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Contains: Amendments for May 17 and May 18.

HOUSE CALENDAR

**ALL LEGISLATORS ARE ASKED TO RETAIN THIS CALENDAR
FOR FLOOR USE ON
MAY 17 AND MAY 18, 2000**

**WEDNESDAY, MAY 17 AND THURSDAY, MAY 18
AMENDMENTS**

(LISTED IN NUMERICAL ORDER)

2000-4349h

Amendment to HB 1369-FN-LOCAL

Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 141-E:1, IV and V as inserted by section 1 of the bill by replacing it with the following:

IV. Relative to asbestos abatement activities, as defined by RSA 141-E:2, II, it shall be the responsibility of the department of health and human services, in consultation with the commissioner of environmental services, to carry out this policy in accordance with RSA 141-E:3, I and RSA 141-E:6-11, and in such a manner as to avoid direct conflict with other state and federal requirements.

V. Relative to management of asbestos disposal sites, as defined by RSA 141-E:2, III, it shall be the responsibility of the department of environmental services, in consultation with the department of health and human services, to carry out this policy in accordance with RSA 141-E:3, II and RSA 141-E:21-25, in lieu of RSA 149-M as previously carried out, and in such a manner as to avoid direct conflict with other state and federal requirements.

Amend RSA 141-E:4, I(1) as inserted by section 1 of the bill by replacing it with the following:

(1) Procedures for exemption and waiver from the requirements of RSA 141-E:10 and RSA 141-E:11.

Amend RSA 141-E:5, I and II as inserted by section 1 of the bill by replacing it with the following:

I. The governor or the governor's designee;

II. The attorney general or the attorney general's designee;

Amend RSA 141-E:10, I as inserted by section 1 of the bill by replacing it with the following:

I. Any contractor, employer, or individual which engages in asbestos abatement activities or activities involving the disturbance of asbestos at asbestos disposal sites shall first obtain a license from the department, except for:

(a) Individuals exempt pursuant to paragraph II below;

(b) Individuals exempt by rules adopted by the commissioner of health and human services in accordance with RSA 141-E:4, I(l);

(c) Owners of single family owner occupied properties who personally perform asbestos abatement within the confines of their private properties; and

(d) Individuals who obtain a waiver from the licensing requirements of this section.

Amend RSA 141-E:10, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The license or a certified copy thereof shall be available at the worksite for inspection by representatives of the department, the commissioner of environmental services, or an authorized representative of the local government.

Amend RSA 141-E:11, I as inserted by section 1 of the bill by replacing it with the following:

I. Employees and other individuals who engage in asbestos abatement, school asbestos abatement planning, or disturbance of asbestos at any asbestos disposal site shall first obtain a certificate of training from the department, except for:

- (a) Individuals exempt pursuant to rules adopted by the commissioner of health and human services in accordance with RSA 141-E:4, I(l);
- (b) Owners of single family owner occupied properties who personally perform asbestos abatement within the confines of their private properties; and
- (c) Individuals who obtain a waiver from the certification requirements of this section.

Amend RSA 141-E:11, III as inserted by section 1 of the bill by replacing it with the following:

III. The certificate or a certified copy thereof shall be readily available at the worksite for inspection by the representatives of the department, the commissioner of environmental services, or an authorized representative of the local government.

Amend RSA 141-E:13, II as inserted by section 1 of the bill by replacing it with the following:

II. If the property owner refuses to consent to the inspection, the commissioner of health and human services or the commissioner of environmental services may obtain an administrative inspection warrant under RSA 595-B.

III. Any information, other than asbestos contamination or exposure data, relating to secret processes or methods of manufacture or production obtained in the course of such inspection shall not be disclosed by any representative of the department of health and human services or commissioner of environmental services without permission of the person whose worksite is inspected.

Amend RSA 141-E:14, II as inserted by section 1 of the bill by replacing it with the following:

II. Whenever the commissioner of environmental services has reason to believe that any provision of RSA 141-E:9 or any rule adopted by the commissioner of environmental services under this chapter has been violated, the commissioner of environmental services shall issue a notice of violation and an order of abatement. The commissioner of environmental services may request the attorney general to bring a civil action in superior court for appropriate relief, including a temporary or permanent injunction or both, to enforce any provision of RSA 141-E:9 or any rule adopted by him or her under this chapter, or any order issued by him or her pursuant to this chapter.

Amend RSA 141-E:15, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding RSA 651:2, any person found guilty pursuant to paragraph I above may, in addition to any sentence of imprisonment, probation, or conditional discharge, be fined not more than \$25,000. Each day of violation shall constitute a separate offense.

Amend RSA 141-E:19 as inserted by section 1 of the bill by replacing it with the following:

141-E:19 Discharge of or Discrimination Against Employees. Pursuant to RSA 275-E, no employer shall discharge or cause to be discharged or otherwise discipline or in any manner discriminate against any employee, prospective employee, or employee representative because that person has filed any complaint or has instituted or caused to be instituted any proceeding related to the provisions of this chapter.

Amend RSA 141-E:21 as inserted by section 1 of the bill by replacing it with the following:

141-E:21 Release Prohibited; Asbestos Waste Sites.

- I. No person shall cause or allow asbestos fibers to be released to the environment from an asbestos disposal site.
- II. A site owner who has complied with the disclosure requirements in RSA 141-E:23 shall not be subject to penalties under this chapter due to a release caused by any person to whom disclosure was provided in accordance with RSA 141-E:23, III, provided that the owner takes steps to prevent further release of asbestos fibers.
- III. A site owner who causes a release because the existence of asbestos on the property was unknown prior to causing the

release, shall not be subject to penalties under this chapter, provided that the owner reports the situation to the department of environmental services upon discovery and takes steps to prevent further release of asbestos fibers.

AMENDED ANALYSIS

This bill clarifies the authority of the department of environmental services to regulate asbestos disposal sites in a manner consistent with federal law. This bill authorizes the department of health and human services to expand its asbestos licensing program to include persons who disturb asbestos waste at asbestos disposal sites. This bill authorizes the department of environmental services to consult with local officials to determine an effective means to implement best management practices for those properties where asbestos waste materials were disposed of in substantial quantity in the past. This bill also provides that a site owner who complies with disclosure requirements or who did not know of the existence of asbestos on the property prior to release and subsequently reports the situation, and takes steps to prevent further release of asbestos, shall not be subject to penalties under RSA 141-E.

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

2000-4482h

Amendment to HB 1469

Proposed by the Committee on Finance - C

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

AN ACT establishing a department of youth development services, advisory board, and relative to changing the name of juvenile services officers.

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

1 Statement of Purpose. The general court hereby states that the change from "juvenile services officer" to "juvenile probation and parole officer" in this act is intended simply to change the job title and does not reflect a change in job responsibilities. It is the specific intent of the general court that juvenile probation and parole officers shall not be eligible for group II retirement benefits within the New Hampshire retirement system, for participation in the law enforcement salary schedule, or for certification or training from the police standards and training council, except as provided in RSA 188-F:32.

2 New Subdivision; Department of Youth Development Services; Advisory Board Established. Amend RSA 621-A by inserting after section 8 the following new subdivision:

Advisory Board

621-A:9 Department of Youth Development Services Advisory Board Established; Membership.

I. There is hereby established a department of youth development services advisory board. The board shall act in an advisory capacity and make recommendations to the commissioner relative to programs and services provided to children referred to the department pursuant to RSA 169-B.

II. The board shall be composed of the following members:

(a) Two members from the house of representatives, one of whom shall be a member of the house finance committee, appointed by the speaker of the house.

(b) One member from the senate, appointed by the president of the senate.

(c) The commissioner of the department of youth development services or designee, who shall serve as an ex officio member.

(d) The commissioner of the department of health and human services or designee, who shall serve as an ex officio member.

(e) The commissioner of the department of education or designee, who shall serve as an ex officio member.

(f) One district or family court judge, appointed by the administrative justice of the district courts.

(g) Two human services administrators, one from an urban county and one from a rural county, appointed by the executive

director or other appropriate appointing authority of the New Hampshire Association of Counties.

(h) Six members, appointed by the governor with the advice and consent of the council, which shall include 2 members representing the interests of business and industry, 2 parents of children who are receiving or have received services from the department, one member of state or local law enforcement, and one member from the general public.

III. Members of the advisory board shall serve without compensation provided that legislative members shall receive mileage at the legislative rate while attending to the duties of the board.

621-A:10 Terms of Office; Organization.

I. The legislative members and the members listed in RSA 621-A:9, II(c) – (f) shall serve terms which are coterminous with their terms in office. The members listed in RSA 621-A:12, II(g) shall serve for 3 years. Three of the members listed in RSA 621-A:9, II(h) shall serve for 4 years, and 3 members shall serve for 3 years.

II. Each appointed member of the advisory board shall hold office until a successor is appointed and qualified. The appointment of successors for the filling of vacancies for unexpired terms shall be by appointment in the same manner as the original appointment.

III. The advisory board shall elect its own chairperson and officers annually. The board shall meet monthly, or as deemed necessary, provided that the board shall meet at least once every 3 months.

621-A:11 Duties of the Advisory Board.

I. The advisory board shall act in an advisory capacity to assist the commissioner of the department of youth development services relative to programs and services provided to children who are referred to the department. The board may also provide advice and input on fiscal and budgetary matters within the department, the availability of state and federal grants, business partnerships, and other funding sources available to the department.

II. Beginning in December 2000, and annually thereafter, the board shall submit a written report to the speaker of the house, the president of the senate, and the governor detailing the activities of the board and any recommendations made by the board to the department.

3 New Hampshire Retirement System; Definitions; Juvenile Probation, and Parole Officers Excluded from Group II Membership. Amend RSA 100-A:1, VII-a (b) to read as follows:

(b) Any bingo or lucky 7 inspector, security officer appointed pursuant to RSA 135:41, **any juvenile probation and parole officer**, or any person employed in the bureau of trails of the department of resources and economic development; or

4 Youth Development Center; Definitions; Juvenile Probation and Parole Officer Inserted. Amend RSA 621:3, VIII to read as follows:

VIII. "Parole" means a conditional release from the center which allows the child to serve the remainder of his or her commitment outside the center, supervised by a juvenile **probation and** parole officer, contingent upon satisfactory compliance with the terms and conditions set forth in the parole agreement.

5 Reference Changes. Amend the following RSA provisions by replacing "juvenile services officer" with "juvenile probation and parole officer": RSA 169-B:2, VIII(c); 169-B:9, I; 169-B:9-a; 169-B:10, II; 169-B:19, I(j) the unnumbered concluding paragraph of 169-B:24; 169-B:25; 169-B:30; 169-C:3, XXIV; 169-C:6, I-III; 169-C:34, IV; 169-D:8, II; 169-D:9, I; 169-D:9-a; and 170-G:1, VI.

6 Reference Changes. Amend the following RSA provisions by replacing "juvenile service officers" with "juvenile probation and parole officers": RSA 169-B:35, II; 169-D:2, VI(c); 169-D:25, II; 170-G:3, III; 170-G:4, II-a; 170-G:15; and 170-G:16.

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

AMENDED ANALYSIS

This bill establishes a department of youth development services advisory board for the purpose of making recommendations to the commissioner relative to programs and services provided to children referred to the department. The bill also changes the title of "juvenile services officer" to "juvenile probation and parole officer."

2000-4293h

Amendment to SB 128

Proposed by the Committee on Finance - R

Amend RSA 204-C:81 and RSA 204-C:82 as inserted by section 2 of the bill by replacing them with the following:

204-C:81 Definitions. In this subdivision:

I. "Fund" means the homeless prevention fund.

II. "Housing assistance payments" means rent subsidies, security deposit advances, mortgage assistance payments, and any other shelter cost-related payments made on behalf of very low income households.

III. "Minor child" means a person under 18 years of age.

IV. "Severely rent burdened" means a household for which the monthly rent and utility costs exceed 50 percent of the gross monthly income.

V. "Very low income households" means individuals or families whose gross income is 50 percent or less of the median income, adjusted for household size, as published periodically by the United States Department of Housing and Urban Development.

204-C:82 Fund Established.

I. There is hereby established within the authority a homeless prevention fund. The fund shall be comprised of donations from private persons or entities, grants, set-asides, and other appropriations authorized by law. All sums from government appropriations or grants shall be credited to the fund, but such sums shall not be deemed to be money received on account of the state, and nothing in this subdivision shall be understood as pledging the faith and credit of the state.

II. The authority shall use moneys deposited in the fund for the following purposes:

(a) Direct housing assistance payments to eligible very low income persons or households.

(b) The provision and coordination of services, such as jobs, training, financial counseling, and other supportive services, which are made available to very low income households participating in the homeless prevention program.

(c) The creation of new or rehabilitated dwelling units to be made available to very low income households assisted under this subdivision.

(d) Matching grants to units of local government or local housing authorities established under RSA 203 to support homeless prevention programs for very low income households.

(e) The purchase of existing single family homes by or on behalf of low income households or to prevent the household occupants from becoming homeless.

Amend RSA 204-C:83 as inserted by section 2 of the bill by deleting RSA 204-C:83, IV and renumbering the original paragraphs V-VIII to read as IV-VII.

Amend the bill by deleting section 5 and renumbering the original section 6 to read as section 5.

2000-4363h

Amendment to SB 132

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

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

AN ACT requiring the commissioner of resources and economic development and commissioner of safety to retain a consultant to review of the requirements for public safety and quasi-public communications on the summit of Mount Kearsarge.

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

1 Study by the Commissioner of Resources and Economic Development and Commissioner of Safety. The commissioner of resources and economic development and commissioner of safety shall retain a qualified, independent consultant to conduct a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower, including facilities on a location other than the current parcel of land where the tower is located. The consultant shall review, study and report to the commissioner of resources and economic development and commissioner of safety on whether communication needs for public health, safety, and emergency services can be provided with a less obtrusive and smaller tower than the existing 180-foot tower and what the costs and technical requirements would be for alternatives that would assure the same or similar level of service to both public safety officials and the general public. The fiscal committee of the general court shall approve funds not otherwise appropriated to cover the cost in assisting the commissioners in conducting the review and in hiring the consultant. The commissioner of resources and economic development and commissioner of safety shall report on any findings, including funding needs for any plan of removal or alteration, to the senate president and the speaker of the house on or before November 1, 2001.

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

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower.

2000-4469h

Amendment to SB 132

Proposed by the Minority of the Committee on Resources, Recreation and Development - R

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

AN ACT requiring the commissioner of resources and economic development and commissioner of safety to retain a consultant to review the requirements for public safety and quasi-public communications on the summit of Mount Kearsarge; and establishing an advisory committee regarding the review.

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

2 Mount Kearsarge Telecommunications Tower Advisory Committee. There is established an advisory committee to advise and consult with the department of resources and economic development and department of safety as to a technical review of requirements for public safety and quasi-public safety communications on the summit of Mount Kearsarge, including possible alternatives to the existing 180-foot tower.

3 Members and Compensation.

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

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

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

(c) One representative each from Warner, Sutton, Wilmot, Andover, and New London, appointed by the selectmen from each respective town.

(d) One representative of Merrimack county, appointed by the county commissioners.

(e) One representative of the New Hampshire State Troopers Association, appointed by the Association.

(f) One representative of the department of fish and game, appointed by the executive director of fish and game.

(g) One representative of Save Our Mountain, appointed by the organization.

(h) One representative of the Society for the Protection of New Hampshire Forests, appointed by the organization.

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

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

5 Repeal. Sections 2-4 of this act, relative to the Mount Kearsarge telecommunications advisory committee, are repealed.

6 Effective Date.

I. Section 5 of this act shall take effect November 1, 2001.

II. The remainder of this act shall take effect 30 days after its passage.

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to hire a consultant and to undertake a review of the technical requirements for public safety and quasi-public safety communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower. This bill establishes an advisory committee for the review.

2000-4264h

Amendment to SB 136-FN

Proposed by the Committee on Finance - C

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. Disaster leave for state employees will increase the number of local, trained, and experienced disaster workers. Training and expenses for participating employees are provided by the American Red Cross at no cost to the state or to the volunteers and leave days for employees are limited and require approval from their supervisor to assure orderly granting of requests based on competing demands. Experience on disaster assignments is an opportunity for state employees to learn new skills and gain supervisory experience that will benefit them personally, their agencies, and the citizens they serve. Their experience and training will make them ready to immediately serve when a disaster event occurs.

20000-4300h

Amendment to SB 181-FN

Proposed by the Majority of the Committee on Executive Departments and Administration - R

Amend RSA 310-A:121, I as inserted by section 3 of the bill by replacing it with the following:

I. The board shall adopt rules, pursuant to RSA 541-A, relative to:

- (a) The application procedure for a license to practice under this subdivision;
- (b) The qualifications of applicants in accordance with applicable statutes, and the ethical standards required for licensure;
- (c) The examination procedures in accordance with applicable statutes, including the time and place of the examination;
- (d) License renewal, including requirements for continuing education;
- (e) Ethical and professional standards required to be met by each holder of a license under this subdivision and how disciplinary actions by the board shall be implemented for violations of these standards;
- (f) Procedures for the conduct of hearings consistent with the requirements of due process;
- (g) The design of an official seal;
- (h) What constitutes geology experience for the purposes of RSA 310-A:125;
- (i) Procedures for a waiver of the fundamentals of geology examination under RSA 310-A:129; and

(j) Interstate licensure and temporary permits under RSA 310-A:131.

2000-4235h

Amendment to SB 226-FN

Proposed by the Committee on Executive Departments and Administration – C

Amend the bill by replacing sections 3 and 4 with the following:

3 Commission Members; Alternates. Amend RSA 331-A:5, VIII to read as follows:

VIII. The commission shall hold at least 4 regular meetings each year. A simple majority of the commission members currently serving shall constitute a quorum of the commission. ***Whenever a quorum of commission members is unable to hear a particular case, the commission may appoint one or more former commission members as alternates to hear that case, starting with the most recent member to leave the commission and proceeding in reverse chronological order of former members. Alternates shall be appointed and sworn in on a case-by-case basis only, and shall receive compensation as provided for members under RSA 331-A:5, VI.***

4 Qualifications for Licensure. Amend RSA 331-A:10 to read as follows:

331-A:10 Qualifications For Licensure. The executive director shall issue a license to any applicant who:

I. Has attained the age of ~~[majority]~~ ***18, if a salesperson applicant.***

II. Has successfully completed an examination administered or approved by the commission which demonstrates satisfactory knowledge and understanding of the principles of real estate practice. The executive director shall only accept for registration to take the examination for a broker's license, an applicant who:

(a) Has been employed full time by an active broker for at least one year; or

(b) Has at least 2,000 part-time hours as a licensed salesperson in this state; or

(c) Proves to the commission that the applicant has experience equivalent to the experience required by subparagraph (a) or (b).

III. ***Shows proof of completion of 60 hours of approved study.***

IV. Demonstrates no record of unprofessional conduct.

~~IV.]~~ V. Furnishes any evidence required by the commission relative to good reputation for honesty, trustworthiness and integrity.

~~V.]~~ VI. For ~~[an individual]~~ ***a*** broker ~~[license including]~~ ***acting as*** a principal broker or a managing broker, but excluding ***associate brokers or*** a corporation, partnership, ***limited liability company***, or association, files a surety bond with the commission which shall be held in accordance with RSA ~~[331-A:13]~~ ***331-A:14.***

Amend the bill by replacing section 19 with the following:

19 Prohibited Conduct; Consideration Shared with Out-of-State Brokers. Amend RSA 331-A:26, XXIV to read as follows:

XXIV. Paying or offering to pay valuable consideration, as defined by the commission, to any person not licensed under this chapter ~~[or not a member of an exempted class under RSA 331-A]~~, except that valuable consideration may be shared with a licensed broker of another jurisdiction who is doing business regularly and legally within that broker's own jurisdiction. ***No licensee shall knowingly pay a commission or other valuable consideration to a licensed person knowing that the licensee will in turn pay a portion or all of that which is received to a person who does not hold a valid real estate license. A licensee who has allowed his or her license to expire or who has changed to inactive status or who has transferred to another responsible broker may receive compensation from the previous responsible broker for transactions in which the person participated during the time that the licensee was under the supervision of that responsible broker.***

Amend the bill by deleting sections 5-6 and renumbering the original sections 7-24 to read as 5-22, respectively.

Amend the bill by replacing section 22 with the following:

22 Effective Date. This act shall take effect January 1, 2001.

2000-4023h

Amendment to SB 231

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

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect one year after the effective date of the remainder of this act.

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

AMENDED ANALYSIS

This bill provides that no customers of a water utility serving the town of Pittsfield shall have the right to terminate water service and secure water from an alternate source for a one-year period.

2000-4268h

Amendment to SB 302

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

Amend RSA 179:23 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. Notwithstanding paragraph V, a licensee may employ a person convicted of a felony to sell, serve or otherwise handle alcoholic beverages in a non-managerial capacity for a period of 60 days without meeting the provisions of paragraph V. A convicted felon employed under this section shall not be allowed to work longer than 60 days without the licensee complying with the provisions of paragraph V. Any licensee knowingly employing a person convicted of a felony to serve alcoholic beverages longer than 60 days without obtaining a waiver under paragraph V shall be fined not more than \$50 per day for each day of employment beyond 60 days.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect 30 days after passage.

AMENDED ANALYSIS

This bill specifies that restrictions on liquor licensees relating to the employment of convicted felons apply only to the designation of persons to be in charge of the premises. The bill limits the amount of time that a licensee can employ a convicted felon prior to obtaining the necessary waiver. It also establishes a fine for noncompliance.

2000-4383h

Amendment to SB 303

Proposed by the Committee on Election Law - R

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

AN ACT relative to campaign finance reporting requirements, availability of voter checklists on computer disks, and permissible campaign contributions by business organizations.

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

1 New Paragraphs; Political Expenditures and Contributions; Definitions; Segregated Accounts; Coordinated Expenditure.
Amend RSA 664:2 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's, labor union's, or group of labor unions' employees, officers, shareholders, directors, partners, or members for political purposes.

XIX. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

2 Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity ~~[expressly]~~ advocating the election or defeat of a clearly identified candidate which are **not** made ~~[without cooperation or consultation]~~ **in conjunction or coordination** with any candidate, or any authorized committee or agent of such candidate, and which are not made in ~~[concert]~~ **coordination** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

3 Elections; Political Expenditures and Contributions; Reports; Reporting by Political Committee; Reporting by Candidates. RSA 664:6 and 664:7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate \$500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statement filed pursuant to paragraph I, if any, and shall itemize all receipts of contributions and expenditures made since the cutoff of the statement filed pursuant to paragraph I up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements filed pursuant to paragraphs I and II, if any, and itemize all receipts of contributions and expenditures made since the cutoff of the statement filed pursuant to paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution, contributions or expenditures exceeding \$500 in the aggregate that are received after the statement under this paragraph is filed and prior to the day of primary election. No more than one report to the secretary of state shall be required within a 24 hour period.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements, if any, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday one week after the primary election; the Wednesdays 4 weeks, 2 weeks, and immediately preceding the general election; and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution, contributions, or expenditures exceeding \$500 in the aggregate that are received after the statement under this paragraph is filed and prior to the day of the general election. No more than one report to the secretary of state shall be required within a 24 hour period.

V. Any political committee whose receipt of contributions or expenditures in the aggregate do not exceed \$500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed \$500, the committee shall file a statement at the next reporting deadline.

VI. Any political committee that has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee, which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate, may choose, at the time of registering under RSA 663:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, I-VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, clerks, assistant clerks, and sergeants-at-arms of the house and senate shall report contributions and expenditures exceeding \$500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

4 New Sections: Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b.

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding \$25 shall include disclosure information. The disclosure information shall include the name; home or post office address; employer, business organization, or primary source of income; post office address of employer or business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed \$100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII, shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state

shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the official internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

5 Voters and Checklists, Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

I. The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors shall furnish one or more copies of the most recent checklist to any person requesting such copies. If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall be furnished copies in any of those forms according to his *or her* preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist, except that in no event shall the fee for paper copies of any single town or ~~[ward]~~ **city** checklist be less than \$5 nor more than \$25 per checklist. ~~[The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it.]~~ The fee shall be for the use of the town or city.

II. If a town or city maintains a voter checklist on computer files, a person may request a copy of such files on computer disk or tape. For purposes of this paragraph, the checklist shall include all registered voters in a town or city. The fee charged for copies of the checklist on computer disk or tape shall not be more than \$25.

6 Prohibited Political Organizations; Business Organizations. RSA 664:4, I is repealed and reenacted to read as follows:

I. By any business organization, officer, director, executive, agent, partner or employee acting in behalf of such business organization. This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee as defined in RSA 664:2, III that operates independently of the business organization to be used for making political contributions and expenditures if the account consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner, or member of the business organization. The provisions of this section shall not apply to sole proprietorships.

7 Political Expenditures and Contributions; Prohibited Political Contributions; Segregated Account Exception. Amend RSA 664:4, III to read as follows:

III. By any labor union or group of labor unions, or by any officer, director, executive, agent or employee acting in behalf of such union or group of unions; or by any organization representing or affiliated with any such union or group of unions, or by any officer, director, executive, agent or employee acting in behalf of such organization. ***This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee, as defined in RSA 664:2, III, that operates independently of the labor union to be used for making political contributions and expenditures if the account consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner, or member of the labor union.***

8 Repeal. RSA 664:4, II, relative to prohibited political contributions by partnerships, is repealed.

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

2000-4420h

Amendment to SB 323

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 legislative oversight committee to review the procedures of the health services planning and review board.

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

1 Legislative Findings.

I. The regulatory structure for New Hampshire's health care delivery system was established within the Federal Health Service Act of 1974. The federal legislation was intended to stop unnecessary health facility construction and acquisition of expensive major medical equipment and was predicated on the idea that the most satisfactory means of controlling health care costs was the allocation of health care resources by government through a highly centralized health planning mechanism.

II. Although supporters of the program believed it helped curb rising health care expenditures, others opposed government intervention and control of supply as unnecessary. Critics prevailed during Congressional debate in 1986, when federal mandates for state health planning agencies were repealed. Since that time, 13 states (Arizona, California, Colorado, Idaho, Kansas, Minnesota, New Mexico, North Dakota, Pennsylvania, South Dakota, Texas, Utah, and Wyoming) have abolished their health planning agencies all together. Recognizing the sweeping changes in the health care industry, several more states are considering similar action or, at the very least, liberalizing the requirements of these agencies, which, if they remain as originally charged, will become obsolete.

III. A highly regulated environment has evolved into a market-based means of controlling costs. Notably, the growth of managed care, restructured repayment mechanisms, and the rapid development of new medical techniques and innovations in medical technology exposed the inefficiencies inherent in centralized health care planning, which was unable to respond quickly to the changing needs of the health care system.

IV. The state of New Hampshire's health services planning and review board has substantive expertise in the health care services market. Decisions relative to health care services, the acquisition of medical technology, and the expansion of facilities have been carried out by the board with all due deliberation.

V. For reasons of maintaining the quality of certain health care services, to protect the role of certain institutions, whose importance to the statewide health care delivery system is essential, and to guard against the closing of important facilities and the transfer of services from facilities in a manner which is harmful to the public interests, the role of the health services planning and review board is valuable.

VI. Nevertheless, the general court remains concerned that the regulatory structure of the health services planning and review board, operating under its current rules of engagement, is not as adaptable as the rapidly changing world of medical technology, choice of health care services, and expansion of medical facilities dictates.

VII. Because it is essential that New Hampshire promote the greatest efficiency in the state's health care delivery system and because the structure of the current system remains protracted, the general court hereby establishes a joint committee on health care oversight.

2 New Section; Oversight Committee Established. Amend RSA 151-C by inserting after section 15 the following new section:

151-C:16 Legislative Oversight Committee Established; Duties.

I. There is hereby established a legislative oversight committee to review the policies and procedures of the board.

II. The committee shall consist of 6 members, 3 of whom shall be members of the house of representatives, appointed by the speaker of the house, and 3 of whom shall be senators appointed by the president of the senate. Members shall be appointed for their term of office. All members shall be eligible for reappointment so long as they are qualified under this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for an unexpired term within 30 days of the creation of such vacancy, and the initial appointments under this section shall be made within 30 days of the effective date of this section. The members shall choose from their number a chairperson, provided that the chair shall rotate biennially between the house and senate members. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall consider the need to review the policies and procedures of the board and shall make recommendations as it deems necessary. The committee may also investigate the possibility of requiring the executive branch to create an additional appeal mechanism.

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

AMENDED ANALYSIS

This bill establishes a legislative oversight committee to review and make recommendations relative to the policies and procedures of the health services planning and review board.

This bill is a result of the committee established in 1999, 235.

2000-4479h

Amendment to SB 324

Proposed by the Committee on Finance - C

Amend RSA 161-I:2, IV as inserted by section 1 of the bill by replacing it with the following:

IV. "Eligible consumer" means a child with special health care needs eligible for in-home supports or a person eligible for the home and community-based care waiver for the elderly and chronically ill.

Amend RSA 161-I:4 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. Beginning September 2000, the department shall provide a quarterly report to the governor, the president of the senate, and the speaker of the house of representatives relative to the number of clients served and expenditures under the home and community-based care waiver for the elderly and chronically ill, and beginning in December 2000 an annual report on such qualitative measures on the care delivered as the department deems appropriate.

AMENDED ANALYSIS

This bill allows certain individuals and families of these individuals the option of receiving personal care services, including consumer-directed services, from a home health agency or other qualified agency. This bill gives the commissioner of health and human services rulemaking authority relative to requirements for the use of consumer-directed services for department programs and the provision of personal care services. This bill also requires the department of health and human services to provide a quarterly report relative to the number of clients served and expenditures under the home and community-based care waiver for the elderly and chronically ill, and an annual report on qualitative measures on the care delivered as the department deems appropriate.

2000-4347h

Amendment to SB 326

Proposed by the Committee on Executive Departments and Administration - C

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

1 Joint Health Council; Terms. Upon the enactment of HB 1410 of the 2000 legislative session into law, members of the joint health council serving on the council as of the effective date of that act shall complete their existing terms of appointment. Upon expiration of those terms, members shall be appointed pursuant to RSA 326-B:10-a, I(a).

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

AMENDED ANALYSIS

This bill allows current members of the joint health council to serve out the duration of their terms of appointment, notwithstanding the passage of HB 1410 of the 2000 legislative session.

2000-4237h

Amendment to SB 328

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT making corrections to statutory references in certain fish and game laws.

Amend the bill by deleting section 5 and renumbering the original section 6 to read as 5.

AMENDED ANALYSIS

This bill corrects certain references to licensing provisions in the fish and game laws.

2000-4447h

Amendment to SB 338

Proposed by the Committee on Judiciary - C

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

1 Trustee Process; Writ; Trustee Disclosure Form. Amend RSA 512:3 to read as follows:

512:3 Writ. The trustee writ shall be an attachment and summons, and shall be served upon the defendant and trustee like a writ of summons, and the goods and estate of the defendant may be attached thereon. ***Concurrently therewith, the trustee shall be served with a trustee disclosure form in compliance with RSA 512:9-d. The first page of the attachment shall bear a notice in boldface, in at least 12-point type, advising the trustee to complete and file the enclosed disclosure of trustee form with the court, the plaintiff, and the defendant within 30 days of receipt or suffer the risk of default. Return of the trustee disclosure form shall operate as an answer and an appearance on behalf of the trustee. A corporation summoned as trustee may appear and answer through its cashier, treasurer, clerk, or such other officer or employee as it shall appoint.***

2 Trustee Process; Bank Accounts; Service. Amend RSA 512:9-b to read as follows:

512:9-b Bank Accounts. When a bank, trust company, building and loan association, or similar corporation is named as trustee, the trustee shall be summoned by service ~~[on an officer, person in charge, teller, or office employee of such bank, trust company, building and loan association, or similar corporation at its office if service is made during banking hours, and, if service is made at a time other than banking hours, by service on an officer of such bank, trust company, building and loan association, or similar corporation, and not otherwise. The trustee so served shall not be chargeable for any goods, rights, or credits of the defendant except as shall be in the hands of the trustee at the time of service]~~ ***only upon a bank officer, branch supervisor, or head teller of a branch only from 8:00 a.m. to 3:00 p.m., Monday through Friday except bank holidays. The trustee so served shall be chargeable only for any money, goods, chattels, rights, or credits of the defendant in the trustee's hands at the time of service, subject to any reductions due the trustee for account fees, amounts alleged or determined not to belong to the defendant or other priority claims to defendant's money, goods, chattels, rights, or credits. If summoned by service after 3:00 p.m., the trustee shall have until the beginning of the next business day to effect the attachment.***

3 New Sections; Trustee Process; Duties of Trustee; Trustee Disclosure Form; Extension for Filing Disclosure Form. Amend RSA 512 by inserting after section 9-b the following new sections:

512:9-c Duties of Trustee. The trustee so served shall place a hold on money, goods, chattels, rights, or credits of the defendant that are in the trustee's hands at the time of service, but shall have no duty to collect money, goods, chattels, rights, or credits either belonging to the defendant or that may become due or owing the defendant after that time.

512:9-d Trustee Disclosure Form. The trustee disclosure form served upon the trustee in compliance with RSA 512:3 shall include only the following interrogatories and nothing more:

"I. On what date were the trustee writ (including attachment and summons) and trustee disclosure form served upon you?";

"II. What money, rights, goods, chattels, and/or credits belonging to or due defendant did you hold at the time of service?";

"III. Are any of the money, rights, goods, chattels, and/or credits disclosed by you in response to interrogatory II subject to reductions for account fees and/or amounts alleged or determined not to belong to the defendant? If so, please state the amount and the basis."; and

"IV. At this time, are you aware whether the money, rights, goods, chattels, and/or credits disclosed by you in response to

interrogatory II are subject to priority claims of other people? If so, please state the amount, the basis for the priority claims, and the claimants."

4 Trustee Process; Default of Trustee. Amend RSA 512:10 to read as follows:

512:10 Default. No person summoned as trustee in an action shall be charged on default until ~~[he]~~ **that person** shall have neglected to ~~[answer in the action]~~ **file a properly served trustee disclosure form in a timely manner**, after such notice as the court ~~[or justice, at the term when the action is entered or at some subsequent term,]~~ may order.

5 Trustee Process; Effect of Default. Amend RSA 512:11 to read as follows:

512:11 Effect. If the trustee ~~[makes default after the notice provided in RSA 512:10 he]~~ **fails to file a trustee disclosure form with the court within 30 days of service of the trustee writ on the trustee, the trustee** ~~[shall]~~ **may** be adjudged chargeable ~~[for the amount of the judgment which may be recovered by the plaintiff against the defendant]~~ **for a sum up to the amount of the judgment which may be recovered by the plaintiff against the defendant.**

6 Trustee Process; Taking of Trustee's Deposition. Amend RSA 512:12 to read as follows:

512:12 Taking. ~~[Disclosure of trustees may be given or taken by any party to the action at any time after the service of the writ upon the trustee.]~~ **Within 30 days of the filing of the trustee disclosure with the court, the plaintiff or defendant shall be entitled to take trustee's deposition on the issue of trustee's chargeability** upon such notice to the ~~[adverse party]~~ **trustee** as is required in taking depositions **under court rules** and upon the payment ~~[or tender]~~ to the trustee of ~~[his]~~ fees for travel and attendance ~~[as in the case of witnesses]~~.

7 New Section; Trustee Process; Evidentiary Hearing. Amend RSA 512 by inserting after section 18 the following new section:

512:18-a Evidentiary Hearing. If the court receives no objection to a trustee disclosure within 30 days of the date of receipt of such disclosure, the disclosure shall determine the chargeability of the trustee. If the plaintiff or the defendant files a written objection to the trustee disclosure within 30 days of receipt of the trustee's disclosure, or if the trustee fails to file a trustee disclosure form with the court within 30 days of service of the trustee writ on the trustee, the court shall schedule an evidentiary hearing on the extent of the trustee's chargeability.

8 Trustee Process; Charging Trustee. Amend RSA 512:20 to read as follows:

512:20 Charging Trustee. ~~[H.]~~ Upon the **filing of trustee disclosure not objected to within 60 days of filing** ~~[depositions in the case], or, [if there is a trial by jury,] upon the [verdict of the jury]~~ **court's decision following an evidentiary hearing on the trustee's chargeability, [it appears that] the court shall charge** the trustee ~~[had in his possession at the time of the service of the writ upon him, or at any time after,]~~ **for any money, goods, chattels, rights, or credits of the defendant in the trustee's possession at the time of the service of the writ and not exempted from trustee process, [he] or subject to any reductions for account fees, amounts alleged or determined not to belong to the defendant** ~~[shall be adjudged chargeable therefor]~~ **or other priority claims to defendant's money, goods, chattels, rights, or credits.**

9 Trustee Process; Receiver for Property Disclosed; Refusal to Deliver. Amend RSA 512:32 to read as follows:

512:32 Refusal to Deliver. If the ~~[person summoned as]~~ trustee ~~[shall refuse]~~ **refuses** to deliver to ~~[the]~~ **a** receiver~~[-agreeably to the order of court,]~~ **appointed under RSA 512:29 or RSA 512:30** any note, security for money, evidence of debt, chose in action or other property, ~~[he shall be adjudged trustee for the value thereof]~~ **on the grounds that such property is not subject to trustee process, the court shall schedule an evidentiary hearing to determine the validity of such refusal. If, after the evidentiary hearing, the court determines that the property is subject to trustee process and orders the trustee to deliver the property, the trustee shall be adjudged chargeable for the value thereof.**

10 Trustee Process; Paying Into Court. Amend RSA 512:39 to read as follows:

512:39 Paying into Court. The defendant or trustee may discharge the liability of the trustee by paying into court the sum for which the trustee is charged. **Payment into court by the trustee shall discharge the trustee as a party to the underlying lawsuit.**

11 Trustee Process; Costs; Order of Court. Amend RSA 512:43 to read as follows:

512:43 Order of Court. The trustee shall recover ~~[his]~~ **the trustee's** costs in all cases **from the plaintiff** except as provided in this chapter, unless otherwise ordered by the court, and the court shall adjust all costs in matters relating to trustee process as

between the plaintiff and trustee or any claimant of property in the hands of the trustee as shall seem equitable. ***Such costs shall be retained by the trustee from the amount chargeable.***

12 Trustee Process; Application of Provisions. Amend RSA 512:48 to read as follows:

512:48 Application of Provisions. The provisions of this chapter, so far as they are applicable to actions in municipal ***and district*** courts, shall apply to actions and proceedings therein and to process issued therefrom~~[-, but no party summoned as trustee shall have judgment entered against him until after notice has been given him to disclose, or after disclosure made].~~

13 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill:

I. Provides a process whereby filing with the court an inventory of assets held by a third-party trustee and due defendant shall constitute an appearance and no other formalities need be satisfied by the trustee, unless the inventory is challenged.

II. Provides that if a bank, trust company, or similar corporation is named as third-party trustee, and receives notice of attachment after 3:00 p.m. on a business day, such trustee shall have until the beginning of the next business day to effect the attachment.

III. Provides what constitutes default and the consequences of such default by a third-party trustee.

IV. Provides for an evidentiary hearing if the plaintiff or defendant disputes the extent of a third-party trustee's chargeability, or if the trustee denies property is subject to trustee process.

V. Provides a procedure whereby a trustee may pay assets into the court or turn assets over to a court-appointed receiver.

2000-4286h

Amendment to SB 353

Proposed by the Committee on Commerce - R

Amend the bill by inserting after section 11 the following and renumbering the original sections 12-13 to read as 13-14, respectively:

12 Rules and Regulations. Amend RSA 400-A:15, I to read as follows:

I. The commissioner shall have full power and authority to make, promulgate, amend and rescind reasonable rules and regulations for, or as an aid to, the administration or effectuation of any provision or provisions of this title ***or of the Gramm-Leach-Bliley Act of 1999 (public law 106-102) which relate to insurance*** and such other rules and regulations as are reasonably necessary to implement ~~[the]~~ ***such*** provisions ~~[of this title]~~.

2000-4424h

Amendment to SB 363

Proposed by the Committee on Commerce - R

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

AN ACT relative to the sale of malt beverages, direct shipper permits, and registration requirements for wine and liquor licenses.

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

1 New Section; Alcoholic Beverages; Enforcement, Requirements, and Penalties; Kegs of Malt Beverages. Amend RSA 179 by inserting after section 5 the following new section:

179:5-a Sale of Kegs of Malt Beverages; Penalty.

I. The commission by rule shall require the identification of kegs of malt beverages sold directly to consumers who are not licensees of the commission and the signing of a receipt therefor by the purchaser in order to allow the kegs to be traced if the contents are consumed in violation of the Title XIII. The keg identification shall be in a form prescribed by the commission which identifies the seller and which is removable or obliterated when the keg is processed for refilling. The receipt shall be on a form prescribed and supplied by the commission and shall include the purchaser's name, address, and motor vehicle operator's license number, if any. The receipt shall contain a statement that shall be signed by the purchaser that, under penalty of unsworn falsification, the purchaser shall not allow consumption of any malt beverage in the keg in violation of the provisions of RSA 179:5. A copy of the receipt shall be given to the purchaser and the seller shall retain the original receipt for such period as the commission by rule may require.

II. Possession of a keg containing malt beverage, which is not identified as required by paragraph I of this section, shall be a violation.

III. Any person, other than a beverage manufacturer or wholesaler, who removes the identification prescribed by paragraph I shall be guilty of a violation.

IV. A person who signs a receipt described in paragraph I in order to obtain a keg, knowing the receipt to be false, or who falsifies any information required on the receipt, is guilty of unsworn falsification as prescribed by RSA 641:3.

V. As used in this section, "keg" means any brewery-sealed, individual container of malt beverage having a liquid capacity of more than 7 gallons.

2 Liquor Licenses and Fees; Direct Shippers; Permits. Amend RSA 178:14-a, I to read as follows:

I. **(a)** Notwithstanding any law, rule or regulation to the contrary, any person currently licensed in its state of domicile as an alcohol beverage manufacturer, importer, wholesaler or retailer shall apply for a registration permit from the liquor commission ~~[as a direct shipper for a fee of \$228 per year]~~.

(b) Applicants for a direct shipper permit shall be exempt from the requirement of RSA 178:1, I, which requires registration with the secretary of state, if the applicant is duly organized and registered to do business under the laws of the state in which the applicant is domiciled.

3 Liquor Licenses and Fees; Direct Shippers; Permits; Rulemaking. Amend RSA 178:14-a, VI (a) to read as follows:

(a) The application procedures ~~[and]~~, form, **and fee** for the direct shipper registration permit authorized under paragraph I.

4 Liquor Licenses and Fees; Annual Wine and Liquor Licenses. Amend 178:27, V(c) to read as follows:

(c) Wine vendors:

(1) ~~[Initial license, \$228]~~ **Sales of less than 1,000 cases per year, \$300.**

(2) ~~[Sales of less than 1,000 cases per year, \$228]~~ **Sales of between 1,000 and 5,000 cases per year, \$1,500.**

(3) Sales of between ~~[1,000]~~ **5,000** and ~~[5,000]~~ **10,000** cases per year, ~~[\$1,140]~~ **\$3,000.**

(4) Sales of between ~~[5,000 and]~~ 10,000 **and 25,000** cases per year, ~~[\$2,256]~~ **\$6,000.**

(5) Sales of ~~[over 10,000 cases per year, \$4,800]~~ **between 25,000 and 50,000 cases per year, \$9,000.**

(6) Sales of over \$50,000 cases per year, \$12,000.

5 Repeal. RSA 179:36, relative to registration of wine brand sizes, is repealed.

6 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill:

I. Requires the identification of kegs of malt beverages sold directly to consumers.

II. Requires that consumers who purchase kegs of malt beverages sign a receipt prescribed by the liquor commission and makes falsification of the receipt a crime.

III. Amends the requirements governing direct shipper permits for alcohol beverage manufacturers and distributors.

IV. Amends the fee requirements for annual wine and liquor licenses and repeals the registration requirement of wine brand sizes.

2000-4320h

Amendment to SB 368

Proposed by the Committee on Commerce - R

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

1 Fraud Investigation Unit. Amend RSA 417:23 to read as follows:

417:23 Insurance Fraud Investigation Unit Established. There is established in the department of insurance the insurance fraud investigation unit. The unit shall assist the commissioner ~~[in administratively investigating allegations of]~~, **or any law enforcement agency, in investigating** insurance fraud **or other insurance-related criminal activity** and in developing and implementing programs to prevent insurance fraud and abuse. The unit shall have the power to subpoena witnesses and administer oaths in any ~~[proceeding before it]~~ **investigation it conducts**, and to compel the production of any books, papers or other memoranda or documents by subpoena duces tecum. The unit shall promptly notify the attorney general of any insurance application, claim, or activity which involves criminal conduct. When required by the commissioner and the attorney general, the unit shall cooperate with the attorney general in the investigation and prosecution of criminal violations.

2 Evidence Collection; Criminal Activity. Amend RSA 417:26 to read as follows:

417:26 Evidence Collection. If, by its own inquiries or as a result of complaints, the insurance department has any reason to believe that a person has engaged in, or is engaging in, any ~~[insurance fraud or has violated any provision of RSA 638:20]~~ **criminal activity or any violations involving title XXXVII**, it may administer oaths, serve subpoenas ordering the attendance of witnesses or production of material, and collect evidence.

3 Antifraud Initiatives. Amend RSA 417:30, I(a)

(a) Fraud ~~[investigations]~~ **investigators**, who may be insurer employees or independent contractors; or

4 New Paragraph; Failure to Submit Plan; Penalty. Amend RSA 417:30 by inserting after paragraph III the following new paragraph:

IV. If the commissioner finds that an insurer licensed to do business in New Hampshire has failed to submit a plan, as required under paragraph I of this section, reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts, or has submitted but failed to execute that plan, the commissioner may issue a fine or suspend the right of the insurer to do business in this state until such time as that insurer comes into compliance with the provisions of this chapter.

5 Concealment; Fraud. The unnumbered paragraph of RSA 407:22 relative to concealment, fraud is repealed and reenacted to read as follows:

Concealment, fraud.

Coverage under this policy shall be void for the insured who, whether before or after a loss, has intentionally concealed or misrepresented any material or circumstance; engaged in fraudulent conduct; or made false statements relating to this insurance.

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

2000-4396h

Amendment to SB 375

Proposed by the Committee on Commerce - C

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

1 Unfair Methods of Competition; Motor Vehicle Manufacturers or Distributors Prohibited from Acting As Dealers or Franchisees. RSA 357-C:3, III(k) is repealed and reenacted to read as follows:

(k) Compete with a motor vehicle dealer operating under an agreement or franchise from such manufacturer or distributor in the relevant market area; provided, however:

(1) If any manufacturer, distributor, distributor branch or division, or factory branch or division, either directly or indirectly, or through any subsidiary, affiliated entity or person, owns, operates or controls, in full or in part, a motor vehicle dealership in this state for the sale or service of motor vehicles in this state, the relevant market area shall be the area within the entire state of New Hampshire and, except for circumstances in which subparagraph (3) may apply, the New Hampshire motor vehicle industry board shall find good cause under RSA 357-C:9 before any such ownership, operation, or control shall be permitted. In addition to those factors listed in RSA 357-C:9, II, the board in such circumstances shall also consider in its determination of good cause whether the proposed dealership will create an unfair method of competition to other franchisees of the same manufacturer, distributor, distributor branch or division, factory branch or division, subsidiary or affiliated entity;

(2) That a manufacturer or distributor shall not be deemed to be competing when operating a dealership either temporarily, for a reasonable period in any case not to exceed 2 years; provided that if a manufacturer or distributor shows good cause, the board may extend this time limit and extensions may be granted by the board for periods of up to 12 months; or unless the manufacturer or dealer through a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions; and

(3) A manufacturer that has no more than 5 franchised new motor vehicle dealers licensed to do business in this state and that directly or indirectly owns one or more of them shall not be deemed to be competing with any unaffiliated new motor vehicle dealer trading in the manufacturer's line make at a distance of 18 miles or greater provided that:

(A) All the new motor vehicle dealerships selling such manufacturer's motor vehicles trade exclusively in the manufacturer's line make;

(B) As of March 1, 2000, the manufacturer shall have directly or indirectly owned one or more new motor vehicle dealers in this state for a continuous period of at least 1 year; and

(C) Neither the manufacturer nor any entity in which the manufacturer has a majority ownership interest shall acquire, operate, or control any dealership that the manufacturer did not directly or indirectly own as of March 1, 2000.

2 Chargebacks; Audits. Amend RSA 357-C:5, II (d)(5) to read as follows:

(5) Any chargeback resulting from any audit shall not be made until a final order is issued by the New Hampshire motor vehicle industry board if a protest to the proposed chargeback is filed within 30 days of the notification of the *final* amount claimed by the manufacturer, distributor, branch, or division to be due ***after exhausting any procedure established by the manufacturer, distributor, branch, or division to contest the chargeback, other than arbitration.*** If the chargeback is affirmed by a final order of the board, the dealer shall be liable for interest on the amount set forth in the order at a rate of the prime rate effective on the date of the order plus one percent per annum from the date of the filing of the protest. In the absence of fraud, the board may order, based on the equities and circumstances of the parties, that the chargeback plus applicable interest be paid in installments not exceeding 12 months. If the board finds that a warranty chargeback is the result of a fraudulent warranty claim, no installment payments shall be allowed by the board.

3 Appeals; Enforcement. Amend RSA 357-C:12, VII to read as follows:

VII. Within 20 days after any order or decision of the board, any party to the proceeding may apply for a rehearing with respect to any matter determined in the proceeding, or covered or included in the order or decision. The application for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the board shall be taken unless the appellant makes an application for rehearing as provided in this paragraph, and when such application for rehearing has been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown allows the appellant to specify additional grounds. Any party to the proceeding may appeal ***the final order, including all interlocutory orders or decisions,*** to the superior court within 30 days after the date the board rules on the application for reconsideration ***of the final***

order or decision. All findings of the board upon all questions of fact properly before the court shall be prima facie lawful and reasonable. The order or decision appealed from shall not be set aside or vacated except for errors of law. No additional evidence shall be heard or taken by the superior court on appeals from the board.

4 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill restricts the circumstances whereby a motor vehicle manufacturer or distributor may operate a dealership in the state without engaging in unfair competition with area dealers or franchisees.

The bill also makes certain changes regarding chargebacks from audits and appeals from decisions and orders of the New Hampshire motor vehicle industry board.

2000-4369h

Amendment to SB 378

Proposed by the Committee on Commerce - C

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

1 Uniform Conditional Sales Law; Destruction of Certain Records Authorized; References Changed. Amend RSA 361:10-a to read as follows:

361:10-a Destruction of Certain Records Authorized. Any town or city clerk may destroy any financing statement required to be filed in a town under RSA 382-A:9-401(1)(c) as effective until ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, and any amendments, continuation statements, termination statements, or other documents and records relating thereto after ~~[July 1]~~ **5 years after the certification date established pursuant to RSA 382-A:9-412(1)**. Any town or city clerk may destroy any financing statement required to be filed under RSA 382-A:9-401(1)(a) **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, and any amendments, continuation statements, termination statements, or other documents and records relating thereto 6 years after the filing of the last continuation statement.

2 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Formal Requisites of Financing Statement, Amendments, Mortgage as Financing Statement; Amendments; Place of Filing. Amend RSA 382-A:9-402(4) to read as follows:

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments. On and after ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any amendment to a financing statement filed ~~[in a city or town or]~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~[401(a) or (c)] 401(1)(c)~~ of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, and shall reference the date and file number of the financing statement filed with the secretary of state;

(b) with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).

3 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; What Constitutes Filing, Duration of Filing, Effect of Lapsed Filing, Duties of Filing Officer; Continuation; Place of Filing. Amend RSA 382-A:9-403(3) to read as follows:

(3) A continuation statement may be filed by the secured party within 6 months prior to the expiration of the 5-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the

secured party of record and complying with subsection (2) of Section 9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for 5 years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if ~~he~~ **the filing officer** has retained a microfilm, electronic, or other record conforming to the requirements of section 410 of this article, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if ~~he~~ **the filing officer** physically destroys or electronically erases the financing statements of a period more than 5-years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. On and after ~~July 1, 2001~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any continuation statement to a financing statement filed ~~in a city or town or~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~401(a) or (c)~~ **401(1)(c)** of this Article, **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, **and shall reference the date and file number of the financing statement filed with the secretary of state;**

(b) **with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).**

4 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; What Constitutes Filing, Duration of Filing, Effect of Lapsed Filing, Duties of Filing Officer; Fees; Debtor Name. Amend RSA 382-A:9-403(5) to read as follows:

(5) The fee for filing **each debtor name**, indexing **each debtor name**, and furnishing filing data for an original or a continuation statement, or any amendment thereof, on a form conforming to standards prescribed by the secretary of state shall be in accordance with the fees established pursuant to RSA 478:17-g, or, if the statement does not conform to such form but otherwise conforms to the requirements of Section 9-402, the fee shall be in accordance with RSA 478:17-g.

5 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; What Constitutes Filing, Duration of Filing, Effect of Lapsed Filing, Duties of Filing Officer; Reference Changed. Amend RSA 382-A:9-403(8) to read as follows:

(8) On and after ~~July 1, 2001~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, the secretary of state, registers of deeds, and those clerks of cities and towns participating in the centralized filing system administered by the secretary of state are filing officers for the purposes of this chapter and for all other filings required by law to be made with or through them in accordance with this chapter, including, but not limited to, filings under RSA 21-J, RSA 147-B, RSA 161-C, RSA 204-C, RSA 282-A, RSA 450, RSA 454-B, RSA 511, and RSA 511-A.

6 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Termination Statement; Place of Filing. Amend RSA 382-A:9-404(4) to read as follows:

(4) On and after ~~July 1, 2001~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any termination statement relating to a financing statement filed ~~in a city or town or~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~401(a) or (c)~~ **401(1)(c)** of this Article, **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, **and shall reference the date and file number of the financing statement filed with the secretary of state;**

(b) **with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).**

7 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Assignment of Security Interest, Duties of Filing Officer, Fees; Assignment; Place of Filing. Amend RSA 382-A:9-405(4) to read as follows:

(4) On and after ~~July 1, 2001~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any assignment of a

secured party's rights under a financing statement filed ~~[in a city or town or]~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~[401(a) or (c)]~~ **401(1)(c)** of this Article, **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, **and shall reference the date and file number of the financing statement filed with the secretary of state;**

(b) with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).

8 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Release of Collateral, Duties of Filing Officer, Fees; Place of Filing. Amend RSA 382-A:9-406 to read as follows:

382-A:9-406 Release of Collateral; Duties of Filing Officer; Fees.

(1) A secured party of record may by his **or her** signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of Section 9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer, ~~he~~ **the filing officer** shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. On and after ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any release of a financing statement filed ~~[in a city or town or]~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~[401(a) or (c)]~~ **401(1)(c)** of this Article, **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, **and shall reference the date and file number of the financing statement filed with the secretary of state;**

(b) with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).

(2) The uniform fee for filing and noting such a statement of release shall be in accordance with the fees established pursuant to RSA 478:17-g.

9 Uniform Commercial Code; Secured Transactions; Information From Filing Officer. Amend RSA 382-A:9-407(2) to read as follows:

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The fee for such a certificate shall be the sum of:

(a) \$5 if the request for the certificate is in the standard form prescribed by the secretary of state and otherwise \$7, plus

(b) A database search fee determined by the secretary of state pursuant to RSA 382-A:9-411(d) for any search or compilation of data in the centralized files maintained by the secretary of state.

In the case of certificates issued by the clerk of a city or town the fee charged under subparagraph (a) shall be retained by the city or town and the search fee under subparagraph (b) shall be transferred to the state treasurer to be administered in accord with RSA 293-A:1.37. The secretary of state may provide certificated and uncertificated search reports or compilations of data, charging database search fees to be determined by the secretary of state pursuant to RSA 382-A:9-411(d), and the resulting funds shall be administered in accordance with RSA 293-A:1.37. **Upon request, the filing officer shall furnish a photocopy of any filed financing statement or statement of assignment for a uniform fee of \$.75 per page.**

10 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Computerized Filing System; Date Changed. Amend RSA 382-A:9-411(b) to read as follows:

(b) The system shall, by ~~[July 1, 2001]~~ ***the certification date established pursuant to RSA 382-A:9-412(1)***, permit filings to be made in electronic form from the clerk's office of any participating city or town.

11 New Section; Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Transition Provisions for Computerized Filing System. Amend RSA 382-A by inserting after section 9-411 the following new section:

382-A:9-412 Transition Provisions for Computerized Filing System.

(1) For purposes of this chapter, "certification date" shall mean either a date which shall be 3 months after the secretary of state certifies to the governor that the participating cities and towns are prepared to accept filings on behalf of the centralized filing system, or December 31, 2001, whichever occurs earlier.

(2) A financing statement filed prior to the certification date established pursuant to RSA 382-A:9-412(1), at the office of the clerk of the town under section 9-401(1)(c) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall no longer be effective as of the certification date established pursuant to RSA 382-A:9-412(1). The related financing statement filed at the office of the secretary of state shall remain effective until lapsed, terminated, or continued according to this Article.

(3) A financing statement filed prior to the certification date established pursuant to RSA 382-A:9-412(1), at the office of the clerk of the town under section 9-401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall remain effective until lapsed or terminated, subject to subsection (3).

(4) At such time on or after the certification date established pursuant to RSA 382-A:9-412(1), that an amendment, assignment, release of collateral, continuation, or termination is required to a financing statement filed prior to the certification date established pursuant to RSA 382-A:9-412(1), at the office of the clerk of the town under section 9-401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), in which the city or town does not participate in the centralized filing system administered by the secretary of state, a new financing statement shall be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state before the financing statement would otherwise lapse. The new financing statement shall state, "This financing statement continues the financing statement dated _____, file number _____, filed in the town (city) of _____." A copy of the financing statement so referenced, including any amendments, releases, assignments, and continuations, shall be attached to the new financing statement. The new financing statement continues the effectiveness of the financing statement so referenced.

(5) Any new financing statement or amendment, continuation, termination, assignment, or release of collateral, filed on or after the certification date established pursuant to RSA 382-A:9-412(1), under section 9-401(1)(a) or section 9-401(1)(c) of this Article, as effective until the certification date pursuant to RSA 382-A:9-412(1), with the secretary of state or a clerk of a city or town not participating in the centralized filing system administered by the secretary of state shall not be effective.

12 Conveyances and Mortgages of Realty; Registers of Deeds; Fees; Date Changed. Amend RSA 478:17-g, IV to read as follows:

IV. Commencing ~~[July 1, 2001]~~ ***on the certification date established pursuant to RSA 382-A:9-412(1)***, the secretary of state shall cease to accept filings of financing statements or amendments, assignments, releases, continuations, or terminations thereof (except for those pertaining to security interests in collateral of a transmitting utility). Commencing ~~[July 1, 2001]~~ ***on the certification date established pursuant to RSA 382-A:9-412(1)***, the secretary of state shall also cease to accept filings of attachments of personal property under RSA 511 and RSA 511-A. All such filings shall be made through the office of the clerk of a city or town participating in the centralized filing system administered by the secretary of state under RSA 382-A:9-411. Clerks of those cities and towns participating in the centralized filing system administered by the secretary of state under RSA 382-A shall charge a single fee of \$30 for the first page of each filing under RSA 382-A and \$8 for each additional page, one half of which shall be held for the use of the state and transferred quarterly to the state treasurer.

13 Amendments to Place of Filing; Effective Date Changed. Amend 1998, 382:16, I to read as follows:

I. Sections 2 and 13 of this act shall take effect ~~[July 1, 2001]~~ ***on the certification date established pursuant to RSA 382-A:9-412(1)***.

14 Effective Date.

I. Section 9 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill changes the effective date of the computerized filing system for security interests under the Uniform Commercial Code from July 1, 2001 to a date which shall be 3 months after the secretary of state certifies to the governor that the participating cities and towns are prepared to accept filings on behalf of the centralized filing system, or December 31, 2001, whichever occurs earlier. This bill also establishes certain transition provisions for the filing system.

2000-4350h

Amendment to SB 383

Proposed by the Committee on Commerce - C

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

1 New Section; Prompt Payment Required. Amend RSA 126-A by inserting after section 12 the following new section:

126-A:12-a Prompt Payment Required. The department shall pay health care providers, including dental providers, within 45 days of receipt of a clean claim for services rendered to medicaid recipients. For the purposes of this section "clean claim" means a claim for payment of covered health care expenses that is submitted to the department on the department's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the department's published filing requirements.

2 New Section; Prompt Payment Required. Amend RSA 415 by inserting after section 6-g the following new section:

415:6-h Prompt Payment Required.

I. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses for its insured persons shall pay for services rendered by New Hampshire health care providers within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the insurer is denying or pending the claim, the insurer shall have 15 calendar days upon receipt of the claim to notify the health care provider or certificate holder of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The insurer's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to an insurer on the insurer's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the insurer's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the insurer.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the insurer in writing of the insurer's noncompliance with this section. If the insurer fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the insurer, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an insurer for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No insurer shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The insurer is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The insurer's compliance is rendered impossible due to matters beyond the insurer's control which are not caused by such insurer.

(b) No insurer shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No insurer shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review process.

V. The commissioner may assess an administrative fine against any insurer or may suspend or revoke the license or certificate of authority of any insurer after determining that the insurer has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

3 New Section; Prompt Payment Required. Amend RSA 415 by inserting after section 18-j the following new section:

415:18-k Prompt Payment Required.

I. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses for its insured persons shall pay for services rendered by New Hampshire health care providers within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the insurer is denying or pending the claim, the insurer shall have 15 calendar days upon receipt of the claim to notify the health care provider or certificate holder of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The insurer's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to an insurer on the insurer's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the insurer's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the insurer.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the insurer in writing of the insurer's noncompliance with this section. If the insurer fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the insurer, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an insurer for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No insurer shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The insurer is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The insurer's compliance is rendered impossible due to matters beyond the insurer's control which are not caused by such insurer.

(b) No insurer shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No insurer shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review process.

V. The commissioner may assess an administrative fine against any insurer or may suspend or revoke the license or certificate of authority of any insurer after determining that the insurer has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

4 New Section; Prompt Payment Required. Amend RSA 420-A by inserting after section 17-c the following new section:

420-A:17-d Prompt Payment Required.

I. Every health service corporation, and every other similar corporation licensed under the laws of another state that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses for its insured persons shall pay for services rendered by New Hampshire health care providers within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the health service corporation is denying or pending the claim, the corporation shall have 15 calendar days upon receipt of the claim to notify the health care provider or subscriber of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The corporation's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to a health service corporation on the corporation's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the corporation's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the corporation.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the health service corporation in writing of the health service corporation's noncompliance with this section. If the health service corporation fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the health service corporation, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an health service corporation for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No health service corporation shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The corporation is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The corporation's compliance is rendered impossible due to matters beyond the corporation's control which are not caused by such corporation.

(b) No health service corporation shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No health service corporation shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review process.

V. The commissioner may assess an administrative fine against any health service corporation or may suspend or revoke the license or certificate of authority of any health service corporation after determining that the health service corporation has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

5 New Section; Prompt Payment Required. Amend RSA 420-J by inserting after section 8 the following new section:

420-J:8-a Prompt Payment Required.

I. Health carriers issuing health benefit plans subject to this chapter shall pay claims submitted by health care providers for services rendered in New Hampshire to covered persons within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the health carrier is denying or pending the claim, the carrier shall have 15 calendar days upon receipt of the claim to notify the health care provider or covered person of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The health carrier's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to a health carrier on the carrier's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the carrier's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the health carrier.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the health carrier in writing of the carrier's noncompliance with this section. If the health carrier fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the carrier, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an carrier for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No health carrier shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The health carrier is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The carrier's compliance is rendered impossible due to matters beyond the carrier's control which are not caused by such carrier.

(b) No health carrier shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No health carrier shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review determination pursuant to RSA 420-J:5, or RSA 420-J:5-a-e.

V. The commissioner may assess an administrative fine against any health carrier or may suspend or revoke the license or certificate of authority of any health carrier after determining that the health carrier has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

6 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill requires the department of health and human services to pay its dental and other health care providers for services

rendered to medicaid recipients promptly.

This bill also requires insurers offering health benefit plans to pay health care providers in a timely manner.

2000-4435h

Amendment to SB 393

Proposed by the Committee on Commerce - R

Amend RSA 402-J:2, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

Amend RSA 402-J:5 as inserted by section 1 of the bill by replacing it with the following:

402-J:5 Application for Examination. Except for limited line credit insurance producers, a resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to RSA 402-J:9. The examination shall test the knowledge of the individual concerning the class or classes of insurance for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. The commissioner may make arrangements for administering examinations. Examinations required by this section shall be developed and conducted under title XXXVII and rules adopted by the commissioner.

Amend the introductory paragraph of RSA 402-J:6, I as inserted by section 1 of the bill by replacing it with the following:

I. A person applying for a resident insurance producer license shall make application to the commissioner on a uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

Amend RSA 402-J:9, I and II as inserted by section 1 of the bill by replacing it with the following:

I. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any pre-license education or examination. This exemption is only available if the person is currently licensed in said state, or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state for the lines of authority requested.

II. A person licensed as an insurance producer in another state who moves to this state shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to RSA 402-J:6, except that no pre-license education or examination shall be required of that person to obtain any line of authority previously held in the prior state.

Amend RSA 402-J:12, I as inserted by section 1 of the bill by deleting subparagraph (m).

Amend RSA 402-J:12, IV as inserted by section 1 of the bill by replacing it with the following:

IV. In addition to or in lieu of any applicable denial, suspension, or revocation of a license, a person violating this chapter may, after hearing, be subject to an administrative fine pursuant to RSA 400-A:15, III.

Amend RSA 402-J:14, II as inserted by section 1 of the bill by replacing it with the following:

II. To appoint a producer as its agent, the appointing insurer shall verify the eligibility of the applicant and file, in a form and format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of an single appointment request.

Amend RSA 400-A:29, X as inserted by section 4 of the bill by replacing it with the following:

X. ~~[Brokers]~~ **Producers**

(a) Application ~~[examination]~~ fee ~~[\$15]~~ **\$ 60**

(b) Original license [~~\$-30~~] ***\$150***

(c) Biennial renewal [~~\$-30~~] ***\$150***

(d) Amendment to license \$ 50

2000-4362h

Amendment to SB 397-FN-A-LOCAL

Proposed by the Committee on Finance - R

Amend the bill by replacing section 1 with the following:

1 Appropriation from Education Trust Fund. Notwithstanding the provisions of RSA 198:39, the sum of \$950,000 is hereby appropriated, for the biennium ending June 30, 2001, from the education trust fund to the department of education for the purpose of funding public kindergarten programs pursuant to 1999, 65:9 as amended by 1999, 281:16. The governor is authorized to draw a warrant for said sum from any moneys available in the education trust fund.

Amend the bill by replacing paragraph I of section 2 with the following:

I. Notwithstanding RSA 198:40 through RSA 198:42, for the fiscal year ending June 30, 2000, the total adequate education grant for the town of Orange shall be \$127,287. In addition to the provisions of 1999, 17:52, I, an additional payment of \$11,398 shall be distributed to the town of Orange by June 30, 2000 from the education trust fund for an adequate education grant total of \$127,287.

AMENDED ANALYSIS

This bill makes an appropriation of \$950,000, for the biennium ending June 30, 2001, from the education trust fund to the department of education for the funding of public kindergarten programs pursuant to 1999, 65:9 as amended by 1999, 281:16. This bill also adjusts the adequate education grant amount for the town of Orange for fiscal year 2000, and adjusts the property tax warrant in the town of Orange for the tax year beginning April 1, 2000.

2000-4497h

Amendment to SB 401-FN-A-LOCAL

Proposed by the Committee on Finance - R

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

1 New Chapter; Land and Community Heritage Investment Program. Amend RSA by inserting after chapter 227-L the following new chapter:

CHAPTER 227-M

Land and Community Heritage Investment Program

227-M:1 Purpose. The general court finds that in order to maintain New Hampshire's quality of life and economic vitality for its citizens, growth and development should be balanced with careful protection of the state's most important natural, cultural, and historical resources. Permanent protection of these resources, through acquisition of lands, buildings, and other physical assets, or interests in these assets, must be accomplished along with their planned long-term stewardship. The general court further recognizes the importance of public-private partnerships to achieve these ends. To protect and preserve New Hampshire's natural, cultural, and historical resources for this and future generations, the general court establishes in this chapter the New Hampshire land and community heritage investment program. The intent of the program is to conserve and preserve this state's most important natural, cultural, and historical resources through the acquisition of lands, and cultural and historical resources, or interests therein, of local, regional, and statewide significance, in partnership with the state's municipalities and the private sector, for the primary purposes of protecting and ensuring the perpetual contribution of these resources to the state's economy, environment, and overall quality of life.

227-M:2 Definitions. In this chapter:

I. "Authority" means the New Hampshire land and community heritage investment authority.

II. "Board" means the board of directors of the New Hampshire land and community heritage investment authority.

III. "Building" means a construction made by humans and created to shelter human activity.

IV. "Easement interests" means conservation, historic preservation, or scenic easements, development rights, or any other similar protective interest in real property held in perpetuity.

V. "Eligible resource" means a natural, cultural, or historical resource including archaeological sites; historic buildings and structures which house cultural events and programs; historic properties including buildings and structures; historic and cultural lands and features; ecologically significant lands; existing and potential public water supply lands; farmland; forestland; habitat for rare species or important wildlife; lands for recreation; riverine, lake, estuarine, and ocean shorelands; scenic areas and viewsheds; and wetlands and associated uplands.

VI. "Monitoring" means the regular and systematic gathering of information about a resource asset to identify changes to the property over time to ensure that it is being used in accordance with any easement interest restrictions or other legal obligations entered into under this chapter.

VII. "Resource asset" means the lands, buildings, structures, and other physical assets or the easement interests in the lands, buildings, structures, and other physical assets that comprise the real property of an eligible resource.

VIII. "Stewardship" means planning for and taking the necessary actions over the long term to successfully preserve and protect the natural, cultural, or historical value of a resource asset. Such actions include, as applicable, managing the resource asset in accordance with all legal obligations entered into under this chapter, performing regular maintenance and upkeep, providing for necessary monitoring, educating or informing those that might negatively impact upon the resource asset about the need and/or legal obligation to protect and preserve it, paying tax or in-lieu-of tax obligations, obtaining liability insurance, and securing sufficient levels of financial resources to carry out all such necessary actions.

227-M:3 Land and Community Heritage Investment Program Established. There is hereby established the New Hampshire land and community heritage investment program. The program shall acquire resource assets, through voluntary negotiations with property owners and utilization of all available federal, state, local, private, and other matching funds and incentives. The program shall also provide funding for restoration and rehabilitation of cultural and historical resources and for certain costs associated with the acquisition of resource assets. All deeds or other documents evidencing purchase of any fee interest or other easement interest in resources under this chapter shall be drawn and held in the name of the municipality, other political subdivision, or qualified publicly-supported nonprofit corporation purchasing the interest through the use of program funds. All easement interests and legal obligations that are attached in perpetuity to any property shall be recorded in the deed. The state of New Hampshire shall hold an executory interest in all easement interests acquired by the program and held by municipalities, other political subdivisions, or qualifying nonprofit corporations. There shall be no power by the state of New Hampshire to take any resource by eminent domain, nor shall any funds made available by this program be used to take by eminent domain except in cases involving the voluntary quieting of title. All acquisition projects shall involve a willing seller and willing buyer, or a willing donor of resource assets.

227-M:4 New Hampshire Land and Community Heritage Authority Established; Board of Directors.

I. There is hereby established the New Hampshire land and community heritage investment authority, a body corporate and politic. The authority is constituted a public instrumentality of the state. The exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of public and essential governmental functions. The authority shall be a nonprofit corporation organized under RSA 292.

II. The authority shall be governed by a board of directors composed of 18 members. Voting members shall not appoint designees to act in their places. The chairperson shall be elected from among the public members. Board membership shall be as follows:

(a) Two members of the senate, to be appointed by the senate president.

(b) Two members of the house of representatives, to be appointed by the speaker of the house.

(c) Eight public members, to be appointed by the governor and council:

(1) Two of whom shall represent cultural and historic resource interests;

- (2) One of whom shall represent natural resources interests;
- (3) One of whom shall represent outdoor recreation interests;
- (4) One of whom shall represent business or real estate interests;
- (5) One of whom shall represent municipal interests;
- (6) One of whom shall represent local planning interests; and
- (7) One of whom shall represent regional planning commissions.
- (d) The director of the office of state planning, or designee.
- (e) The commissioner of the department of cultural resources, or designee.
- (f) The commissioner of the department of resources and economic development, or designee.
- (g) The commissioner of the department of environmental services, or designee.
- (h) The commissioner of the department of agriculture, markets, and food, or designee.
- (i) The executive director of the department of fish and game, or designee.

III. Members appointed under subparagraphs II(d) through II(i) shall be advisory, non-voting members.

IV.(a) The terms of the state agency members and the members of the senate and the house of representatives shall be coterminous with their respective terms in office. Members appointed by the governor and council under subparagraph II(c) shall serve a 4-year term, and may serve no more than 10 successive years.

(b) Members appointed by the governor and council may be removed from office for cause, by the governor and council. Cause for removal shall include, but not be limited to, incapacity or failure to perform the duties of a member of the board of directors. Vacancies shall be filled for the unexpired term of the office in the same manner as the original appointment. Legislative members shall be entitled to mileage reimbursement at the legislative rate.

V. Seven voting members shall constitute a quorum. Decisions shall be made by a majority of those present and voting. Each member appointed under subparagraphs II(a) through (c) shall have one vote on matters coming before the board. The board shall meet quarterly and at such other times as may be deemed necessary by the chairperson.

VI. Board members shall not be subject to civil liability for acts performed in accordance with their duties under this chapter.

227-M:5 Powers and Duties of the Authority. The authority shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter and shall:

I. Adopt bylaws for the regulation of its affairs and the conduct of its business.

II. Adopt criteria and guidelines for:

- (a) The acquisition of resource assets;
- (b) The restoration or rehabilitation of cultural and historical buildings or structures; and
- (c) The stewardship and monitoring of resource assets on which program funds are expended.

III. Adopt definitions deemed important or necessary to carry out the purposes of this chapter.

IV. Oversee and direct the expenditure of funds deposited in the trust fund of the New Hampshire land and community heritage investment program in accordance with the purposes of this chapter. This includes, but is not limited to, the authority to draw upon funds for acquisition of resource assets, or related program purposes, and for the administrative costs of the program.

V. Make and execute contracts for services necessary to carry out the purposes of this chapter or necessary and convenient for the exercise of its powers and functions.

VI. Temporarily acquire real property or interests in real property, only when such acquisition is necessary or appropriate to protect or secure any investment in which the authority has an interest.

VII. Prepare an annual report to be presented no later than December 1 of each year to the president of the senate, the speaker of the house, and the governor and council, and filed with the state library. The report shall detail the activities of the program during the past year including a listing of all resource assets acquired and restoration and rehabilitation projects undertaken, along with the associated expenditures. All administrative costs shall be provided, as well as a complete financial accounting of the trust fund established under RSA 227-M:7. The report shall also include a historical summary of the program's activities to date. A copy of the report shall be made available to any interested person. The authority shall cause an audit by an independent certified public accountant of its books and accounts to be made each fiscal year.

VIII. In addition, the authority may:

(a) Adopt an official seal.

(b) Maintain an office and hire staff.

(c) Apply for and accept from any source gifts and donations of: money, including money from appropriate fundraising activities; labor, equipment, and supplies; land and other real property; interests in land and other real property; federal, local, private, and other matching funds and incentives; and other assets to be deposited in the fund for the purposes of this chapter and to aid the authority in the conduct of its affairs.

227-M:6 Executive Director. The board of directors shall nominate one or more persons for appointment by the governor and council to serve as executive director. The executive director shall serve a term of 5 years, with reappointment or a vacancy to be filled in the same manner as the original appointment. At the request of the board, the governor and council may remove the executive director for cause. The executive director shall:

I. Coordinate the activities of state agencies directly involved with the administration of the program in accordance with this chapter.

II. Evaluate the eligible resources proposed for protection or restoration under this program, and determine if these resources meet the criteria of the program, subsequent to instruction by the board.

III. At the direction of the board, administer the affairs of the program and be directly responsible for executing all policies of the board.

227-M:7 Trust Fund Established; Administration.

I. There is established in the office of the state treasurer the trust fund for the New Hampshire land and community heritage investment program. Moneys in the fund and any interest earned on the fund shall be used for the purpose of this chapter and shall not be used for any other purpose. The trust fund shall be non-lapsing.

II. The state treasurer is instructed to invest the sums deposited in the fund in a prudent manner consistent with the purposes of this chapter. Interest earned on moneys in the fund shall accrue to the fund to the extent allowed under federal law.

III. No funds of any state agency shall be transferred to the trust fund without specific authorization from the general court. Federal funds accepted by the fiscal committee and governor and council for purposes similar to those of this chapter may be deposited in the trust fund.

227-M:8 Program Administration; Eligible Applicants; Matching Funds.

I. The authority shall distribute funds to further the purposes of this chapter only to eligible applicants. Eligible applicants shall include:

(a) Municipalities or other political subdivisions of the state; and

(b) Publicly-supported nonprofit corporations exempt from federal income taxation under section 501(c) of the Internal Revenue Code.

II. Other parties wishing to participate in the program may partner with one or more eligible applicants. The applicant must demonstrate the commitment of the owner of the assets to participate in the proposed action.

III. Financial assistance to eligible applicants shall be provided through grants and block grants (grants to another organization for re-granting). Financial assistance may only be expended on eligible resources for the following purposes:

- (a) Acquisition of real property in fee simple.
- (b) Acquisition of easement interests in real property.
- (c) Restoration or rehabilitation of buildings or structures which are publicly-owned, or which are owned by a qualified publicly-supported nonprofit corporation.
- (d) Surveys, appraisals, title work, and other legal or ancillary work necessary to carry out acquisitions .
- (e) Resource inventories and planning.
- (f) Other professional services.

IV. The authority shall not fund more than 50 percent of the appraised market value of any resource asset acquisition or more than 50 percent of any other expense eligible for financial assistance under RSA 227-M:8, III(c)-(f).

V. All eligible applicants are required to provide a level of matching resources that is no less than 50 percent of the appraised market value for any resource asset acquisition and that is no less than 50 percent of any other expense for which financial assistance is sought under RSA 227-M:8, III(c)-(f). A minimum of one half of the applicant's minimum match requirement must be provided in cash to be used in the purchase or preservation of the resource asset. Nothing shall prevent the eligible applicant from using all cash to fulfill the match requirements of the program. The balance, if any, of the non-cash match requirement may be met through any combination of:

- (a) In-kind services;
- (b) The appraised market value of donated real property or interest in real property, provided such real property is located in the municipality or municipalities in which the applicant property is located;
- (c) Expenses specified under RSA 227-M:8, III(c)-(f), incurred or to be incurred; or
- (d) A one-time investment in a stewardship endowment fund established by the applicant for the resource asset.

VI. Qualifying matching funds from the applicant may include, but are not limited to, municipal appropriations, private donations, federal funds, and monies from a conservation fund established under RSA 36-A:5.

VII. Matching beyond the minimum shall be encouraged of all applicants. The board is authorized, for a particular project, to either reduce the applicant's minimum match requirements under paragraph V or exceed the amount of financial assistance allowed under paragraph IV, but only by an affirmative vote of 9 voting members.

227-M:9 Acquisition, Restoration, and Protection Criteria and Guidelines.

I. The criteria and guidelines adopted pursuant to RSA 227-M:5, II for acquiring resource assets shall include, but shall not be limited to, the following:

- (a) Imminence of threat to the land or property, such that the preservation of endangered structures and land conservation projects in densely developed or rapidly developing areas of the state shall receive a higher ranking;
- (b) Uniqueness or significance of the resource;
- (c) Proximity to other protected resources;
- (d) Extent to which project meets multiple objectives of the program (natural, historic, and cultural);
- (e) Strength of local support, such that project applications accompanied by an affirmative vote of the governing body of the municipality or governing bodies of the municipalities in which the project is located shall receive a higher ranking;
- (f) Strength of private support;
- (g) Cooperation between or among communities;

- (h) Extent of leverage (ability of state funds to attract other public and private funds in a cost-share arrangement);
- (i) Demonstrated ability and qualifying stewardship plan of eligible applicant to provide stewardship for the resource being protected; and
- (j) Extent to which benefits can be conserved only through fee acquisition of the resource asset, weighed against acquisition through easement interest.

II. Nothing in this section shall be construed to require that each acquisition of a resource asset under this chapter must meet all the criteria listed in this section.

227-M:10 Management. Any owner of a resource asset acquired in fee simple under this chapter or for which program funds have been expended for restoration or rehabilitation work, shall manage such asset in accordance with any stewardship plan approved for the asset and any legal obligations entered into under this chapter pertaining to the resource asset. The program shall not manage any resource asset, except to the extent permissible under RSA 227-M:5, VI.

227-M:11 Stewardship. All applications submitted for funding resource asset acquisitions or restoration or rehabilitation projects must contain a stewardship plan. Applicants shall be allowed flexibility in devising such plans, but the authority shall make an affirmative finding that the stewardship plan is acceptable before awarding funds. Applications to the program for activities such as resource inventories and engineering studies are not required to include stewardship plans.

227-M:12 Monitoring Endowment.

I. For every eligible resource protected under this chapter by an easement interest, a percentage of funds from the program or contributions from the applicant, as specified by the authority, shall be provided to the monitoring endowment established under RSA 162-C:8.

II. Funds added to the monitoring endowment pursuant to RSA 227-M:12, I shall be used to support monitoring by state agencies, local municipalities, and qualifying nonprofit corporations of easement interests acquired under this chapter. Such monitoring shall be to ensure that the resource protected through the program will be managed according to the legal agreements concerning easement interests in the resource.

227-M:13 Road Expansion.

I. Notwithstanding any other provisions of this chapter, the New Hampshire land and community heritage authority shall recognize that the interest and public safety and welfare may, from time to time, require minor expansion, minor modification, or minor alteration of existing roads within the state highway system. After review and approval by the authority, and notwithstanding RSA 227-M:14, the department of transportation may obtain interests in lands acquired by the authority under this chapter adjacent to state highways. Permissible expansion, modifications, or alterations under this section shall include drainage easements, slope easements, lane widening, the addition of a passing, climbing, or turning lane, or similar adjustments, but shall not include construction of a new highway or portion thereof, construction of a bypass for an existing highway, or similar major alterations. Approval shall not be granted if reasonable and prudent alternatives exist nor if individual or cumulative approvals are likely to materially impair the conservation or preservation purposes for which the parcel was originally protected. Projects determined by the authority to be outside of the scope permitted by this chapter shall require approval from the general court.

II. The department of transportation shall submit a written request to the authority with plans and supporting documentation to demonstrate compliance with the provisions of this chapter. The authority shall hold a public hearing within 90 days of receipt of a complete request to release land and community heritage investment program interests. The authority shall provide at least 10 calendar days notice in advance of such hearing. Notification shall be made, at the expense of the department, to the landowner, local governing body and conservation commission, abutters, the Society for the Protection of New Hampshire Forests, the Nature Conservancy, the Audubon Society of New Hampshire, the New Hampshire Wildlife Federation, the New Hampshire Preservation Alliance, the local historic district commission or the local heritage commission, or both, and the county conservation district, or their successors. Notification of the public hearing shall be published, by the department, in a paper of general circulation in the municipality and shall be posted, by the department, in at least 2 public places. At the hearing or within 15 days after the hearing, a majority of the authority's voting members shall vote to approve or deny the application, unless a time extension is requested by the department. Aggrieved parties, which include all parties who must be notified under this paragraph, may appeal the authority's decision to the superior court in the same manner as planning board decisions are appealed under RSA 677:15.

III. Compensation for any interest in land obtained by the department of transportation under this section shall be at the appraised full fair market value of those property interests at the time of the department's acquisition. Alternative forms of compensation such as replacement land with comparable conservation value, or a combination of monetary compensation and replacement land may be considered in appropriate circumstances, provided all parties owning an interest in the property agree to such terms.

IV. Compensation due to municipalities and nonprofit organizations shall be dedicated to the acquisition, managing, or monitoring of protected lands consistent with the purposes of this chapter. Compensation due landowners shall be as specified in the deed or as otherwise negotiated. Any party aggrieved by the amount of compensation may file a petition with the superior court in the same manner as damage appeals are filed from the board of tax and land appeals under RSA 498-A:27.

227-M:14 Public Trust. Resource assets acquired under this chapter through the use of the trust fund for the program shall be held in public trust and used and applied for the purposes of this chapter. Notwithstanding any other provision of law relating to the disposal of publicly-owned real estate, no deviation in the uses of any resource asset so acquired to uses or purposes not consistent with the purposes of this chapter shall be permitted. The sale, transfer, conveyance, or release of any resource asset from public trust is prohibited, except as provided in RSA 227-M:13.

227-M:15 Public Access; Liability. Lands and interests in lands purchased with funds from this program by any eligible applicant shall be open in perpetuity for passive recreational purposes. Language to be used in easement interests secured through the program shall approximate the intent of the following:

I. There is hereby conveyed pedestrian access to, on, and across the property for hunting, fishing, and transitory passive recreational purposes, but not camping, by members of the public. A grantor may reserve the right to post against vehicles, motorized or otherwise and against hunting on active livestock fields, against access to agricultural cropland during planting and growing season, and against access to forest land during harvesting or establishment of plantations.

II. The authority shall have the discretion to limit or prohibit passive recreational use on a case-by-case basis, where this activity would be inconsistent with the purpose for protecting the property and/or when public safety would be at risk. Additionally, the authority may stipulate, as a condition of funding, on a case-by-case basis where appropriate, that certain lands or interests in lands be available for motorized recreational uses.

III. No person, or successor in title, who has granted or sold rights of public access by virtue of an easement, right-of-way, development right, or other means in accordance with the purposes of this chapter shall be liable to a user of that right of access for injuries suffered on that portion of the access unless those injuries are caused by the willful or wanton misconduct of the grantor or successor in title.

227-M:16 Recapture. If property is sold, by a seller who has received funds under this program regarding such property, to a non-eligible applicant, the program trust fund's cash investment in the property shall be returned to the program trust fund by the property seller. This section shall not apply to a sale between eligible applicants.

227-M:17 Receipt of Grant Recorded in Registry of Deeds. Receipt of a grant award under this program and conditions of such award shall be recorded in the registry of deeds for the county in which the property is located.

2 Land Conservation Investment Program; Management. Amend RSA 162-C:6, VII to read as follows:

VII. Compensation due to the state under this section shall be ~~[maintained in a separate, non-lapsing land acquisition fund to be managed by the state treasurer. The council, as successors to the land conservation investment program board of directors, shall develop rules pursuant to RSA 541-A, whereby agencies and/or municipalities, shall have access to these funds from time to time as resources permit. Such funds must be used for the acquisition of land, or interests in land, consistent with the purposes of this chapter]~~ **deposited in the trust fund of the New Hampshire land and community heritage investment program established under RSA 227-M and used for the purposes of that program.** Compensation due to municipalities shall be dedicated to the acquisition or monitoring of protected lands consistent with the purposes of this chapter. Compensation due to landowners of conservation easement lands shall be as specified in the conservation easement, deed, or as otherwise negotiated. Any party aggrieved by the amount of compensation may file a petition with the superior court in the same manner as damage appeals are filed from the board of tax and land appeals under RSA 498-A:27.

3 Land Conservation Investment Program; Office of State Planning; Powers and Duties. Amend RSA 162-C:7 to read as follows:

162-C:7 Powers and Duties. The council shall oversee, direct, and expend funds in the monitoring endowment of the former New

Hampshire land conservation investment program in accordance with the purposes of this subdivision **and RSA 227-M:12**. This includes, but is not limited to, the authority to draw upon funds for the administrative costs of the endowment.

4 Land Conservation Investment Program; Monitoring Endowment. Amend RSA 162-C:8, I-III to read as follows:

I. The monitoring endowment established by the board of directors pursuant to former RSA 221-A:5, III shall be maintained in perpetuity and shall be utilized by the council only for the purposes of monitoring and enforcing the property rights of persons with ownership interests in property acquired through the former land conservation investment program **and for the purposes of RSA 227-M:12**.

II. The principal of the endowment shall be managed by the state treasurer for the sole purpose of providing interest earnings for the purposes set forth in this subdivision **and RSA 227-M:12**, and expenditures from the endowment for those purposes shall be limited to the interest earned thereon.

III. Any interest earned on the endowment principal which is not used for the purposes set forth in this subdivision **and RSA 227-M:12** within the fiscal year in which it is earned shall be added to the principal amount. The state treasurer is authorized to accept gifts, donations, and grants, including federal gifts, donations, and grants, for the purposes set forth in this chapter, and such gifts, donations and grants shall be added to the principal amount.

5 Motor Vehicles; Certificates of Title and Registration; Conservation Number Plates; Fee. Amend RSA 261:97-a, I to read as follows:

I. The director is hereby authorized to issue special conservation number plates, in lieu of other number plates. The design of these special plates shall be determined as provided in RSA 261:97-d. The plates shall retain the "live free or die" logo. Such plates shall be issued only upon application and upon payment of a [~~\$25~~] **\$30** fee that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required.

6 Motor Vehicles; Certificates of Title and Registration; Conservation Number Plates; Fee. Amend RSA 261:97-a, III to read as follows:

III. Plates shall be renewed on an annual basis for [~~\$25~~] **\$30** per set. Of this sum, the department shall retain an amount as is necessary to recover production and administrative costs as approved by the fiscal committee of the general court. The remaining funds shall be paid to the state treasurer and distributed as provided in RSA 261:97-b. The cost of replacement number plates shall be identical to the cost of initial number plates and the revenue from replacement number plates shall be distributed in the same manner as revenue derived from initial number plates.

7 Motor Vehicles; Certificates of Title and Registration; Conservation Number Plate Trust Fund; Distribution of Funds. Amend RSA 261:97-b, I to read as follows:

I. There is hereby established a conservation number plate trust fund under the administration of the state treasurer. The fund shall be used for the promotion, protection, and investment in the state's natural, cultural, and historic resources. The fund shall be nonlapsing. The state treasurer shall distribute the funds annually on July 1, **except as provided in paragraph I-a**, as follows: \$5,000 of every \$100,000 received, up to a total of \$50,000, shall be distributed to the department of transportation for the expanded wild flower establishment program for use in planting native wild flowers; the remainder shall be distributed equally among the department of cultural resources, the department of fish and game, the department of resources and economic development, [~~and~~] the state conservation committee, **and the New Hampshire land and community heritage investment authority**.

I-a. The state treasurer shall distribute the share of funds due the New Hampshire land and community heritage investment authority, pursuant to RSA 261:97-b, I, on the first day of each month. The total amount shall not exceed \$200,000 per fiscal year.

8 Motor Vehicles; Certificates of Title and Registration; Conservation Number Plate Trust Fund; Use of Funds. Amend RSA 261:97-c, V-VI to read as follows:

V. The funds transferred to the New Hampshire land and community heritage investment authority shall be used for the administration of the New Hampshire land and community heritage investment program.

[~~V.~~] **VI.** The funds transferred to the department of transportation shall be used for the expanded wildflower establishment program to be used in maintenance districts.

~~[VI.]~~ **VII.** Any funds transferred from the conservation number plate trust fund which remain unexpended at the end of the fiscal year shall be non-lapsing.

9 Initial Appointees. The terms of the initial appointees by the governor and council to the New Hampshire land and community heritage investment authority under RSA 227-M:4, II(c) shall be staggered as follows:

I. The member representing regional planning commissions and the member representing business or real estate interests shall serve a one-year term.

II. The member representing municipal interests and the member representing local planning interests shall serve a 2-year term.

III. The member representing outdoor recreation interests and the member representing natural resources interests shall serve a 3-year term.

IV. The members representing cultural and historic resource interests shall each serve a 4-year term.

10 Transfer. The sum of \$3,000,000 from the New Hampshire economic development fund established under RSA 12-A:2-e, I shall be transferred to the trust fund established under RSA 227-M:7, I upon passage of this act, but shall not be available for distribution until April 1, 2001. This sum, and any interest earned thereon, shall not be used for administrative purposes.

11 Appropriation; Administrative Costs. The sum of \$50,000 is appropriated to the New Hampshire land and community heritage authority established in section 1 of this act, for the purpose of funding administrative costs of the authority for the biennium ending June 30, 2001. The source of funds for the \$50,000 shall be as follows:

I. Notwithstanding the purpose of RSA 227-G:5, \$40,000 from the forest management and protection fund, established in RSA 227-G:5.

II. \$5,000 from PAU 02, 03, 01, class 20, department of agriculture, markets, and food funds for the fiscal year 2000.

III. \$5,000 from PAU 02, 03, 05, 01, class 24, department of agriculture, markets, and food funds for fiscal year 2000.

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

AMENDED ANALYSIS

This bill:

I. Establishes the New Hampshire land and community heritage investment program.

II. Establishes the New Hampshire land and community heritage investment authority, and establishes its powers, duties, and authority.

III. Establishes membership on the authority's board of directors.

IV. Establishes criteria for acquisition of lands and other natural, cultural, and historical resources.

V. Increases the fee charged for the issuance of special conservation number plates from \$25 to \$30.

VI. Provides that a portion of funds received in the conservation numbers plate trust fund shall be distributed monthly to the New Hampshire land and community heritage investment authority for the purpose of administering the New Hampshire land and community heritage investment program.

VII. Provides a \$50,000 appropriation for the purpose of administering the program for the biennium ending June 30, 2001, with such funds being transferred from the forest management and protection fund and the department of agriculture, markets, and food.

VIII. Provides for a transfer of \$3,000,000 to the program from the New Hampshire economic development fund.

IX. Transfers responsibility for the administration of the land conservation investment program and monitoring endowment under RSA 162-C to the office of state planning.

2000-4346h

Amendment to SB 409-FN

Proposed by the Committee on Commerce - R

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

AN ACT relative to health insurance coverage of qualified clinical trials and establishing a committee to study the coverage for autologous bone marrow transplants.

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

1 New Section; Coverage for Qualified Clinical Trials. Amend RSA 415 by inserting after section 18-j the following new section:

415:18-k Coverage Required for Qualified Clinical Trials.

I. In this section:

(a) "Clinical trials of emerging technologies" mean Phase I and Phase II clinical trials.

(b) "Clinical trials of leading therapeutic or diagnostic alternatives" mean Phase III and Phase IV clinical trials.

(c) "Cooperative group" means a formal network of facilities that collaborate on research projects and have an established National Institute of Health (NIH) approved peer review program operating within the group.

(d) "FDA" means the federal Food and Drug Administration.

(e) "Member" means the policyholder, subscriber, insured, or certificate holder, or a covered dependent of a policyholder, subscriber, insured, or certificate holder.

(f) "Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services, that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

(g) "NIH" means the National Institutes of Health.

(h) "Non-routine patient care cost" means:

(1) The cost of an investigational new drug or device that is not approved for market for any indication by the FDA.

(2) The cost of a non-health care service that a member may be required to receive as a result of the treatment being provided for the purposes of the clinical trial.

(3) The costs of services that are clearly inconsistent with widely accepted and established regional or national standards of care for a particular diagnosis.

(4) Costs associated with managing the research associated with the clinical trial.

(5) Non-covered costs under the member's policy, plan, or contract.

(i) "Routine patient care cost" means the cost of any medically necessary health care service that is incurred as a result of the treatment being provided to a member of a health plan. Routine costs are those for which the health plan regularly reimburses its members, health care providers, or health care institutions subject to the terms and conditions of the member's policy and the provider's service agreement with the insurer.

II. A policy, plan, or contract subject to this section shall provide coverage for all medically necessary routine patient care costs incurred as a result of a treatment being provided in accordance with a clinical trial to the extent such costs would be covered for noninvestigational treatments if the treatment is being provided or the studies are being conducted in a phase I, phase II, phase III, or phase IV clinical trial for cancer or the treatment is being provided for any other life-threatening condition. Coverage for phase I or phase II clinical trials shall be decided on a case by case basis.

III. The coverage required under paragraph II shall be required if:

(a) The treatment is being provided to the member in a clinical trial approved by:

(1) One of the National Institutes of Health;

(2) An NIH cooperative group or an NIH center;

(3) The FDA in the form of an investigational new drug application or exemption;

(4) The federal department of Veterans Affairs or Defense; or

(5) An institutional review board of an institution in this state that has a multiple assurance contract approved by the Office of Protection from Research Risks of the NIH.

(b) Standard treatment has been or would be ineffective, does not exist, or there is no superior non-investigational treatment alternative;

(c) The facility and personnel providing the treatment are capable of doing so by virtue of their experience, training, and volume of patients treated to maintain expertise; and

(d) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the non-investigational alternative.

IV. A policy, plan, or contract subject to this section shall provide coverage for routine patient care costs incurred for drugs and devices provided to the member during the clinical trial, which are not the subject of the clinical trial, provided that those drugs or devices have been approved for sale by the FDA, whether or not the FDA has approved the drug or device for use in treating the member's particular condition. Nothing in this section shall be construed to abrogate the provisions of RSA 415:6-g or RSA 420-J:7-b. This coverage shall include coverage for reasonable and medically necessary services necessary to administer the drug or use the device under evaluation in the clinical trial.

V. The provisions of this section shall apply to group hospital and medical expense policies subject to RSA 415, health service corporations under RSA 420-A, health maintenance organizations under RSA 420-B, and managed care organizations under RSA 420-J.

VI. For the purposes of this section, providers participating in clinical trials shall obtain a patient's informed consent for participation in the clinical trial in a manner that is consistent with current legal and ethical standards. Such document shall be available to the health insurer upon request.

VII. Health plans providing coverage under this section and the providers participating in those same clinical trials shall develop a mutually agreed upon process to share appropriate aggregate clinical and financial data on the progress and outcome of clinical trials subject to this section. Health plans and the providers participating in clinical trials shall establish reasonable requirements for communication with the member's primary care provider regarding the member's clinical data.

VIII. The provisions of this section shall not apply to a policy, plan, or contract paid for under the federal Medicare program nor the state children's health insurance program.

2 Committee Established. There is established a committee to study insurance coverage for autologous bone marrow transplants.

3 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.

4 Duties. The committee shall study whether mandatory insurance coverage for autologous bone marrow transplants for treatment of breast cancer under RSA 415:18-c, RSA 420-A:13, and RSA 420-B:8-e should continue. Specifically, the committee's

study shall include, but not be limited to, whether the treatment is standard treatment, the effectiveness of the treatment, and the results of recent trials.

5 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.

6 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, 2000.

7 Effective Date.

I. Section 1 of this act shall take effect January 1, 2001.

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

AMENDED ANALYSIS

This bill requires insurers, including managed care plans and health service corporations, to provide coverage for certain routine patient care costs incurred as a result of treatment provided to a patient in certain clinical trials.

This bill also establishes a committee to study the coverage for autologous bone marrow transplants for treatment of breast cancer.

2000-4324h

Amendment to SB 413-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 New Subdivision; Address Confidentiality Program for Victims of Domestic Violence, Stalking, and Sexual Assault. Amend RSA 7 by inserting after section 40 the following new subdivision:

Address Confidentiality Program for Victims of

Domestic Violence, Stalking, or Sexual Assault

7:41 Findings and Purpose. The legislature finds that persons attempting to escape from actual or threatened domestic violence, stalking, or sexual assault frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this program is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, stalking, or sexual assault, to enable interagency cooperation with the attorney general in providing address confidentiality for victims of domestic violence, stalking, or sexual assault, and to enable state and local agencies to accept a program participant's use of an address designated by the attorney general as a substitute mailing address.

7:42 Definitions. As used in this subdivision:

I. "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this subdivision.

II. "Program participant" means a person certified as a program participant under RSA 7:43.

III. "Domestic violence" means an act as defined in RSA 173-B and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

IV. "Sexual assault" means an act as defined in RSA 632-A.

V. "Stalking" means an act as defined in RSA 633:3-a.

7:43 Address Confidentiality Program.

I. An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply to the attorney general to have an address designated by the attorney general serve as the person's address or the address of the minor or incapacitated person. The attorney general shall approve an application if it is filed in the manner and on the form prescribed by the attorney general and if it contains:

- (a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, stalking, or sexual assault; and that the applicant fears for his or her safety, or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made.
- (b) A designation of the attorney general as agent for purposes of service of process and for the purpose of receipt of mail.
- (c) The mailing address where the applicant can be contacted by the attorney general, and the phone number or numbers where the applicant can be called by the attorney general.
- (d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, stalking, or sexual assault; and
- (e) The signature of the applicant and the date on which the applicant signed the application.

II. Applications shall be filed with the attorney general.

III. Upon filing a properly completed application, the attorney general shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date.

IV. A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be guilty of a class B misdemeanor.

7:44 Certification Cancellation.

I. If the program participant obtains a name change, he or she loses certification as a program participant and may immediately reapply for certification under their new name.

II. The attorney general may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the attorney general notice of the change of address within 7 days.

III. The attorney general may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

IV. The attorney general shall cancel certification of a program participant who applies using false information.

7:45 Agency Use of Designated Address.

I. A program participant may request the state and local agencies use the address designated by the attorney general as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the attorney general as a program participant's substitute address, unless the attorney general had determined that:

- (a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this subdivision; and
- (b) This address will be used only for those statutory and administrative purposes.

II. A program participant may use the address designated by the attorney general as his or her work address.

III. The attorney general shall forward all first class mail to the appropriate program participants.

7:46 Voting by Program Participants.

I. A program participant who is otherwise qualified to vote may apply as a absentee voter. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual resides in the same manner as absentee voters pursuant to RSA 657:15. Notwithstanding RSA 654, neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

II. The city or town clerk shall not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; and

(b) If directed by a court order, to a person identified in the order.

7:47 Disclosure of Records Prohibited; Exceptions. The attorney general shall not make any records in a program participant's file available for inspection or copying, other than the address designated by the attorney general, except under the following circumstances:

I. If requested by a law enforcement agency, to the law enforcement agency.

II. If directed by a court order, to a person identified in the order.

III. If certification has been cancelled; or

IV. To verify the participation of a specific program participant, in which case the attorney general may only confirm participation in the program.

7:48 Assistance for Program Applicants. The attorney general shall refer participants to crisis centers that provide counseling and shelter services to either victims of domestic violence, stalking, or sexual assault to assist persons applying to be program participants.

2 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill establishes in the office of the attorney general an address confidentiality program for victims of domestic violence, stalking, or sexual assault which would allow victims to establish the attorney general as their mailing address for purposes of requests for public records by state and local agencies, and for receiving service of process and regular mail.

2000-4270h

Amendment to SB 415-FN-LOCAL

Proposed by the Committee on Finance - C

Amend the bill by replacing section 8 with the following:

8 Funding.

I. The sum of \$36,384,000 is hereby transferred from the group I employee special account balance existing on June 30, 2000 for the purpose of funding RSA 100-A:52-a and RSA 100-A:53-c as inserted by this act.

II. The sum of \$16,781,000 is hereby transferred from the group I teacher special account balance existing on June 30, 2000 for the purpose of funding RSA 100-A:52-a as inserted by this act.

2000-4356h

Amendment to SB 419-FN

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

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

1 New Chapter; Negligent Storage of Firearms. Amend RSA by inserting after chapter 650-B the following new chapter:

CHAPTER 650-C

Negligent Storage of Firearms

650-C:1 Negligent Storage of Firearms.

I. Nothing in this section shall be construed to reduce or limit any existing right to purchase and own firearms or ammunition, or both, or to provide authority to any state or local agency to infringe upon the privacy of any family, home or business except by lawful warrant.

II. As used in this section, "child," "juvenile" or "youth" shall mean any person under 16 years of age.

III. Any person who stores or leaves on premises under that person's control a loaded firearm, and who knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or guardian, is guilty of a violation if a child gains access to a firearm and:

- (a) The firearm is used in a reckless or threatening manner;
- (b) The firearm is used during the commission of any misdemeanor or felony; or
- (c) The firearm is negligently or recklessly discharged.

IV. Any person who violates paragraph III shall be fined not more than \$1,000.

V. This section shall not apply whenever any of the following occurs:

- (a) The child has completed firearm safety instructions by a certified firearms safety instructor or has successfully completed a certified hunter safety course.
- (b) The firearm is kept secured in a locked box, gun safe, or other secure locked space, or in a location which a reasonable person would believe to be secure, or is secured with a trigger lock or similar device that prevents the firearm from discharging.
- (c) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.
- (d) The child obtains or obtains and discharges the firearm in a lawful act of self-defense or defense of another person.
- (e) The person who keeps a loaded firearm on any premises which are under such person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.
- (f) The child obtains the firearm as a result of an illegal entry of any premises by any person or an illegal taking of the firearm from the premises of the owner without permission of the owner.

VI. A parent or guardian of a child who is injured or who dies of an accidental shooting shall be prosecuted under this section only in those instances in which the parent or guardian behaved in a grossly negligent manner.

VII. Licensees shall conspicuously post at each purchase counter the following warning in bold type not less than one inch in height: "IT IS IMPORTANT THAT THE OWNER OF A FIREARM SEEK FIREARM SAFETY INSTRUCTIONS FROM A CERTIFIED FIREARMS INSTRUCTOR AND KEEP FIREARMS SECURED FROM UNAUTHORIZED USE." A licensee failing to display this warning to the purchaser of a firearm shall be guilty of a violation.

2 Effective Date. This act shall take effect January 1, 2001.

2000-4352h

Amendment to SB 422-FN

Proposed by the Committee on Finance - C

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

2 Definitions; Guarantee Certificates. Amend RSA 126-A:52, II to read as follows:

II. "Guarantee certificate" means a document issued under this subdivision ~~[that pledges the full faith and credit of the state of New Hampshire]~~ for the payment of the security deposit it guarantees.

3 Allocation of the Housing Security Guarantee Program. Amend RSA 126-A:53, I to read as follows:

I. Upon application from a local housing security provider in such form as the department may require, the department may allocate and commit itself to issue, and the local housing security provider may be authorized to process applications and provide the ancillary services connected with the issuance of, guarantee certificates for the purposes of this subdivision. In no event shall the aggregate guarantee amounts allocated by the department to all local housing security providers exceed ~~[\$1,000,000]~~ **\$2,000,000**. The department shall allocate the aggregate guarantee certificate capacity authorized by this section in a manner which takes into account both housing needs and geographic diversity.

4 New Paragraph; Funding; Housing Security Guarantee Program. Amend RSA 126-A:53 by inserting after paragraph I the following new paragraph:

I-a. The department shall make payments either directly to the landlord or through the local housing security provider to the extent of the state's obligation under the terms of the guarantee certificates. The department shall be subrogated to the landlord's right title and interest in any amounts received pursuant to the lease or rental agreement. At the end of each fiscal year, the state treasurer shall reimburse the department for these amounts from funds not otherwise appropriated. The governor is hereby authorized to draw a warrant from funds not otherwise appropriated for the purposes of this subdivision.

5 New Paragraph; Reporting Requirements. Amend RSA 126-A:53 by inserting after paragraph II the following new paragraph:

III. The department shall make a report on or before December 1 of each year to the speaker of the house of representatives, the president of the senate, and the governor and council on the usage of the program and the success of its participants.

6 Periodic Payment Requirement. Amend RSA 126-A:56 to read as follows:

126-A:56 Periodic Payment Requirement. Beginning with the first month of tenancy and each month thereafter, a qualified tenant participating in this program shall make a monthly payment to the department of a fractional amount of the qualifying security deposit amount, which amount is determined by and adjustable with the approval of the local housing security provider. Notice of all adjustments to required payment amounts shall be forwarded to the department by the local housing security provider. The payments shall be made until the full amount of the security deposit guarantee has been received by the department. ~~[Amounts received by the department shall be held in a fund, known as the security deposit fund, established in RSA 126-A:62 for this purpose.]~~ In no event shall a qualified tenant's failure to make the periodic payments required by this section create a default under any lease or rental agreement for a subject housing unit. All amounts received by the department pursuant to RSA 126-A:56 shall not be a "security deposit" as defined by RSA 540-A:5, II.

7 Tenant's Right to Refund. Amend RSA 126-A:58 to read as follows:

126-A:58 Tenant's Right to Refund. In the event a tenancy is terminated before all periodic payments have been made to the department and no claim for redemption is brought by the landlord within the period specified, a qualified tenant may claim a refund of all payments made by the tenant and a cancellation of the tenant's written agreement to make any additional payments. The claims shall be brought by tenants within one year from the date of the termination of the tenancy. ~~[All payment amounts unclaimed at the end of the one-year period shall be held in a fund established in RSA 126-A:62 for the purpose of making payments upon redemption of guarantee certificates.]~~

8 Repeal. The following are repealed:

I. RSA 6:12, I(ggg), relative to the nonlapsing security deposit fund.

II. RSA 126-A:60, relative to guarantees of credit.

III. RSA 126-A:62, relative to the establishment of the nonlapsing security deposit fund.

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

AMENDED ANALYSIS

This bill clarifies the process of securing funding for the department of health and human services' housing security guarantee

loan program, and repeals certain references to the nonlapsing security deposit fund.

2000-4156h

Amendment to SB 424

Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Professional Use of Controlled Substances. Amend RSA 318-B:10 by inserting after paragraph VIII the following new paragraph:

IX. If, in the judgment of a physician licensed under RSA 329, appropriate pain management warrants a high dosage of controlled drugs and the benefit of the relief expected outweighs the risk of the high dosage, the licensed physician may administer or cause to be administered such a dosage, even if its use may increase the risk of death, so long as it is not furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it falls within rules of the board of medicine.

Amend RSA 329:9, XV-a as inserted by section 3 of this act by replacing it with the following:

XV-a. Procedures for appropriate pain management pursuant to RSA 318-B:10, IX.

2000-4271h

Amendment to SB 428-FN-A

Proposed by the Committee on Finance - C

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

AN ACT relative to the health care fund.

Amend the bill by deleting sections 1-3 and renumbering the original sections 4 and 5 to read as sections 1 and 2, respectively.

AMENDED ANALYSIS

This bill authorizes interest earnings from the health care fund to be continually appropriated to the department of health and human services.

2000-4361h

Amendment to SB 436-FN

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

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

AN ACT relative to revocation of drivers' licenses for causing a fatality and allowing administrative home confinement for habitual offenders.

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

1 Habitual Offenders; Felony Penalties; Home Confinement. Amend RSA 262:23, I to read as follows:

I. It shall be unlawful for any person to drive any motor vehicle on the ways of this state while an order of the director or the court prohibiting such driving remains in effect. If any person found to be an habitual offender under the provisions of this chapter is convicted of driving a motor vehicle on the ways of this state while an order of the director or the court prohibiting such operation is in effect, he ***or she shall be guilty of a felony and*** shall be sentenced, notwithstanding the provisions of RSA title LXII, to imprisonment for not less than one year nor more than 5 years. No portion of the minimum mandatory sentence shall be suspended, and no case brought to enforce this chapter shall be continued for sentencing; provided, however, that any sentence or part thereof imposed pursuant to this section may be suspended in cases in which the driving of a motor

vehicle was necessitated by situations of apparent extreme emergency which required such operation to save life or limb. Any sentence of one year or less imposed pursuant to this paragraph shall be served in a county correctional facility ***and the court may order that any such offender may serve his or her sentence under home confinement pursuant to RSA 651:19 on such terms and conditions as the court may order, for the minimum mandatory term or any portion thereof.*** Any sentence of more than one year imposed pursuant to this paragraph shall be served in the state prison.

2 Habitual Offender; Misdemeanor Penalties. Amend RSA 262:23, III to read as follows:

III. Notwithstanding paragraph I, any person who qualifies under RSA 259:39, who does not have a conviction under RSA 265:82 or any misdemeanor or felony motor vehicle convictions pursuant to RSA title XXI, shall not be subject to the minimum mandatory provisions of paragraph I; provided, however, that any such person ***shall be guilty of a class A misdemeanor and*** may be sentenced to one year or less. Any person incarcerated upon the effective date of this paragraph, pursuant to certification as an habitual offender under RSA 259:39, who does not have a conviction under RSA 265:82 or any misdemeanor or felony motor vehicle convictions pursuant to RSA title XXI, may apply immediately to the superior court for sentence review and reduction.

3 New Paragraph; Manslaughter; License Revocation in Certain Cases. Amend RSA 630:2 by inserting after paragraph II the following new paragraph:

III. In addition to any other penalty imposed, if the death of another person resulted from the driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person indefinitely.

4 Negligent Homicide; License Revocation Period. Amend RSA 630:3, III to read as follows:

III. In addition to any other penalty imposed, if the death of another person resulted from the negligent driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person for up to 7 years. ***In cases where the person is convicted under paragraph II, the court may revoke the license or driving privilege of the convicted person indefinitely and the person shall not petition for eligibility to reapply for a driver's license for at least 7 years.***

5 Discretionary Sentences; Release for Purpose of Gainful Employment or Rehabilitation; Home Confinement. Amend RSA 651:19 to read as follows:

651:19 Release for Purpose of Gainful Employment [~~or~~], Rehabilitation ***or Home Confinement.*** Any person who has been committed to a penal institution other than state prison under a criminal sentence may be released therefrom by the sentencing court at the time of sentence or at any time during the term of sentence, for the purpose of obtaining and working at gainful employment, for the performance of uncompensated public service as provided in RSA 651:68-70, ***or to serve the sentence under home confinement,*** or for such other purpose as the court may deem conducive to his ***or her*** rehabilitation, for such times or intervals of time and under such terms and conditions as the court may order. Any part of a day spent in the free community, ***or in home confinement,*** under such a release order shall be counted as a full day toward the serving of the sentence unless otherwise provided by the court. If a person violates the terms and conditions laid down for his ***or her*** conduct, custody and employment, he ***or she*** shall be returned to the sentencing court. The court may then require that the balance of the person's sentence be spent in actual confinement and may cancel any earned reduction of his ***or her*** term.

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

AMENDED ANALYSIS

This bill establishes provisions for the revocation of driver's license privileges for certain manslaughter and negligent homicide convictions.

This bill also provides for home confinement as a means to serve habitual offender sentences and certain discretionary sentences.

2000-4354h

Amendment to SB 439-FN

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

Amend the bill by replacing section 1 with the following:

1 New Section; Vehicular Assault. Amend RSA 265 by inserting after section 79 the following new section:

265:79-a Vehicular Assault. Any person who, without intent, causes death or serious bodily injury as defined in RSA 625:11, VI to another while using a propelled vehicle or vessel as defined in RSA 637:9, III shall be guilty of a class A misdemeanor, where such person's unlawful operation of the propelled vehicle or vessel causes or materially contributes to the collision. Evidence that the driver violated any of the rules of the road shall be prima facie evidence that the driver caused or materially contributed to the collision.

AMENDED ANALYSIS

This bill creates a motor vehicle classification for vehicular assault.

2000-4358h

Amendment to SB 445-FN

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

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

1 Methadone Maintenance Treatment; Rulemaking. RSA 318-B:10, VII is repealed and reenacted to read as follows:

VII.(a) The department of health and human services is hereby declared to be the state methadone authority.

(b) The commissioner of the department of health and human services shall, on or before June 30, 2001, adopt and have in effect rules, pursuant to RSA 541-A, relative to detoxification and methadone maintenance programs as follows:

(1) Application procedure and standards for approval for certification and re-certification of providers to operate detoxification and methadone maintenance programs, including certification period, for each type of certification.

(2) Eligibility of individuals for admission to such programs.

(3) Qualifications of program personnel.

(4) Program content, including, but not limited to, services to be offered by the program.

(5) Mandatory records and reports to the department.

(6) Security measures to prevent diversion of methadone to illegal use.

(7) Confidentiality and disclosure of identifying information, records and reports.

(8) Financial responsibility.

(9) Any other provisions necessary to implement the purposes of this paragraph.

(c) Providers may operate a methadone detoxification or methadone maintenance program, or both, in the state of New Hampshire only if the providers are certified to operate pursuant to rules adopted under subparagraph VII(b). In implementing subparagraph VII(b), the commissioner shall not use the interim rulemaking process in RSA 541-A:19.

(d) For the purposes of this paragraph:

(1) "Heroin" means an illegal semi-synthetic drug produced from the morphine contained in sap of the opium poppy, and known to have the potential for devastating addictive properties in vulnerable individuals.

(2) "Methadone" means a legal drug, methadone hydrochloride, which is a synthetic opiod that has been demonstrated to be an effective treatment agent for heroin abuse and dependence.

(3) "Methadone detoxification treatment" means the dispensing of methadone or similar substance in decreasing doses to an individual in order to reduce or eliminate adverse physiological or psychological effects incident to the withdrawal from the sustained use of heroin.

(4) "Methadone maintenance program" means a substance abuse treatment program substituting methadone or any of its derivatives, over time, to relieve withdrawal symptoms of heroin dependence, to reduce craving, and to permit normal functioning and engagement in rehabilitative services.

(e) Nothing in this paragraph shall prohibit a licensed health care practitioner from administering, prescribing, or dispensing a controlled drug under paragraph I.

2 Applicability. Notwithstanding RSA 318-B:10, VII(c) as inserted by section 1 of this act, methadone detoxification programs licensed pursuant to federal statute and regulations may operate without certification under paragraph VII for up to 90 days after the effective date of rules adopted under RSA 318-B:10, VII(b) as inserted by section 1 of this act.

3 Applicability.

I. Notwithstanding the above, nothing in this act shall be construed as prohibiting or limiting the provision of methadone detoxification treatment or from prohibiting or limiting treatment for those persons in treatment under RSA 318-B:10, VIII. Any other methadone detoxification treatment shall cease to operate on June 30, 2001 if the rules required under section 1 of this act have not been adopted.

II. Any provider under this section may provide treatment as long as the provider meets Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation standards and is licensed by the federal Food and Drug Administration and the federal Drug Enforcement Administration, and otherwise meets all applicable state and federal laws and regulations.

4 New Paragraph; Definition Added. Amend RSA 318:1 by inserting after paragraph VII the following new paragraph:

VII-a. "Limited retail drug distributor" means federally funded clinics operated under contract with the department of health and human services and drug abuse treatment centers, where legend and controlled drugs are held, stored or dispensed to patients pursuant to the order of an authorized practitioner.

5 New Section; Licensing of Limited Retail Drug Distributors Required.

318:51-b Licensing of Limited Retail Drug Distributors Required.

I. No person shall operate as a limited retail drug distributor, as defined in RSA 318:1, VII-a, without first having obtained a license to do so from the board. Such license shall expire annually on June 30. An application together with a reasonable fee as established by the board shall be filed annually on or before July 1.

II. No license shall be issued under this section unless the applicant has furnished proof satisfactory to the board that:

(a) The applicant is of good moral character or, if that applicant is an association or corporation, that the managing officers are of good moral character.

(b) The applicant has sufficient space and security equipment as to properly carry on the business described in the application.

(c) The license granted by this chapter shall at all times be displayed in a conspicuous place in the facility for which it is issued.

(d) The applicant has a written contract with a pharmacist licensed in the state to serve as a consultant on all matters relating to the storage and dispensing of prescription drugs.

III. No license shall be granted to any person who has within 5 years been convicted of a violation of any law of the United States, or of any state, relating to drugs, as defined in this chapter or RSA 318-B, or to any person who is a drug-dependent person.

IV. Any person licensed pursuant to this section is subject to the provisions of RSA 318:29.

6 Licensure Required. RSA 318:42, VII(d) is repealed and reenacted to read as follows:

(d) The clinic, except for clinics operated directly by the department of health and human services, possesses a current limited retail drug distributor's license under RSA 318:51-b.

7 Repeal. RSA 318:42, VII(e), relative to drug wholesaler's license is repealed.

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

AMENDED ANALYSIS

This bill requires the commissioner of the department of health and human services to adopt rules relative to methadone maintenance treatment.

This bill also requires limited retail drug distributors to be licensed by the New Hampshire pharmacy board.

2000-4476h

Amendment to SB 450-FN

Proposed by the Committee on Finance - C

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

1 New Subdivision; Importation of Certain Tobacco Products Prohibited. Amend RSA 78 by inserting after section 32 the following new subdivision:

Importation of Certain Tobacco Products Prohibited

78:33 Preservation of Revenues. The general court hereby finds, determines, and declares that this subdivision is necessary for the protection of revenues to which the state is entitled under the Master Settlement Agreement between the state and the tobacco industry. The general court also finds, determines, and declares that this subdivision is necessary for the preservation of the public health and safety.

78:34 Federal Requirements; Cigarettes and Other Tobacco Products; Placement of Labels; Penalty.

I. No person shall import into this state any package of tobacco products that does not comply with all federal requirements for the placement of labels, warnings and other information on a package of tobacco products manufactured, packaged, or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333.

II. No person shall knowingly sell or offer to sell a package of tobacco products or affix the stamp or imprint required by this title on a package of tobacco products unless that package of tobacco products complies with all federal tax laws, federal trademark and copyright laws, and federal laws regarding the placement of labels, warnings, or any other information upon a package of tobacco products.

III. No person shall knowingly sell or offer to sell a package of tobacco products or affix the stamp or imprint required by this title on a package of cigarettes if the package bears any mark indicating that the manufacturer did not intend the tobacco products to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only," "U.S. Tax-Exempt," "For Use Outside U.S.," or similar wording, or if any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the product or package was manufactured for use outside of the United States.

IV. No person shall knowingly sell or offer to sell a package of tobacco products or affix the stamp or imprint required by this title on a package of cigarettes if the tobacco products were imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or implementing federal regulations, or if the person knows or has reason to know that the manufacturer did not intend the tobacco product to be sold, distributed or used in the United States.

V. No person shall knowingly sell or offer to sell a package of cigarettes or affix the stamp or imprint required by this title on a package of cigarettes if there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of ingredients added to tobacco in the manufacture of such cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a.

VI.(a) No person shall alter the package of any tobacco product prior to sale to the ultimate consumer, so as to remove, conceal or obscure the fact that the package was manufactured for use outside of the United States.

(b) No person shall knowingly sell or offer to sell a package of tobacco products that has been altered in violation of subparagraph (a).

VII. The penalty for violation of any provision of this section is loss of license for a period of 90 days for a first offense, loss of license for a period of one year for subsequent offenses, and a fine to be determined by the commissioner which shall not exceed \$10,000.

VIII.(a) Any tobacco product or package of tobacco products found for sale at retail or wholesale at any place in this state in violation of this section shall be subject to forfeiture pursuant to RSA 78:16. Nothing in this section shall be construed to require the commissioner to confiscate packages of tobacco products in quantities of one carton or less when the commissioner has reason to believe that the owner possesses the tobacco products for personal use.

(b) Any tobacco products seized by virtue of the provisions of subparagraph (a) shall be confiscated, and the department shall cause such confiscated goods to be destroyed.

IX. This subdivision shall not apply to:

(a) Tobacco products allowed to be imported or brought into the United States for personal use; and

(b) Tobacco products sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations, provided, however, that this act shall apply to any such tobacco products that are brought back into the customs territory for resale within the customs territory.

2 Effective Date. This act shall take effect January 1, 2001.

2000-4209h

Amendment to SB 446

Proposed by the Committee on Executive Departments and Administration – C

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as section 7:

6 Definition of Stakeholder. Amend RSA 9:1 to read as follows:

9:1 Terms Used. In this chapter, the term "department" or "establishment" means any executive department, commission, board, institution, bureau, office, or other agency of the state government, by whatever name called, other than the legislature and the state judicial branch, that uses, expends or receives any state funds; the term "state funds" means any and all moneys appropriated by the legislature, or money collected by or for the state, or any agency thereof, pursuant to authority granted in any of its laws; the term "budget" means the budget document by this chapter required to be transmitted to the legislature[-]; ***the term "stakeholder" means a person and/or group which can affect or is affected by the development, design, an/or development of information technology systems.***

2000-4304h

Amendment to SB 448

Proposed by the Committee on Finance - C

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

AN ACT establishing a guardian ad litem board.

Amend RSA 463:33 as inserted by section 1 of the bill by replacing it with the following:

463:33 Board Established. There is hereby established a guardian ad litem board which shall be responsible for overseeing the credentialing, activities, and discipline for guardians ad litem appointed in New Hampshire.

Amend section 1 of the bill by inserting after RSA 463:37 the following new RSA section:

463:38 Administrative Attachment. The board shall be administratively attached to the judicial council.

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

2 Judicial Branch; Statewide Expenditures Adjusted. Amend 1999, 159:1.02, 01, 05 as follows:

FY 2000 FY 2001

Strike out:

96 GAL regulation & admin 10,000 10,000

Strike out:

Total 9,174,592 9,216,808

Estimated source of funds for

statewide expenditures

General Fund 9,174,592 9,216,808

Total 9,174,592 9,216,808

Insert in place thereof:

Total 9,164,592 9,206,808

Estimated source of funds for

statewide expenditure

General fund 9,164,592 9,206,808

Total 9,164,592 9,206,808

3 Judicial Council Guardian ad Litem Board Startup. Amend 1999, 159:1 by inserting the following new PAU:

02 Admin of Justice & Public Prin

18 Judicial Council

01 Judicial Council

96 Guardian ad litem board startup F* 10,000 10,000

* Expenditures may include, but are not limited to, equipment and part-time personnel services.

4 Judicial Council; Totals Adjusted. Amend 1999, 159:1.02, 18, 01 as follows:

FY 2000 FY 2001

Strike out:

Total 13,912,563 14,322,764

Estimated source of funds

for judicial council

09 Agency income 240,000 240,000

General fund 13,672,563 14,082,764

Total 13,912,563 14,322,764

Insert in place thereof:

Total 13,922,563 14,332,764

Estimated source of funds

for judicial council

09 Agency income 240,000 240,000

General fund 13,682,563 14,092,764

Total 13,922,563 14,332,764

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

AMENDED ANALYSIS

This bill establishes a guardian ad litem board responsible for the training, licensing, discipline, and other activities of guardians ad litem in New Hampshire and also provides that the board shall be administratively attached to the judicial council. The bill also provides \$10,000 in startup costs to the board.

This bill is a request of the study committee established in 1999, 30 (SB 130).

2000-4364h

Amendment to SB 464

Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 2 with the following:

2 Custody and Escheat; Bicycles Held by Police Departments. Amend RSA 471-C:13 to read as follows:

471-C:13 Property Held in Police Department Property Rooms. Notwithstanding any other provisions of law to the contrary, all noncontraband abandoned or lost personal property which has been held in a police department property room for a period of at least 180 days may be disposed of by the police department by returning it to the finder, if known, if the finder was other than a police officer who discovered the property during the course of the police officer's usual police duties. If the property cannot be returned to the finder, the property shall be sold at public auction with the proceeds to be turned over to the town or city treasurer. ***Except that any bicycle which has been held in a police department property room for a period of 180 days or more shall be sold at public auction with the proceeds to be used for the support of local bicycle safety programs, or, if no local bicycle safety programs are available, then with the consent of the local governing body, to be used for any other purpose.*** The police department shall be relieved of all liability for any claim thereafter arising or made with respect to property disposed of under this section.

AMENDED ANALYSIS

This bill limits the liability of municipalities and school districts which allow stunt biking in certain municipal or school district facilities and provides that bicycles held by police departments for 180 days or more shall be sold at public auction with the proceeds to be used for bicycle safety programs in the city or town.

2000-4434h

Amendment to SB 468

Proposed by the Committee on Judiciary - R

Amend RSA 490:35 as inserted by section 2 of the bill by inserting after paragraph III the following new paragraph:

IV. The governor shall nominate and the council shall confirm all new marital masters. The governor and council shall approve those seeking a renewed contract term and the terms and conditions of the marital master contract.

AMENDED ANALYSIS

This bill establishes a family division of the courts in Rockingham and Grafton counties and requires the supreme court to expand the family division to 2 other counties during the biennium beginning July 1, 2001. The bill also establishes a committee

to study implementation of a statewide family division.

The bill provides that family division matters arising in the towns of Deerfield, Northwood and Nottingham shall be heard in the Rockingham county courthouse in Brentwood. Currently, such matters arising in those towns are heard in the Auburn district court. The bill allows the supreme court to designate a location other than the Portsmouth district court within the Portsmouth or Hampton district for the hearing of family division matters.

This bill also establishes certain qualifications for marital masters selected to serve in the family division. The bill requires marital masters to be nominated by the governor and confirmed by the executive council. The bill also requires the governor and council to approve marital master contracts.

2000-4409h

Amendment to SB 470

Proposed by the Committee on Education - C

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

AN ACT relative to the duties of the commission on the status of community-technical education.

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

1 Commission on the Status of Community-Technical Education; Duties Expanded. Amend 1998, 272:37, II to read as follows:

II. The areas of study shall include, but are not limited to:

(a) The classified state employee classification series.

(b) The rights and benefits provided to all faculty and staff of the New Hampshire regional community-technical colleges including wages, insurance, pension, personnel rules, and bargaining rights.

(c) *The feasibility of allowing the regional community-technical college board of trustees to appoint and fix the compensation of the presidents of the regional community-technical college system.*

(d) Any other area of inquiry that the commission deems relevant or necessary to its main purpose.

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

AMENDED ANALYSIS

This bill expands the duties of the commission on the status of community-technical education established in 1998, 272 to include studying the feasibility of allowing the regional community-technical college board of trustees to appoint and fix the compensation of the presidents of the regional community-technical colleges.

2000-4430h

Amendment to SB 471

Proposed by the Committee on Municipal and County Government - C

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

AN ACT relative to authorizing the town of Seabrook to establish a reserve fund for tax stabilization related to the decommissioning of the Seabrook nuclear plant; relative to ratifying certain annual meetings in Newfields and Milan; and relative to amending the Hampton Beach village district charter.

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

1 Town of Seabrook; Nonlapsing Special Reserve Fund Authorized. Notwithstanding any provisions of law to the contrary, the town of Seabrook is hereby authorized to establish and maintain a nonlapsing special reserve fund for the purpose of tax stabilization to offset potential tax rate increases due to the decommissioning of the Seabrook nuclear power plant. Moneys

appropriated or transferred to this fund shall be used as a revenue source to mitigate tax rate increases due to property valuation decreases at the time the Seabrook nuclear power plant is decommissioned.

2 Ratification of the March 6, 2000 Newfields School District Annual Meeting. All acts, votes, notices, and proceedings relating to article 1 of the Newfields school district annual meeting held on March 6, 2000, and the related public hearing, and notice thereof, held on January 29, 2000, are hereby legalized, ratified, and confirmed.

3 Ratification of the March 12, 2000 Milan Annual Town Meeting. All acts, votes, notices, and proceedings relating to article 2 of the Milan annual town meeting held on March 12, 2000 are hereby legalized, ratified, and confirmed.

4 Hampton Beach Village District; Charter Amendment; Tax Exemption Amended. Amend 1979, 414:6 to read as follows:

414:6 Hampton Beach Village District; Charter Amendment. The Hampton Beach village district is authorized to exempt owners of single family, ***owner-occupied*** residential dwellings in the Hampton Beach village district, ***which have not been rented at any time during the tax year***, from that portion of the village district property tax attributable to the promotion of Hampton Beach as a tourist attraction.

5 Hampton Beach Village District; Referendum; Ballot Question Language Amended. Amend 1979, 414:7 to read as follows:

414:7 Referendum. Section 6 of this act shall not take effect unless it is adopted by a majority vote of those present and voting at a special meeting of the Hampton Beach village district warned and held within 60 days of passage of this act for that purpose. The district commissioners shall include in the warrant for said special meeting the following article: "to see if the village district will vote to adopt the provisions of an act of the 1979 general court amending the Hampton Beach village district charter to provide that owners of single family, ***owner-occupied*** residential dwellings in the Hampton Beach village district, ***which have not been rented at any time during the tax year***, shall be exempt from that portion of the village district property tax attributable to the promotion of Hampton Beach as a tourist attraction." No official ballot shall be used for the voting on said article. If a majority of those present and voting on this question vote in the affirmative, section 6 of this act shall be declared to have been adopted. Within 10 days after said referendum the district clerk shall certify to the secretary of state the results of said vote.

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

AMENDED ANALYSIS

This bill:

I. Authorizes the town of Seabrook to establish a nonlapsing special reserve fund for tax stabilization related to the decommissioning of the Seabrook nuclear plant.

II. Ratifies the acts, votes, notices, and proceedings of an article of the Newfields school district meeting held March 6, 2000, and the Milan annual town meeting held March 12, 2000.

III. Makes a change to the Hampton Beach village district charter relative to a village district property tax exemption.

2000-4471h

Amendment to SB 472

Proposed by the Majority of the Committee on Science, Technology and Energy – R

Amend RSA 369-B:1 as inserted by section 2 of the bill by inserting after paragraph IX the following new paragraphs:

X. The differences among rate classes in the amount of the stranded cost recovery charge in the April 19 order are in the public interest. When these differences are combined with the differences in the delivery service charge among rate classes (based on the cost of service), and with the differences in the likely market price of energy among rate classes, the overall total rate reduction is likely to be very close to an equal percentage for all rate classes, which is consistent with the benefits for all customers principle of RSA 374-F:3, VI. However, it is also in the public interest that any further adjustments to charges between the April 19 order and the final commission order approving the settlement be applied equally in cents per kilowatt-hour for all rate classes.

XI. The renegotiation of the wholesale power purchase agreements between PSNH and the 6 wood-to-energy facilities and the

one trash-to-energy facility is in the public interest in order to reduce the total cost to ratepayers of these agreements, and the sharing of the benefits among all of the parties involved in the renegotiations is in the public interest.

XII. It is in the public interest in the event that the price of transition service prior to March 1, 2001, exceeds PSNH's actual, prudent and reasonable costs of providing such power so as to create a credit to customers that must be reconciled, that the distribution of this credit between reducing the amount of the stranded cost recovery charge and reducing the duration of the stranded cost recovery charge be made by the commission in a manner that it finds to be in the public interest.

XIII. Low income programs currently administered by Granite State Electric Company and by the New Hampshire electric cooperative appear to be achieving the goals of RSA 374-F. The commission should design low income program details so as to achieve similar low overhead and operating efficiency, and to maximize the fraction of the money spent that goes to the intended beneficiaries of the low income program.

Amend RSA 369-B:2-3 as inserted by section 2 of the bill replacing it with the following:

369-B:2 Definitions. In this chapter:

I. "April 19 order" means commission Order No. 23,443 in Docket DE 99-099 as it was issued on April 19, 2000, excluding any subsequent amendments.

II. "Commission" means the public utilities commission established in RSA 363, as it may be constituted from time to time, and any successor agency exercising functions similar in purpose to such commission.

III. "Competition day" means competition day as defined in the original proposed settlement.

IV. "Electric utility" means a public utility that provides retail electric service.

V. "End user" means any person or entity consuming electricity, including all retail customers.

VI. "Finance order" means an order of the commission adopted prior to or following the effective date of this chapter pursuant to 1999, 289:3, I, pursuant to this chapter, or pursuant to both 1999, 289:3, I and this chapter.

VII. "Financing entity" means any special purpose trust, limited liability company, non-profit corporation, or other entity that is authorized in accordance with the terms of a finance order to issue rate reduction bonds, acquire RRB property, or both on behalf of the electric utility, or any combination of such entities.

VIII. "Original proposed settlement" means the "Public Service Company of New Hampshire Restructuring Settlement Agreement" filed with the commission on August 2, 1999.

IX. "PSNH" means the Public Service Company of New Hampshire.

X. "Rate reduction bonds" ("RRB") means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, in accordance with this chapter, 1999, 289:3, I and II, and RSA 369-A, the proceeds of which are used, directly or indirectly, to provide, recover, finance, or refinance RRB costs, and which, directly or indirectly, are secured by, evidence ownership interests in, or are payable from, RRB property.

XI. "Retail customer" means any person or entity purchasing directly or otherwise obtaining or being supplied directly with retail electric service for end use consumption, including those served under special contracts.

XII. "Retail electric service" means the delivery of electric power through the provision of transmission and/or distribution service by an electric utility to a retail customer within its service territory or territories, regardless of such retail customer's source of electric power, and shall include any back-up, maintenance, emergency, and other delivery service provided to a retail customer by an electric utility.

XIII. "RRB charge" means those retail electric service rates and similar charges that are authorized by the commission in a finance order to recover those RRB costs that are eligible to be funded with the proceeds of rate reduction bonds pursuant to this chapter and the costs of providing, recovering, financing, or refinancing such RRB costs through a plan approved by the commission in the finance order, including the costs of issuing, servicing, and retiring rate reduction bonds. The RRB retail electric service rate or charge authorized by the commission may vary by cost of service, customer class, and between special contract customers. All RRB charges shall be assessed on a per

kilowatt-hour basis.

XIV. "RRB costs" means expenditures which are incurred by an electric utility or which an electric utility is obligated to incur either prior to or subsequent to the effective date of this chapter, and costs approved by the commission to mitigate such expenditures, as shall be designated in a finance order approved by the commission and which may include but are not limited to:

- (a) Expenditures incurred in respect of generation assets, entitlements, and acquisition premiums.
- (b) Expenditures incurred in respect to the buyout, buydown, restructuring or renegotiation of wholesale purchase power contracts.
- (c) Expenditures incurred in respect to regulatory assets.
- (d) Expenditures incurred to refinance or retire existing debt or existing equity capital of the electric utility and any costs related thereto.
- (e) Amounts necessary to recover federal or state taxes actually paid by an electric utility, which tax liability recovery is modified by the transactions approved in a finance order issued by the commission pursuant to this chapter.
- (f) Reasonable costs, as approved by the commission, relating to the issue, servicing, or refinancing of rate reduction bonds under the provisions of this chapter, including, without limitation, principal and interest payments and accruals, sinking fund payments, debt service

and other reserves, costs of credit enhancement, indemnities, if any, owed to the state or the trustee for the rate reduction bonds, issuance costs and redemption premiums, if any, and all other reasonable fees, costs, and charges in respect of rate reduction bonds.

XV. "RRB property" means the irrevocable vested property right created pursuant to this chapter and one or more finance orders, including, without limitation, the right, title, and interest of an electric utility or a financing entity in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the RRB charge authorized to be imposed and collected pursuant to such finance orders to recover RRB costs and the costs of paying, financing, reimbursing, or refinancing the RRB costs, including the reasonable costs of issuing, servicing, and retiring rate reduction bonds, and in and to all rights to obtain adjustments to such RRB charge pursuant to the terms of RSA 369-B:4, III and the finance order, all as determined by the commission in its approval of such finance orders. "RRB property" shall constitute a current and irrevocable vested property right, notwithstanding the fact that the value of such property right may depend upon electricity usage or the performance of certain services.

XVI. "Security interest" means a security interest as defined in RSA 382-A:1-201(37).

XVII. "Service territory" means, with respect to any electric utility, the geographic area established by the commission as the retail electric service territory of such electric utility, as such territory is depicted on the "Electric Utilities Franchise Areas" map issued by the commission, dated July 1, 1993, together with any other geographic area in which such electric utility actually provided retail electric service on such date.

369-B:3 Authority to Issue Finance Orders to Finance RRB Costs.

I. The commission is authorized, upon the petition of an electric utility and after a hearing, to issue one or more finance orders pursuant to which rate reduction bonds shall be issued, if the commission finds that the issuance of such finance order or finance orders is in the public interest as set forth in RSA 369-B:1, IX. Any finance order adopted pursuant to 1999, 289:3, I and II prior to the effective date of this chapter shall, following the effective date of this chapter, be deemed to be authorized by this chapter, provided the commission has made the required finding pursuant to RSA 369-B:3, IV(b).

II. Notwithstanding any law, rule, or regulation to the contrary, except as otherwise provided in RSA 369-B:4, III with respect to RRB property, the finance orders and the RRB charge authorized to be imposed and collected pursuant to such finance orders shall be irrevocable, and the commission shall not have authority either by rescinding, altering, or amending the finance order or otherwise, to directly or indirectly, revalue or revise for ratemaking purposes the RRB costs, or the costs of providing, recovering, financing, or refinancing the RRB costs, determine that such RRB charge is unjust or unreasonable, or in any way reduce or impair the value of RRB property either directly or indirectly by taking such RRB charge (other than any portion of such RRB charge constituting a servicing fee payable to the electric utility) into account when setting other rates for the electric

utility; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination.

III. Notwithstanding any law, rule, or regulation to the contrary, any requirement under this chapter, under 1999, 289:3, I and II, under RSA 369-A, or under a finance order that the commission take action with respect to the subject matter of a finance order shall be binding upon

the commission, and the commission shall have no authority to rescind, alter, or amend that requirement.

IV. The commission shall only issue finance orders that:

(a) Authorize the issuance of a total of no more than \$137,000,000 in rate reduction bonds to finance renegotiated agreements of the existing wholesale power purchase agreements between PSNH and the 6 wood-to-energy facilities and the one trash-to-energy facility; or

(b) Authorize the issuance of a total of no more than \$688,000,000, minus \$6,000,000 for each month from July 1, 2000 to competition day, in rate reduction bonds. This authorization is in addition to any amount authorized in subparagraph (a). This issuance must be part of a settlement approved by the commission under RSA 374-F to implement electric utility restructuring within the service territory of PSNH. Any finance order that is issued under this subparagraph (b) shall contain a finding by the commission that the rate reduction bonds authorized by the finance order are consistent with the April 19 order, plus any subsequent amendments, and that implementing the terms of the April 19 order, plus any subsequent amendments, shall result in the following:

(1)(A) Prior to March 1, 2001, PSNH shall supply transition service and default service in its retail electric service territory. Subsequent to February 28, 2001, any provider or providers of transition service shall have been chosen through a competitive bid process, administered by the commission, to provide such service. The commission may, if it finds it to be in the public interest, divide the competitive bid process into multiple categories or multiple competitive bids;

(B)(i) Transition service for residential customers and small commercial customers that do not have installed demand meters shall be available through February 28, 2003. Through February 28, 2001, the price of transition service for these customers shall be \$0.044 per kilowatt-hour. From March 1, 2001 to February 28, 2002, the price of transition service for these customers shall be \$0.044 per kilowatt-hour, or the competitively bid price for transition service, whichever is less. From March 1, 2002 to February 28, 2003, the price of transition service for these customers shall be \$0.046 per kilowatt-hour, or the competitively bid price for transition service for these customers, whichever is less. If the competitively bid price exceeds these fixed prices, the differences shall be reconciled for these customers in the manner prescribed in the original proposed

settlement;

(ii) At the end of the transition service period, up to 25 percent of the residential customers and small commercial customers that do not have installed demand meters and who have not chosen a competitive supplier may be assigned randomly to registered competitive suppliers other than the transition service supplier or suppliers. The commission must find such random assignment to be in the public interest. The commission shall develop procedures and regulations for this assignment process. Any random assignment must be approved by

an individual customer;

(C) Transition service for all other customers shall be available through February 28, 2002. Through February 28, 2001, the price of transition service for these customers shall be \$0.044 per kilowatt-hour. From March 1, 2001 to February 28, 2002, the price of transition service for these customers shall be the competitively bid price for transition service;

(D) Any difference between the price of transition service prior to March 1, 2001, and PSNH's actual, prudent and reasonable costs of providing such power shall first be separated between the 2 groups of customers described in subparagraphs (B) and (C), and then reconciled for that group of customers in the manner prescribed in the original proposed settlement, or, if the commission finds it to be in the public interest, a decrease in the stranded cost recovery charge;

(E) The commission shall retain the authority to reject any or all bids for transition service at its sole discretion if it finds such action to be in the public interest. Except as specifically provided in this section, the commission may not accept any bid or implement any pricing strategy for transition service that creates any deferrals;

(F) The selection of a provider or providers of default service prior to March 1, 2003 may be combined with the selection of a

provider or providers of transition service to the extent that the commission finds it to be in the public interest;

(2) No amount shall be securitized which was not listed as part of the \$688,000,000 proposed for securitization in the April 19 order, as reduced by any subsequent amortization;

(3) Customer savings through reductions of stranded costs shall be not less than the total amount of \$474,200,000 contained in the April 19 order, including the \$367,000,000 contained in the original proposed settlement, the \$6,200,000 resulting from the settlement of issues pertaining to the New Hampshire electric cooperative, and all additional amounts contained in the April 19 order;

(4) In the event that PSNH or its parent company is acquired or otherwise sold or merged, such merger, acquisition, or sale shall be subject to the jurisdiction of the commission under RSA 369, RSA 374, RSA 378 or other relevant provisions of law, and the merger, acquisition, or sale shall be approved only if it is shown to be in the public interest;

(5)(A) The delivery service charge shall be fixed for a period of 30 months from competition day, except as provided herein, at \$0.027 per kilowatt-hour for the first year and \$0.028 per kilowatt-hour for months 13 through 30;

(B) In the event of a merger, acquisition or sale of PSNH or its parent company prior to 5 years after competition day:

(i) The delivery service charge shall be fixed, except as provided herein, at \$0.027 per kilowatt-hour from the effective date of the merger, acquisition or sale until 5 years after competition day;

(ii) At any time after such a merger, acquisition or sale, the commission has the authority to reduce the delivery service charge, upon petition by other parties or under its own authority, to reflect additional cost savings that result from the merger, acquisition or sale in excess of those assumed to create the rate savings in subparagraph (b)(5)(B)(i);

(iii) From 30 months after competition day until 60 months after competition day, the commission shall, upon petition and demonstration by PSNH that its achieved return on equity for the previous 12 months is less than 5 percent before taxes, increase this delivery service charge by an amount that will allow return on equity of 5 percent before taxes;

(iv) No acquisition premium paid by an acquiring company for the assets or securities of an acquired company, resulting from any such merger, acquisition or sale, may in any way increase rates at any time from what they would have been without the acquisition premium.

(6) If any rated rate reduction bonds, rated Triple-A by any major bond credit rating specialist, are issued prior to October 31, 2000, with an all-in cost greater than 7.25 percent, PSNH assumes all incremental costs of servicing the bonds resulting from exceeding the 7.25 percent rate;

(7) The total systems benefit charge shall be fixed at \$0.002 per kilowatt-hour for 36 months from the effective date of the commission-approved settlement, divided equally between low-income assistance and energy efficiency/conservation programs. In the event that money is collected but not spent during the initial 12-month period or any succeeding 12-month period, it shall be refunded to ratepayers;

(8) All currently existing opportunities shall be continued for retail customers to generate or acquire electricity for their own use, other than through retail electric service, without an exit fee;

(9) Non-discriminatory, open access to PSNH's transmission system shall be available to wholesale customers, electricity suppliers, marketers, aggregators, and municipal electric utilities, with charges based only on rates set by federal regulations, plus the actual cost of service for any services not subject to federal price regulation;

(10) The stranded cost recovery charge, averaged over all customers, shall not exceed \$0.0340 per kilowatt-hour, and its duration shall not exceed the estimated term as provided in the April 19 order, except in accordance with the provisions for adjustment contained in the April 19 order. Any changes in the delivery service charge, stranded cost recovery charge, transition service charge, systems benefit charge, or any other charge from those estimated in the April 19 order shall be applied as an equal change in the cost per kilowatt-hour for all customer classes;

(11) There shall be no changes to the April 19 order that have or may have, as determined by the commission in the finance order, an adverse financial impact on ratepayers, unless additional write-offs or other ratepayer benefits are provided, in addition to those provided by the conditions of this subparagraph (b) and by the April 19 order, to adequately compensate for such adverse financial impacts;

(12) The commission may not order changes in the total rates of customers taking service under special contracts approved pursuant to RSA 378:18 for the duration of those special contracts in effect as of May 1, 2000. The commission may require special contract customers to use reasonable diligence whenever they acquire electricity;

(13) During any sale of electricity generation assets required by this settlement, neither PSNH, nor any affiliate of PSNH, nor any company that would become an affiliate of PSNH if an announced merger, acquisition or sale were to be consummated, may bid for those assets;

(14) During any competitive bid process to determine a provider or providers of transition service or default service, neither PSNH, nor any affiliate of PSNH, nor any company that would become an affiliate of PSNH if an announced merger, acquisition or sale were to be consummated, may bid to provide such service;

(15) The commission shall administer the liquidation of any electricity generation assets required to be sold by the settlement. Any sale of assets located in the state of New Hampshire that are administered by the commission pursuant to this paragraph shall be conducted in this state. The commission shall hire an independent, qualified asset sale specialist to conduct the asset sale process. PSNH shall be allowed to comment prior to the selection of any such specialist;

(16) The commission shall administer any competitive bid process for transition service or default service required by the settlement;

(17) Competition day shall be not later than October 1, 2000, unless the commission finds due to circumstances beyond its control that further delay is in the public interest;

(18) The sale of fossil generation assets shall take place no later than July 1, 2001, unless the commission finds due to circumstances beyond its control that further delay is in the public interest;

(19) In the event that the commission does not approve a sale of Seabrook, the return on equity shall be increased from 7 percent to 150 basis points more than the average 10-year Treasury bond yield for the preceding 6 months, but not less than 7 percent nor more than 11 percent, from the time of the disapproved sale until Seabrook is sold. If this time period is more than 6 months, the return on equity shall be readjusted at the end of every 6 months; and

(20) No final finance order shall be effective until PSNH has withdrawn all pending litigation in Federal court.

Amend RSA 369-B:4, VII as inserted by section 2 of the bill by replacing it with the following:

VII. Notwithstanding any statutory or regulatory language to the contrary, end users who generate or acquire on-site electricity for their own use as permitted by existing law and regulation in effect as of January 1, 2000, shall not be subject to an exit fee in whole or in part. An exit fee is any rate or charge that is based in whole or in part on the amount of electric power and/or retail electric service a customer might have purchased from or through an electric utility but does not, for any reason. End users who generate electricity for their own use shall include joint users of electricity, including their on-site successors and assigns, who are using electricity generated primarily for their own use at a site owned by one or more of such users, and such users or their predecessors were sharing the provision of power as of January 1, 2000.

Amend RSA 369-B:5, I as inserted by section 2 of the bill by replacing it with the following:

I. An electric utility or financing entity may, from time to time, after approval by the commission in a finance order or orders, issue rate reduction bonds. The power and authority of such electric utility or financing entity to issue such bonds shall expire on December 31, 2002.

Amend RSA 369-B:5, VII(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, state banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries and electric utility consumers may properly and legally invest funds, including capital in their control or belonging to them; and

Amend RSA 369-B:5, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. Rate reduction bonds shall mature at such time or times approved by the commission in the finance order, but not more than 14 years after competition day.

Amend RSA 369-B:6, III as inserted by section 2 of the bill by replacing it with the following:

III. An electric utility may sell and assign all or portions of its interest in RRB property to an affiliate to the extent approved in the pertinent finance orders. An electric utility or its affiliate may sell or assign its interests to one or more financing entities that make that property the basis for issuance of rate reduction bonds to the extent approved in the pertinent finance orders. An electric utility, its affiliate, or a financing entity may pledge RRB property as collateral, directly or indirectly, for rate reduction bonds to the extent approved in the pertinent finance orders providing for a security interest in the RRB property, in the manner set forth in RSA 369-B:7. In addition, RRB property may be sold or assigned by:

(a) The financing entity or a trustee for the holders of rate reduction bonds in connection with the exercise of remedies upon a default; or

(b) Any person acquiring the RRB property after a sale or assignment pursuant to this paragraph.

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

3 Restructuring Policy Principles; Universal Service. Amend RSA 374-F:3, V(b) to read as follows:

(b) As competitive markets emerge, customers should have the option of stable and predictable ceiling electricity prices through a reasonable transition period, consistent with the near term rate relief principle of RSA 374-F:3, XI. Upon the implementation of retail choice, transition service should be available for at least [2] **one** but not more than 4 years after the start of competition, for customers who have not yet chosen a competitive electricity supplier. Transition service should be procured through competitive means and may be administered by independent third parties. The price of transition service should increase over time to encourage customers to choose a competitive electricity supplier during the transition period. Such transition service should be separate and distinct from default service.

4 New Subparagraph; System Benefits Charge; Limitations. Amend RSA 374-F:4, VIII by inserting after subparagraph (f) the following new subparagraph:

(g) The portion of the system benefits charge due to programs for low-income customers shall not exceed 1.0 mills per kilowatt-hour in any part of the state for a period of 3 years starting on competition day for PSNH as defined in RSA 369-B:2, III.

5 Option for Municipalities Purchasing Certain Electric Facilities. Municipalities which seek to purchase PSNH hydro-electric small-scale electric facilities, as defined in RSA 374-D:1, may with the consent of the governing body, prior to October 1, 2000, petition the commission pursuant to RSA 38:9, prior to holding the vote of qualified voters provided for in RSA 38:3, RSA 38:4, or RSA 38:5, for a determination of the fair market value of the facility in the event that the municipality and PSNH are unable to agree to a price to be paid for the facility. The cost of the determination shall be at the expense of the requesting municipality. The commission should hire an independent, qualified asset valuation specialist to conduct the asset valuation process. If this option is chosen, all votes required by RSA 38:3, RSA 38:4, or RSA 38:5 must be held prior to the expiration of the time limit required for the ratification vote under RSA 38:13.

6 Public Utilities Commission Action. If by August 1, 2000, the public utilities commission has not made an affirmative finding as part of a finance order under RSA 369-B:3, IV(b), relative to a settlement involving PSNH, or PSNH has not agreed to the conditions of the approved settlement for which the commission has made an affirmative finding under RSA 369-B:3, IV(b), then the commission shall:

I. Suspend the Public Service Company of New Hampshire (PSNH) Restructuring Settlement Docket No. 99-099 and resume, as allowed by law, all other dockets stayed by the commission as it addressed Docket No. 99-099.

II. Take such action as is in the public interest regarding temporary rates as authorized by RSA 378:27.

III. Proceed with litigation at the New Hampshire supreme court on whether the 1989 Rate Agreement is a contract and on whether PSNH and Northeast Utilities may have breached any such contract or, by their actions, allowed any such contract to be voided.

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

2000-4464h

Floor Amendment to SCR 6

Proposed by Reps. Rubin, Quandt and Twardus

Amend the resolution by replacing the ninth paragraph after the title with the following:

Whereas, the federal government should aggressively recover any subsidies from pharmaceutical manufacturers; and

Amend the resolution by inserting after the tenth paragraph after the title the following new paragraph:

Whereas, current laws relative to the pharmaceutical industry need to be updated in an effort towards cost reduction of prescription medications; and