit only if:

(a) A cross or counter petition, complaint or other written pleading was filed seeking such protection order; and

(b) The court made specific findings of domestic or family violence by both parties and that each party was entitled to such order.

173-B:14 Orders of Support.

I. The superior court, in any action determining the obligation of the obligor to support the obligee or the parties' minor children including, but not limited to, actions for divorce or custody pursuant to RSA 458; paternity pursuant to RSA 168-A; child support pursuant to RSA 161-B, RSA 161-C, and RSA 458; reimbursement of public assistance pursuant to RSA 161-C; and the uniform interstate family support act pursuant to RSA 546-B; shall take judicial notice of any support obligation established pursuant to this chapter upon the filing of a certified copy of the district court order in the superior court by:

(a) Either party to the domestic violence proceeding.

(b) The department.

(c) Any other agency or person legally entitled to enforce the obligation of support for the minor children.

II. Any superior court order for financial support shall include enforcement of any duly filed district court order from the date of filing forward, and shall include enforcement of any arrears which have been:

(a) Reduced to judgment by the district court;

(b) Documented by the department pursuant to an order to make payable through the department; or

(c) Documented by the obligee in a notarized statement, provided that the obligor shall have 30 days to object and request a hearing on the issue of arrears.

173-B:15 Fund for Domestic Violence Grant Program. A special fund for domestic violence programs is established. The sole purpose of the fund shall be to provide revenues for the domestic violence program established in RSA 173-B:16, and shall not be available for any other purpose. The state treasurer shall deposit all fees received by the department under RSA 457:29 in the fund. All moneys deposited in the fund shall be continually appropriated for the purposes of the domestic violence grant program and shall not lapse.

173-B:16 Grant Program Established. A grant program is established within the department for the allocation of grant money to New Hampshire programs which provide aid and assistance to victims of domestic violence. The grant program shall be funded by the fund established under RSA 173-B:15.

173-B:17 Duties of the Commissioner. The commissioner shall:

I. Administer the grant program established in RSA 173-B:16 through a coordinator. The costs of administration shall be covered by the fund, and shall not exceed 2 percent.

II. Adopt rules, under RSA 541-A, relative to procedures under which interested New Hampshire programs may apply for funding.

III. Appoint the coordinator.

IV. Enter into a contract with the coordinator, subject to the approval of the governor and council.

173-B:18 Selection of Coordinator. The commissioner shall be satisfied that the organization or agency chosen as the coordinator shall be qualified to provide at least those services listed in RSA 173-B:20.

173-B:19 Compensation for Coordinating Domestic Violence Grant Program. Compensation for the functions and duties of coordinating the program shall not exceed 30 percent of the total revenues of the fund.

173-B:20 Duties of Coordinator. The coordinator shall be a statewide organization or agency which has demonstrated its ability, at a minimum, to:

I. Serve as a clearinghouse for information relating to domestic violence.

II. Conduct educational programs on domestic violence, both for the general public and for specialized interest groups, such as law enforcement and medical personnel.

III. Provide technical assistance to local domestic violence programs in the areas of budget, management, and other such skills.

IV. Enlist the assistance of public and voluntary health, education, welfare, legal, and rehabilitation agencies in a concerted effort to prevent domestic violence.

V. Provide coordination and supervision of programs.

VI. Assist the commissioner in the administration of the fund.

VII. Publicize the availability of the fund and the date by which applications must be received, and act on all applications within 45 days of the application deadline.

VIII. Notify each appropriate agency or organization in writing whether or not it is eligible for funds, and specify the amount available.

IX. Publicize the availability of domestic violence programs to the public.

X. Provide training for court advocates and social services agency advocates to accompany domestic violence victims.

XI. Apply for and receive any federal funds for which this program may be eligible.

XII. Ensure, as far as possible, that grants are awarded on a reasonable geographical basis throughout the state.

XIII. Obtain and evaluate reports from each grantee, at least annually, on its operations under this chapter.

173-B:21 Criteria for Selection of Direct Service Grantees. The coordinator shall use all of the following criteria for selecting grantees:

I. A grantee's ability to provide direct services to victims of domestic violence as follows:

(a) Shelter or safe homes on a 24-hours-a-day, 7-days-a-week basis.

(b) A 24-hours-a-day, 7-days-a-week switchboard for crisis calls.

(c) Temporary housing and food facilities.

(d) Psychological support and peer counseling.

(e) Referrals to existing services in the community and follow-up on the outcome of the referrals.

(f) A drop-in center to assist victims of domestic violence who have not yet made the decision to leave their homes, or who have found other shelter but who have a need for support services.

(g) Arrangements for school-aged children to continue their education during their stay at the center.

(h) Emergency transportation to a shelter and, when appropriate, arrangements with local law enforcement for assistance in providing such transportation.

(i) Trained court advocates and social service agency advocates to accompany domestic violence victims.

II. A grantee shall be a private or private nonprofit organization, or a public agency.

III. A grantee shall demonstrate the need for the services proposed by the program.

IV. A grantee shall establish its ability to secure community support and its efficiency of administration.

V. A grantee shall receive at least 50 percent of its funding from sources other than the fund, including town, city, county, federal, or private sources. Contributions in kind, whether material, commodities, transportation, office space, or personal services, may be evaluated and counted as part of the required non-state funding.

173-B:22 Confidentiality. All persons who are employed, appointed, or who volunteer under this chapter shall maintain confidentiality with regard to persons served by the coordinator and grantees and files kept by the coordinator and grantees, except for reasons of safety for other shelter residents or staff.

173-B:23 Referral. Where centers are available, any law enforcement officer who investigates an alleged incident of domestic violence shall advise the person subject to such violence of the availability of programs from which that person may receive services.

173-B:24 Rights Reserved. A person shall not be prejudiced by the court having jurisdiction under RSA 173-B for having left the residence or household with or without the children to avoid further domestic violence.

173-B:25 Severability. If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

4 Cross Reference Revised; Definition of "Domestic Violence Center." Amend RSA 173-C:1, II to read as follows:

II. "Domestic violence center" means any organization or agency which would qualify as a direct service grantee under RSA ~~[173-B:19]~~ **173-B:21**.

5 Cross Reference Revised; Marriage License Fees. Amend RSA 457:29 to read as follows:

457:29 Marriage License Fee. The fee for the marriage license shall be \$45 to be paid by the parties entering into the marriage. The clerk shall forward \$38 from each fee to the department of health and human services for the purposes of RSA~~[173-B:13]~~ **173-B:15**. The clerk shall retain the remaining \$7 as ~~his~~ **the** fee for making the records of notice, issuing the certificate of

marriage, and forwarding the \$38 portion of the marriage license fee.

6 Cross Reference Revised; Preparing Checklists. Amend RSA 654:25 to read as follows:

654:25 Preparing Checklist. The secretary of state shall issue and distribute guidelines for the composition and style of checklists and for the maintenance of data related to checklists by which the supervisors of the checklist shall compile and correct the checklist. Such guidelines shall specify the information which will be maintained and updated by the supervisors. The secretary shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, address and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. The supervisors shall use the information so maintained and updated to prepare the checklist for all state elections. Every checklist used at any state election shall contain as a minimum the full name, address, and mailing address if different, and party affiliation, if any, of each voter on the checklist. The address and mailing address, if different, of a voter shall not appear on the checklist at the request of the voter if the voter presents to the supervisors of the checklist a valid protective order pursuant to RSA~~[173-B:4]~~ **173-B**. A voter who presents a valid protective order may, however, request that a mailing address, if different, be maintained on the checklist. If a voter who presents a valid protective order requests that no address be maintained on the checklist, the supervisors of the checklist may nonetheless maintain a designation on the checklist which indicates that no address is required for that voter.

7 Effective Date. This act shall take effect January 1, 2000.

1999-1219h

Amendment to HB 726-FN

Proposed by the Committee on Finance - R

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

AN ACT relative to the credentialing of personnel in early care and education programs, establishing a fee for such credential, and making an appropriation therefor.

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

1 New Subdivision; Credentialing of Personnel in Early Care and Education Programs. Amend RSA170-E by inserting after section 49 the following new subdivision:

Credentialing of Personnel in Early Care and Education Programs

170-E:50 Credentialing of Personnel in Early Care and Education Programs; Rulemaking.

I. The commissioner shall adopt rules, under RSA 541-A, relative to accepting applications and issuing a credential to early care and education personnel including, but not limited to child care, preschool, and Head Start program personnel who have requested such a credential and who have satisfied the education and training requirements set forth in the child care program licensing rules established by the department of health and human services. Each application for a credential shall be accompanied by a fee which shall be credited to the general fund. The commissioner shall adopt rules, under RSA 541-A, establishing a fee for this purpose.

II. The department of health and human services shall incorporate this program, funded by the fee established in paragraph I of this section, into the next biennial department budget after the effective date of this section.

2 Appropriation. The sum of \$5,500 for the fiscal year ending June 30, 2000, and the sum of \$5,500 for the fiscal year ending June 30, 2001, is hereby appropriated to the department of health and human services for the purposes set forth in section 1 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill permits the department of health and human services to collect a fee for the issuance of a certificate requested by individuals who have met the education and training requirements set forth by the department.

1999-1220h

Amendment to HB 735-FN-A

Proposed by the Committee on Executive Departments and Administration - R

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

1 Purpose. This act establishes a contributory retirement plan for all new judges appointed after the effective date of this act. Judges appointed prior to the effective date will have the option of starting in the new retirement plan within one year of its enactment while retaining the current level of benefits of the present system, or continuing on in the present non-contributory system until retirement. The administrative office of the courts shall be responsible for establishing the defined contribution plan and for contracting with a provider for the administration of the defined contribution plan for eligible judges.

2 Chapter Heading Changed; Judicial Retirement. Amend the chapter heading of RSA 491-A to read as follows:

JUDICIAL SALARIES *AND RETIREMENT*

3 New Subdivisions; Judicial Defined Contribution Plan. Amend RSA 491-A by inserting after section 4 the following new subdivisions:

Judicial Defined Contribution Plan

491-A:5 Judicial Defined Contribution Plan Established. The director of the administrative office of the courts shall contract with a suitable provider for the establishment, implementation, and administration of a defined contribution plan to provide for retirement benefits for retired judges of this state. The plan shall be tax qualified under applicable provisions of the federal Internal Revenue Code of 1986, as amended. The costs to the judicial branch of administration of the provisions of this subdivision shall be a charge against the biennial appropriation for the judicial branch.

491-A:6 Membership.

I. Any judge of the district, probate, superior, and supreme courts appointed after July1,2000 may become a member of the plan. An eligible judge may choose not to participate.

II.(a) Any judge of the district, probate, superior, and supreme courts appointed prior to July1, 2000 shall be permitted to become a member of the judicial defined contribution plan provided the judge notifies the director of the administrative office of the courts prior to July 1, 2001.

(b) A judge who provides notice pursuant to subparagraph (a) shall be eligible to receive retirement compensation provided from the general funds of the state pursuant to RSA 490:2, RSA491:2, RSA 502-A:6-a, RSA 547:19-b, or RSA 547:19-d. The retirement benefit to be received, however, shall be the applicable percentage as applied to the judge's salary at the date the judge provided notice under subparagraph (a) and not the salary at the date of retirement of the judge.

491-A:7 Contributions. Contributions by members of the plan established under RSA 491-A:5, shall be matched by contributions from the state at a rate of \$2 for every \$3 contributed by the member, provided, however, the member may contribute no more than the allowable maximum contribution under United States Internal Revenue Code Section 415, and provided further that the state's matching contribution shall not exceed 4 percent of the member's annual salary, subject to any additional restrictions under applicable federal law. The sums necessary for the state contribution to the judicial defined contribution plan shall be appropriated from the general funds of the state. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

Survivorship Option

491-A:8 Survivorship Option. Any judge eligible to receive retirement benefits under RSA 490:2, RSA 491:2, RSA 502-A:6-a, RSA 547:19-b, or RSA 547:19-d may, at the time of the judge's retirement and prior to receiving benefits, elect to receive a reduced benefit payable during the member's life of 2/3 of the full retirement benefit amount, and a reduced benefit payable to the member's spouse beginning at the member's death of 1/3 of the member's full retirement benefit amount.

4 New Paragraph; Supreme Court; Retirement Compensation for Judges; Limitation. Amend RSA 490:2 by inserting after paragraph VI the following new paragraph:

VII. The provisions of this section which provide for additional compensation for retired judges or their beneficiaries shall apply only to judges appointed prior to July 1, 2000.

5 New Paragraph; Superior Court; Retirement Compensation for Judges; Limitation. Amend RSA 491:2 by inserting after paragraph VIi the following new paragraph:

VIII. The provisions of this section which provide for additional compensation for retired judges or their beneficiaries shall apply only to judges appointed prior to July 1, 2000.

6 New Paragraph; District Court; Retirement Compensation for Judges; Limitation. Amend RSA 502-A:6-a by inserting after paragraph VI the following new paragraph:

VII. The provisions of this section which provide for additional compensation for retired judges or their beneficiaries shall apply only to judges appointed prior to July 1, 2000.

7 Probate Court; Retirement Compensation for Judges; Limitation. Amend RSA 547:19-b to read as follows:

547:19-b Retirement Due to Constitutional Age Limitation. Any judge of probate who is not a full-time judge under the provisions of RSA 547:2-a who retires from active regular service due to the provisions of RSA 493:2, relative to the constitutional age limitation, before January 1, 1981, after having served in such capacity for at least 7 years, or on January 1, 1981 or thereafter, having served in such capacity for at least 20 years; shall receive thereafter and until his death a salary equal to 3/4 of \$19,102 plus an adjustment proportional to any general pay increase granted to judicial branch employees payable in the same manner that salaries of judges of probate are paid. Such payments shall be a charge against the biennial appropriations for the probate court or from funds otherwise unappropriated. Retirement payments as provided in this section shall be in lieu of any rights or benefits under the New Hampshire retirement system to which such judge would otherwise be entitled. Any judge of probate who is a member of the state employees' retirement system or the New Hampshire retirement system may terminate his membership therein and upon termination any accumulated contributions shall be paid over to him on written request. No judge of probate whose membership is not so terminated shall be eligible for payments under this section. ***This section shall apply only to judges appointed prior to July 1, 2000.***

8 Probate Court; Retirement Compensation for Judges; Limitation. Amend RSA 547:19-d to read as follows:

547:19-d Retirement at Age 65. Any judge of probate, who is not a full-time judge under the provisions of RSA 547:2-a, who retires upon becoming 65 years old after having served in such capacity for at least 20 years, shall receive thereafter and until his death a salary equal to 3/4 of the sum of \$19,102 plus an adjustment proportional to any general pay increase granted to judicial branch employees. Such payments shall be a charge against the biennial appropriations for the probate court, and shall be included by the administrative office of the courts in its request for appropriations. Retirement payments as provided in this section shall be in lieu of any rights or benefits under the New Hampshire retirement system to which such judge would otherwise be entitled. Any judge of probate who is a member of the state employees' retirement system or the New Hampshire retirement system may terminate his membership therein and upon termination any accumulated contributions shall be paid over to him on written request. No judge of probate whose membership is not so terminated shall be eligible for payments under this section. ***This section shall apply only to judges appointed prior to July 1, 2000.***

9 Effective Date. This act shall take effect July 1, 2000.

AMENDED ANALYSIS

This bill establishes a contributory judicial defined contribution retirement plan administered by the administrative office of the courts which includes a 2 to 3 state match of contributions by member judges.

The bill also provides for a survivorship option for judges in the present non-contributing system.

1999-1140h

Amendment to HB 741

Proposed by the Committee on Labor, Industrial and Rehabilitative Services

Amend RSA 278:8, IX as inserted by section 1 of the bill by replacing it with the following:

IX. A statement as to the ratio of apprentices to journeymen or number of apprentices to be employed during any year under the

program. *Where the agreement provides for a ratio of at least 3 journeymen to one apprentice in terms of overall workforce, no standard shall have the effect of requiring the agreement to provide for employment of any greater number of journeymen per apprentice;*

AMENDED ANALYSIS

This bill provides that the minimum standards for the ratio of apprentices to journeymen in trade or industry apprenticeship programs may not require more than 3 journeymen to one apprentice.

1999-1132h

Amendment to SB 13

Proposed by the Committee on Education - C

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

AN ACT establishing a committee to study joint maintenance agreements in school districts.

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

1 Committee Established. There is established a committee to study the creation of joint maintenance agreements between adjoining school districts.

2 Membership and Compensation.

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

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

(b) Three members of the house of representatives, 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 examine the following issues:

I. The establishment of joint maintenance agreements between adjoining public school districts.

II. The governance of a jointly maintained school.

III. Collective bargaining relative to a jointly maintained school.

IV. Apportionment of costs among the contracting districts.

V. The needs of towns and pupils in towns that do not operate a school in situations where neighboring school districts are at capacity and have no room for additional pupils.

VI. The management of major construction projects in a jointly maintained district.

VII. Whether or not the school boards in a jointly maintained district may establish an executive committee to address everyday issues or budget preparation.

VIII. The method of determining and apportioning school building aid in jointly maintained districts.

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 house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

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

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

AMENDED ANALYSIS

This bill establishes a committee to study joint maintenance agreements in school districts.

This bill is a request of the committee established in 1998, 131 (SB 448).

1999-1226h

Amendment to SB 16

Proposed by the Committee on Judiciary - C

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

1 Wills; Revocation by Divorce. Amend RSA 551:13, II to read as follows:

II. If after executing a will the testator is divorced or the marriage is annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, conservator, or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse ***and all heirs in the descending line of such former spouse who are not also heirs at law of the decedent*** failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse ***and all heirs in the descending line of such former spouse who are not also heirs at law of the decedent*** failed to survive the decedent. ***Any bequest or devise to any such heirs in the descending line of such former spouse that is contingent upon such spouse predeceasing the testator is revoked by this section, unless the will expressly provides otherwise.*** If provisions are revoked solely by this section, they are revived by the testator's remarriage to the former spouse. A decree of separation which does not terminate the status of husband and wife is not a divorce for the purposes of this section. No change of circumstances other than as described in this section revokes a will.

2 Effective Date. This act shall take effect January 1, 2000.

AMENDED ANALYSIS

This bill adds the former spouse's heirs who are not also heirs of the testator to the provisions of revocation by divorce. This bill also revokes any bequest or devise to any such heirs that is contingent upon such spouse predeceasing the testator.

1999-1127h

Amendment to SB 21

Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 436:7 as inserted by section 2 of the bill by replacing it with the following:

436:7 Appointment. The commissioner of agriculture, markets, and food shall, with the approval of the governor and council, appoint a graduate of a veterinary[;] college of recognized standing, who shall have had at least 5 years' experience in the practice of veterinary medicine, including large animal practice, and who shall be known as the state veterinarian ***and the director of the division of animal industry.***

1999-1180h

Amendment to SB 26

Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 6 with the following:

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

1999-1201h

Amendment to SB 111

Proposed by the Committee on Judiciary - C

Amend RSA 455-A:3 as inserted by section 1 of the bill by replacing it with the following:

455-A:3 Powers. Every justice of the peace shall have the power to administer oaths, perform marriage ceremonies, acknowledge instruments, and any other power prescribed by law. ***A justice of the peace signing an acknowledgment or jurat on any document or instrument shall type, print, or stamp the name of the justice of the peace and state the expiration date of his or her commission on the document or instrument. However, failure to meet these requirements shall not impair the legal validity of any acknowledgment or jurat.***

AMENDED ANALYSIS

This bill requires a justice of the peace to print or type his or her name and state his or her commission expiration date when making an acknowledgment or jurat.

1999-1031h

Amendment to SB 204

Proposed by the Committee on Education - C

Amend RSA 6:40 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. Requiring full disclosure regarding any fees incurred for the administration of the trust fund, including any administrative fee, or portion thereof, which is or may be returned to the trust fund.

1999-1153h

Amendment to SB 215

Proposed by the Committee on Executive Departments and Administration – C

Amend the bill by replacing section 3 with the following:

3 Emergency Closing. Amend RSA 211:63-a to read as follows:

211:63-a. Emergency Closing. Any rules adopted under the authority of RSA 211:62 may be suspended and the taking of [~~clams, clam worms, and oysters~~] **bivalves** may be prohibited in any area when the department of [~~health and human~~] **environmental** services shall determine that accidental pollution exists in the area. The emergency closing shall be ordered by the executive director without a hearing. The executive director after a hearing shall have authority to order a partial closing of clam, [~~clam worm, and~~] oyster, **and other bivalve** areas for the purpose of management of the areas by rotation. When such management closing is ordered the order shall be effective immediately without a waiting period.

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