

State of
New Hampshire
HOUSE RECORD

Second Year of the 158th General Court
Calendar and Journal of the 2004 Session

Vol. 26 Concord N.H. Friday, January 9, 2004 No. 4
Contains: Reports and Amendments for January 15, Hearings and Notices

HOUSE CALENDAR

A MESSAGE FROM SPEAKER CHANDLER

MEMBERS OF THE HOUSE:

The House will meet in session on Thursday, **January 15**, 22 and February 5 at 10:00 a.m. The House will tentatively meet on Thursday, January 29, if necessary.

For the convenience of members during the winter months a shuttle service has been established from the Storrs Street parking garage to the State House complex. Thanks to the Department of Transportation for the use of the van.

The shuttle will operate Tuesdays, Wednesdays and Thursdays from 8:00 a.m. to 10:00 a.m. and again from 2:00 p.m. until 4:00 p.m. or until session is over. The van will drop-off and pickup on State Street between the State House and LOB. If you have any questions or need any assistance please feel free to call my office or Protective Services at 271-3321.

Congratulations to Representative Mary Griffin for being named as team leader for New Hampshire's effort to increase national awareness of the Veterans History Project. This project is a joint effort by the Department of Veterans Affairs, National Foundation of Women Legislators, the Disabled American Veterans, and the Library of Congress to preserve the oral histories of American wartime veterans.

Please note that there will be no legislative business scheduled on Tuesday, **January 27**, the day of New Hampshire's first-in-the-nation primary. The House will take a break from legislative business from February 23 to 27, 2004.

Chairmen and Vice Chairmen will meet on Tuesday, **January 13**, at 9:00 a.m. in Room 201 LOB.

Sincerely,
Gene G. Chandler, Speaker

NOTICE

There will be a Republican Caucus on Thursday, **January 15**, 2004 at 9:00 a.m. in Representatives Hall.
Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Thursday, **January 15**, 2004 at 9:00 a.m. in Rooms 306-308 of the Legislative Office Building.
Rep. Peter H. Burling, Democratic Leader

NOTICE

LEGISLATIVE ETHICS COMMITTEE

All legislators and legislative officers are required to complete and file the annual "Financial Disclosure Form" with the Office of the Secretary of State no later than **January 31, 2004**. A copy of the form has been sent to each member of the House.

Rep. Shawn N. Jasper, Chairman
Legislative Ethics Committee

THURSDAY, JANUARY 15 REGULAR CALENDAR

CHILDREN AND FAMILY LAW

HB 563, relative to the emancipation of minors. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Elizabeth D. Blanchard for the **Majority** of Children and Family Law: This bill would establish the criteria and procedure by which a minor who is 16 years of age and older may be emancipated. The committee learned that other states that have an emancipation statute, unfortunately, have no follow-up information as to its success. We also discovered that in New Hampshire, an emancipated minor would not be eligible for programs and services, such as worker's compensation, health care, etc., which are already available to individuals age 18 years and older. By the same token, they would no longer be eligible for juvenile services. Therefore, because of the unintended consequences of emancipation in New Hampshire, the committee does not recommend this bill. **Vote 10-7.**

Rep. Thomas I Arnold for the **Minority** of Children and Family Law: The minority had two positions: (1) We cannot afford to delay relief for parents who have children over whom they can effect no control; and (2) the belief that we should set up a study committee to find help for homeless children.

HB 755, relative to the burden of proof in child abuse and neglect proceedings. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Karen K. McRae for the **Majority** of Children and Family Law: The committee does not recommend this bill because the definition of "clear and convincing" has a different meaning to the various stakeholders in child abuse and neglect proceedings, and crafting a cogent, coherent, commonly agreed upon definition that would unequivocally advance the intent of the bill was not possible.

Vote 15-2.

Rep. Daniel C. Itse for the **Minority** of Children and Family Law: The act of intervening in a family is generally destabilizing to the children. Therefore, it is imperative to ensure that the action is warranted. This bill would raise that level of surety from preponderance of the evidence to clear and convincing for a finding of abuse and neglect.

COMMERCE

HB 115, relative to nonrenewal of homeowner's insurance policies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser Jr. for Commerce: This bill would have disallowed an insurance company from non-renewing a homeowner's policy if the sole reason for non-renewal was that the policyholder had filed three or fewer valid claims during a previous policy term. The committee kept in mind that currently we are in a "hard market" (i.e., homeowner's insurance is becoming more difficult to obtain) and as such, this legislation could in all likelihood, if adopted, have an unanticipated result in that companies would be even more reluctant to write new policies in New Hampshire. All renewals would also see an even larger increase in premium to account for this mandate. To quote the Union Leader Sunday News on October 12, 2002, "... both in New Hampshire and nationally, consumers are facing a hardened market for property and casualty insurance as insurers try to stem a decade of losses...". During the past ten years, insurers paid out \$1.18 in homeowners' claims for every \$1.00 they collected in premiums. For that reason, the Commerce Committee believes that this was not the time to take any action as proposed in the legislation. **Vote 9-4.**

HB 265, relative to the health care delivery system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: The purpose of this bill is to institute a pilot program that encourages health insurers to develop health benefit plans and provider payment policies that promote efficiency, reduce medical errors, instill care standards, and improve the overall quality of care. The bill allows health insurers to apply to the Insurance Department for a waiver of statutory or regulatory requirements provided the proposed health benefit plan meets at least four measurement standards. The committee amended the bill to require a public hearing on the proposed plan, to limit the waiver to a period not to exceed three years, and to "sunset" the authority to grant waivers on July 1, 2007. **Vote 7-6.**

HB 652-FN, relative to qualified wellness or disease management programs. **OUGHT TO PASS**

Rep. Leo W. Fraser Jr. for Commerce: This legislation allows health insurers in the small group and individual markets to use a rating factor (subject to the approval of the Insurance Department) to discount the premium rate for health benefit plans that include financial incentives to the employer and employee. It is hoped that this wellness program which addresses chronic disease such as diabetes, asthma and chronic heart disease, will accomplish three things: (1) Reduce medical claims costs; (2) Provide the employer with a reduced premium cost; (3) Target the individual in the group, and not the group itself. The federal law, HIPAA, already covers all of the primary issues that may be related to this legislation. Also, it is intended to encompass the quality of life of the patient.

Vote 11-2.

EDUCATION

CACR 2, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and

level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mark S. Carter for Education: This amendment has the endorsement of Governor Benson. It seeks to restore the authority of the Legislature over education policy and funding. It endorses the concept that the Legislature must cherish education, and that the representatives of the people are empowered to determine how to cherish it. It was the opinion of the majority of the Education Committee that after ten years without a say, the people must be given a voice at the ballot box in November 2004. **Vote 11-7.**

CACR 13, relating to defining the extent of state responsibility to provide aid for public elementary and secondary education. Providing that the state shall provide aid to school districts with a fiscal capacity that is less than their education need and the aid shall be a minimum of 31 percent of the state average expenditure per public elementary and secondary pupil, calculated at least once in every 5 years. **INEXPEDIENT TO LEGISLATE**

Rep. Mark S. Carter for Education: The committee voted in a bipartisan manner to recommend ITL to the House. This amendment was originally a “companion” to HB 717 which was rejected in the Senate late session. It was the view of the committee that CACR 13 would more properly be a bill, as it seeks to establish education policy. Casting today’s specific education policy imperatives into constitutional stone was considered unwise as a two-thirds popular vote would be required to make any changes in the future. **Vote 15-2.**

HB 133-L, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard C. Leone for Education: This bill enables the Fall Mountain School District to correct an issue relative to articles of agreement for budgeting purposes. A correction was needed because the voters of the five towns had inaccurate information when they voted. Rather than require the district to wait the customary five years to correct the mistake, the committee agreed that the enabling legislation was in order under the circumstances. It was agreed that a remedy can be obtained by allowing the voters to decide. **Vote 15-3.**

HB 492, establishing a statement of parental rights relative to school disciplinary measures, the content of educational materials and surveys, and the use of psychological testing and psychiatric drugs in schools. **REFER FOR INTERIM STUDY**

Rep. Michael A. Balboni for Education: This bill supports parental rights by requiring informed consent of the parent or legal guardian prior to the administration of psychiatric drugs to school children. New Hampshire is the No. 1 state in the nation in administering the psychotropic drug Ritalin to our school children. We heard testimony that Ritalin is a synthetic cocaine and its withdrawal symptoms include violent outbursts. Once a student is placed on Ritalin, it is very difficult to take the child off the drug. We also learned that students given Ritalin after age 12 are prevented from receiving scholarships and cannot be admitted to the country’s military academies. Often, parents do not know of these future consequences when allowing their children to be given Ritalin or other mind-altering drugs. This bill would require full disclosure of the 1997 Department of Defense directive limiting military academy admittance. The bill would also require a parent or legal guardian to receive information concerning the pros and cons of such drugs and require such informed consent before the child can receive such drugs. We also heard testimony that the State of Connecticut passed a bill that is essentially the informed consent section of HB 492 (Paragraph IV). Most recognize the importance of this bill. Then why did the committee recommend interim study? The committee believes the bill can be made even better by focusing on the “informed consent” section of the bill. Therefore, an amendment is planned to be offered. **Vote 12-5.**

HB 612-FN-LOCAL, increasing state appropriations to school districts for certain special education costs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Barbara J. Hagan for Education: The committee unanimously agreed that this bill will go a long way to ensure that communities that struggle with catastrophic aid will be able to receive funds sooner without putting an additional constraint on New Hampshire budget resources. It also sets up mechanisms to prevent districts from “double dipping” and gives an important flow of information to the House and Senate Finance Committees so that future budgets can encompass the true picture of the districts’ needs. The bill further does instruct the Department of Education to disburse all catastrophic money at the end of each fiscal year after court-ordered placements, to further lessen the burden on local school districts. **Vote 18-0.**

HB 641-FN-A-L, targeting aid for education to certain school districts. **INEXPEDIENT TO LEGISLATE**

Rep. John R.M. Alger for Education: The committee retained this bill in case it would be needed. However, with the passage of HB 608 into law, the bill is not needed, and the prime sponsor agrees. **Vote 17-0.**

HB 754-FN-LOCAL, establishing an education certificate program to allow parental choice in the selection of schools for children. **REFER FOR INTERIM STUDY**

Rep. Stephen R. L’Heureux for Education: After months of work, the Education Committee was still not able to come to a majority consensus on HB 754. We applaud the work of all of those involved in the process, from the public hearings and subcommittee work to the numerous e-mails and phone calls. It seems that the question is not if – but how – to best institute choice. The bipartisan vote reflects the committee’s desire to continue to study this issue for New Hampshire’s children. **Vote 16-1.**

ELECTION LAW

HB 264, establishing state representative districts. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howard C. Dickinson for the **Majority** of Election Law: The committee retained HB 264 to examine the court-established House districts to determine if it was possible to create smaller districts with acceptable deviations. The committee will be receiving at least five bills concerning the subject of House redistricting next year (2004). HB 264, as amended, renumbers each district by county and divides the following existing House districts: Belknap County #31 (into two districts), Grafton County #17 (into two districts), Cheshire County #26 (into two districts), Merrimack County #34 (into three districts), Rockingham County #79 (into two districts), and

Strafford County #67 (into two districts). We were also able to increase the number of districts in the City of Manchester from eight to ten districts. **Vote 10-4.**

Rep. James R. Splaine for the **Minority** of Election Law: The minority wonders how often we’re going to redistrict this state? Are we going to do it as the Constitution allows – every ten years after a thorough census – which was done last year? Or, are we going to do it after every election, when one party in power determines that it can redistrict itself even more legislative seats? Let’s be fair to one another, and stop the gamespersonship.

HB 359, establishing a procedure for apportioning state senate and representative districts. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howard C. Dickinson for the **Majority** of Election Law: This bill, as amended, states that redistricting of the House and Senate shall be accomplished by concurrent resolutions developed by each body. The original bill stated that this should be done simply by a Senate and House resolution, but the majority of the committee strongly supports the idea that this should be accomplished by concurrent resolutions, not only because each body is then a check on the other, but also to enable last-minute changes to be made in the second body. The approach is consistent with Articles 9 (second part) and 26 (second part) of the New Hampshire Constitution, which states that the Legislature shall redistrict itself. **Vote 9-5.**

Rep. James R. Splaine for the **Minority** of Election Law: The minority believes that each House member has to answer one question before voting on this bill: Do we really need yet another procedure for apportioning state Senate and Representative districts? Even worse, this bill essentially excludes the Executive Branch from redistricting, and that further increases the chances of political games and personal retribution. Why are we doing this to ourselves, and to future Legislatures? Let’s be fair to one another, and stop playing an annual game of political paint-by-numbers mapmaking.

HB 695-FN, making placement of political advertising on public property subject to state litter laws. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Richard B. Drisko for the **Majority** of Election Law: The intent of this bill was to amend RSA 163-B:2, RSA 207:36-b, RSA 265:102,I, and RSA 485-A:15 (the State Litter Laws) to include “political advertising as defined in RSA 664:2,VI” placed on public property in the definitions of “litter” and hence subject to the penalties of those statutes applicable to littering. It was the opinion of the majority that although the aim of the bill was to curb indiscriminate placement of political advertising, there are adequate laws, both state and local, that currently deal with such violations. (Ref: RSA 664:17) **Vote 8-5.**

Rep. James R. Splaine for the **Minority** of Election Law: The excessive placement of political signs on public property throughout the state is a growing problem that can see no end. “How many signs are enough?” is a question that comes to mind for many voters, and many campaigns with increasing and sometimes seemingly inexhaustible campaign dollars to spend are answering by saying, “As many as we can put up!”. This bill is a simple statement – it makes political signage that is placed and thus abandoned on public property subject to the state litter laws. Among other things, that allows those signs to be taken down by cleanup crews and residents in the area who believe the signs litter their neighborhood. This is not a “free speech” issue – campaigns can find many places to place signs on private property. But no one has the right to litter with their brochures, their advertising, or their signs. If someone is standing next to their sign on public property waving to voters passing by, that’s not an abandoned sign. That’s not litter. What is litter is to place a sign on public property and drive off, as many campaigns do. It’s not unlike throwing a coffee cup out of your car, and it should stop. By passing this bill, campaigns will cease putting up signs on public locations because they know they can be fined under the state litter laws. Let’s get ‘em.

HB 767-FN, relative to political advertising not authorized by the candidate. **OUGHT TO PASS WITH AMENDMENT**

Rep. Howard C. Dickinson for Election Law: This bill redefines the definition of “communication” to include internet sites, and transmission by telephone and facsimile, as well as posters, cards, pamphlets, leaflets, flyers, etc. This bill further emphasizes that political advertising sponsored by political committees must so state. **Vote 10-5.**

ENVIRONMENT AND AGRICULTURE

HB 72, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food. **OUGHT TO PASS WITH AMENDMENT**

Rep. Omer C. Ahern, Jr. for Environment and Agriculture: The problem this bill proposes to solve is the reluctance of local law enforcement to pursue violations of the law as a misdemeanor, which the Commissioner cannot pursue without the assistance of local law enforcement. This bill provides the Department of Agriculture, Markets & Food with more flexibility in pursuing violations of existing state law as to the sale of animals and pets, in that the Commissioner of the Department, or his designee, may impose an administrative fine of up to \$1,000 per violation of the law. The Commissioner has the same authority to impose the same fines in many other statutes. **Vote 15-3.**

HB 220, creating a committee to study amending the constitution to require that government decisions affecting the environment reflect consideration of the welfare of future generations. **OUGHT TO PASS**

Rep. Peter H. Allen for Environment and Agriculture: Passage of this bill would require the Speaker of the House and the Senate President to appoint three members each to study amending the New Hampshire Constitution by adding language to require State consideration of future generations when deciding questions regarding agricultural and natural resources. **Vote 10-3.**

HB 482, establishing a committee to study certification of organic products. **INEXPEDIENT TO LEGISLATE**

Rep. Omer C. Ahern, Jr. for Environment and Agriculture: The content of this bill is already covered under existing law. Accordingly, there is no need for this bill. **Vote 13-0.**

HB 520-FN, relative to maintaining records of greyhounds used in pari-mutuel racing. **INEXPEDIENT TO LEGISLATE**

Rep. Derek Owen for Environment and Agriculture: This bill was found through testimony to be unnecessary. The State Veterinarian testified that there are existing statutes addressing the problems presented in the bill. Further, new rules by the Greyhound Commission support the existing law. Therefore, we moved Inexpedient to Legislate. **Vote 12-5.**

HB 653-FN-A, authorizing the production of industrial hemp. **REFER FOR INTERIM STUDY**

Rep. Burton W. Williams for Environment and Agriculture: The committee feels that industrial hemp production has merit and is important to the furtherance of agriculture in New Hampshire. This study is needed to keep this topic alive and educate the public on this important issue. **Vote 14-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 116-FN, granting group II retirement system status to certain positions in the department of corrections. **REFER FOR INTERIM STUDY**

Rep. Michael O'Neil for Executive Departments and Administration: This bill would move certain positions in the department of corrections from group I to group II in the New Hampshire Retirement System. After thorough discussion, the committee decided that a study of all positions within the corrections system needed to be undertaken. In performing this comprehensive study, the committee agreed that the state director of personnel, members of the criminal justice committee as well as correctional personnel should be involved to determine the correct classification and definitions for group I and II employees. **Vote 13-3.**

HB 227, establishing a committee to study the feasibility of consolidating the administrative functions of regulatory boards and commissions into a single agency. **REFER FOR INTERIM STUDY**

Rep. Michael O'Neil for Executive Departments and Administration: The committee agrees that the idea has some merit. However, more time is needed to work with the Efficiency Commission on this issue. **Vote 13-0.**

HB 585-FN, allowing teachers of private academies which provide public education to be included in the retirement system. **INEXPEDIENT TO LEGISLATE**

Rep. William R. Zolla for Executive Departments and Administration: Chapter 358 was enacted in 1991. It required the New Hampshire Retirement System to cease acceptance of contributions from non-governmental employers and employees, and to cease accrual of benefits of such non-governmental employees not later than June 30, 1991. It further required the withdrawal of all non-governmental employees and employers from the retirement system. This was done to protect the tax-exempt status of the system. While other considerations of a financial nature were considered in the legislation, this was the most important to the current bill. **HB 585-FN** would be in conflict with IRS Regulation Section 414(d) of the Internal Revenue Code and beyond the jurisdiction of this legislature. This bill, if implemented at this time, would jeopardize the tax-exempt status of the New Hampshire Retirement System. However, should a private employer on an individual basis apply for and receive a Private Letter Ruling from the Internal Revenue Service specifying that they did qualify under Section 414(d) of the code as a public employer due to some extenuating circumstances, then with the acceptance of the Board of Trustees of the retirement system, they could enter the system without affecting its tax exempt status. Thus this legislation is unnecessary. **Vote 12-1.**

HB 729-FN, relative to the regulation of tanning facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael O'Neil for Executive Departments and Administration: The bill as amended requires every indoor tanning facility to register with the NH Board of Barbering, Cosmetology and Estheticians. The committee found the Barbering Board to be the logical choice for regulation because many facilities currently licensed by the Board also contain indoor tanning devices. Overexposure to ultraviolet light is a recognized health risk and the committee believes that the bill represents an important public safety measure that will provide certain minimum standards for indoor tanning facilities. The bill does prohibit use of indoor tanning facilities by minors under the age of 14 without an order from a NH licensed physician. **Vote 16-2.**

SB 199, revising the nurse practice act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judson K. Dexter for Executive Departments and Administration: The amendment revises the Nurse Practice Act (RSA 326-B) while making few substantive changes to the law. The most significant difference between current law and the proposed amendment is a shift of some important provisions from rule to statute. The amendment adds a scope of practice section for each of the categories of nursing (ARNP, RN, LPN and LNA) to RSA 326-B. Currently, the scope of practice of ARNPs is outlined in the administrative rules drafted by the Board of Nursing and approved by the Joint Legislative Committee on Administrative Rules. There is currently no scope of practice for the other categories of nursing in rule or in law. As is common with the regulatory statutes in place for other health care professions, the committee feels it is important to clearly designate the scope of practice for each category of nursing in statute. The scope of practice language included in the proposed amendment was submitted to the committee by the Board of Nursing. If there is a need to change any of this language in the future, further legislation will be required. Along the same vein, the proposed amendment contains an extensive provision designating how nursing activities may be delegated. The language in the amendment has been taken verbatim from the current rules. The amendment also adds a provision noting that continuing education is required for license renewal and specifies the number of hours of education required for each of the nurse practice categories. Currently, continuing education is addressed only in the nursing rules. The proposed amendment also contains changes to the manner in which fees are adopted by the Board of Nursing and makes a number of changes designed to make the statute easier to read **Vote 17-1.**

FINANCE

HB 421-FN-A, relative to the waiting list for services for people with developmental disabilities and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Rogers J. Johnson for Finance: The committee once again heard testimony about the need to provide additional funds to the Department of Health and Human Services to reduce the wait list. However, the committee noted that the original intent of the bill was largely accomplished by the budget just approved by the legislature. **Vote 14-7.**

HB 610-FN-L, relative to reimbursement of public safety expenditures made by the town of Plymouth on behalf of Plymouth state college. **INEXPEDIENT TO LEGISLATE**

Rep. Robert K. Dodge for Finance: The sponsors of this bill are to be commended for organizing a presentation that shows how the

rising cost of safety services to our university and college campuses is affecting the host municipalities. The committee listened to hours of testimony in Concord and at the Plymouth Town Hall. Copies of the testimony are being provided to the Board of Trustees of the University System of New Hampshire and the Public Higher Education Study Committee. During the current legislative session the legislature has passed SB 22, an amendment to RSA 187-A:28-c, I. The bill has been signed by the governor and was effective May 9, 2003. The amendment adds to the charge of the Public Higher Education Study Committee the responsibility to address all of the issues contained in HB 610, study possible solutions and recommend legislation. The committee urges the Board of Trustees and the municipalities affected by higher education campuses to work with the Public Higher Education Study Committee to arrive at an equitable solution. **Vote 14-6.**

HB 793-FN-A, relative to reimbursement rates for home health services and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Rogers J. Johnson for Finance: The committee heard testimony requesting additional funds for home health services. While the information presented indicated a need for increased rates, the overriding concern was the source of funds. In addition, the Executive Departments and Administration Committee is currently reviewing HB 712 that will provide guidelines from which future legislation may follow. Therefore we find this bill inexpedient to legislate. **Vote 14-6.**

FISH AND GAME

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners. **OUGHT TO PASS**

Rep. Robert J. L'Heureux for Fish and Game: This bill more clearly specifies certain duties of the Fish and Game Commission and establishes a complaint and discipline procedure for prohibited acts by any Fish and Game Commissioner, and clearly defines the Commission's involvement in personnel matters. There is nothing in this bill that would preclude an employee of the Department from contacting or reporting any issue they may wish to any Commission member. **Vote 9-7.**

JUDICIARY

CACR 5, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule. **OUGHT TO PASS WITH AMENDMENT**

Rep. James W. Craig for Judiciary: This CACR clarifies the rulemaking authority of the Supreme Court. It preserves the power of the Supreme Court to make rules relative to court administration and the practice, procedure, and admissibility of evidence. It also gives the Legislature concurrent power to regulate these issues by statute and provides that when, and if, a rule and a statute conflict on these issues, the statute prevails. The committee was careful to ensure that the CACR preserves the court's constitutional decisional making powers, or "necessary adjudicatory functions", as they are called. The committee is of the opinion that this CACR makes clear that elected officials should, and shall, have final authority of "non-decisional" issues of the courts while preserving the separation of powers required by the New Hampshire Constitution. **Vote 16-2.**

CACR 9, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms, which may be renewed. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Alf E. Jacobson for the **Majority** of Judiciary: This bill seeks to alter fundamentally the current life appointment system to a definite term of seven years later amended to ten-year terms. Since no evidence that the current appointment system has failed the people was offered to the committee, the committee voted the proposed CACR 9, as amended, Inexpedient to Legislate. One of the basic concerns was that judicial appointments, based on a seven- or ten-year method, may increase the political climate with judicial appointments. Further, many members who would have otherwise supported the ten-year term voted against the bill because the new retirement system was not compatible with the ten-year term. The term of ten years with no vesting after ten years would discourage younger applicants for a judgeship. **Vote 11-6.**

Rep. James E. Wheeler for the **Minority** of Judiciary: In order to better ensure quality in our judiciary, the minority believes that this proposal for a judicial term is essential. We believe that a judge who is aware that his or her term is going to expire and to have any possibility of re-nomination will have to be more aware of the way they treat litigants, will treat litigants more courteously, and will give the people of New Hampshire a more responsive judiciary. Furthermore, we are of the opinion that to give the people of New Hampshire the best judiciary possible, we should give the Governor a chance every ten years to examine a judge to see if they are the best person for the job, as the minority amendment does. We also reject the argument that there will be a lack of qualified candidates for a judicial position just because it is only for ten years – ten years is more job security than most people have. The minority believes this bill Ought to Pass with Amendment.

CACR 10, relating to gender neutral language in the constitution. Providing that all references to persons in part 2 of the constitution shall be gender neutral. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Terri C. Dudley for the **Majority** of Judiciary: The majority of the committee felt that the Constitution is a historical document. Its language is all encompassing and must be read in its historical context. Wholesale revision of the entire document would be unwieldy and impractical because the entire Constitution would, by statute, have to be published in full on the ballot. The citizens must see each and every change. **Vote 13-4.**

Rep. Maureen C. Mooney for the **Minority** of Judiciary: The New Hampshire State Constitution is a living, all-inclusive document that outlines the fundamental rights of each resident. The modernization of constitutional language provides for an up-to-date, legitimate and fully accurate foundation upon which our rights are based. Part I, Art. 2 states that equality of rights under the law shall not be denied on account of race, creed, color, sex or national origin. By replacing the masculine language with gender neutral references throughout the Form of Government section of the document, our State's commitment to guarantee equal protection for all

is expressly confirmed in writing to favor all citizens. The minority in the committee feels that achieving this explicit confirmation of rights outweighs the burden of overcoming the technicalities of amending our State Constitution.

HB 369, relative to the Henniker and Hillsborough district courts. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE**

Rep. Tony F. Soltani for the **Majority** of Judiciary: This bill would divide the present Henniker-Hillsborough judicial district into a separate Henniker and a separate Hillsborough district, and specify the towns to be included in each. Presently, there is a district courthouse facility in each of the Towns of Henniker and Hillsborough, and this bill would ensure that these facilities continue to serve their communities. This bill was supported by the local justices and many local officials. **Vote 9-7.**

Rep. John M. Pratt for the **Minority** of Judiciary: By splitting the now-unified Henniker-Hillsborough judicial district into two districts, this bill would surely result in a situation where there would be no winners. Both towns would continue into the indefinite future to hold court in buildings which fail to meet state standards. Ultimately, the State would be faced with additional capital and operating costs. The real tragedy is that, at present, a new court building, to be located probably four miles from beautiful downtown Henniker and three miles from the center of Hillsborough at the northern end of the new Route 9 bypass, has neared the top of the Court Accreditation Commission's priority list. It would go by the boards. The towns lose, the State loses, and justice is not well served.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 747, establishing the crime victim employment leave act. **INEXPEDIENT TO LEGISLATE**

Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: Although the committee saw merit in the bill, there was no hard data or any study done to show that it was necessary. **Vote 11-7.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 803-FN-A-LOCAL, establishing the New Hampshire downtown development program. **WITHOUT RECOMMENDATION**

SB 74-FN-A-L, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Thomas J. Gillick for the **Majority** of Municipal and County Government: In order to provide for records management and preservation, a plan presented by the town clerk needs to be voted on by the local legislative body at an annual town meeting pursuant to RSA 31:95-c, II(c). The requirement to preserve these records is an obligation for the municipalities as set forth in RSA 41:58 and 41:59. The fund mechanism is to add a one-dollar fee onto the preparation fee established in RSA 261:152, Motor Vehicles; Preparation of Documents. Half of the fee (\$.50) will be kept at the local level for the management and preservation of all town documents and the other half (\$.50) will be sent to the state to supplement the Local Government Records Management Improvement Fund established under RSA 5:48. The committee heard compelling testimony from state and local officials on the need for additional local funding sources to enable towns to preserve their records. **Vote 11-4.**

Rep. David L. Buhlman for the **Minority** of Municipal and County Government: The funding mechanism attached to this bill is an extra dollar on the vehicle registration fee. This is just another way for municipalities to extract more money from citizens. Since nearly everyone pays the vehicle registration fee, there is no escape from paying the additional dollar. With taxes as high as they are, there ought to be enough money in the municipal budgets for record preservation without having to take more money from drivers, who may or may not live in the municipality.

SB 95-FN-L, relative to the development of workforce housing within municipalities. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert W. Brundige for the **Majority** of Municipal and County Government: The committee amendment to SB 95 expands the definition of "inclusionary zoning" in RSA 674:21, IV(a) to include workforce housing which allows the municipalities to adopt this zoning at the local level. This amendment clearly establishes "workforce housing" to be "housing that is affordable to a household with the income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published in the US Department of Housing and Urban Development in the Federal Register". The regional planning commissions may compile a regional housing needs assessment that would include housing for persons and families of all levels of income. Also, the Office of State Planning and Energy will assist municipalities by developing, in conjunction with the New Hampshire Housing Finance Authority, a recommended uniform methodology for the development of regional housing needs assessment and provide guidelines for the development of municipal master plans that promote workforce housing. A three-year priority for financial grants to regional planning commissions granted by the Office of State Planning and Energy was also established. **Vote 9-6.**

Rep. Mary R. Cooney for the **Minority** of Municipal and County Government: The amendment replacing SB 95 removes all the definitions of workforce housing and removes the expedited court process for court cases involving denial of developers' approvals by local planning boards. This bill was the result of a study committee. The court case Britton vs. the Town of Chester established that a municipality cannot zone out what is now termed workforce (or affordable) housing. The goal of SB 95 was to codify the case law. There are no definitions in law for what is "workforce" or "affordable". The original bill established those parameters. Planning boards have expressed a need for guidelines so they will know if they are complying with the no exclusionary zoning statute and court decision. As is now and with the current amendment, the courts will have to decide case by case whether or not a municipality is in compliance. An important piece of the original bill was an expedited court process. One of the problems has been that local boards hold up a developer's plan for so long in the planning process, and the courts are so slow to hear a case, that the developer cannot afford to proceed. It is a tactic used to discourage development. The lack of codification will result in more lawsuits and various judicial interpretations of the law as it exists. When one town illegally restricts development, it pushes the needed development to neighboring towns. The original amended SB 95 set guidelines the courts need to be able to decide court cases quickly. The way it is now, the court

must decide each individual case, thereby further defining the parameters only by case law. The original SB 95 does not mandate any zoning changes on municipalities, it simply defines what constitutes compliance with current law. It allows municipalities to exercise local judgement concerning development.

RESOURCES, RECREATION AND DEVELOPMENT

HB 143-FN, relative to the registration fees and requirements for snow traveling vehicles. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David H. Russell for the **Majority** of Resources, Recreation and Development: The committee chose to retain this bill in order to give the new snowmobile laws a full calendar year to see how they work. The committee heard overwhelming testimony on the success of SB 315. Of 67,064 snowmobile registrations, 57,861 were members of a club, over 86%. The general consensus was that, in addition to the financial gain, the amount of volunteers also increased dramatically. Of particular interest was the case of the Pittsburg Ridge Runners, the largest club in the state. They were very skeptical of the bill initially, but since it has been in effect, the membership has increased over 400%. Also, they now have a full-time secretary, and for the first time in the club's history, they have not borrowed money in the fall for trail maintenance. For these reasons, the committee recommends we find HB 143 Inexpedient to Legislate. **Vote 9-7.**

Rep. Richard T. Cooney for the **Minority** of Resources, Recreation and Development: This bill would remove the \$30 differential snowmobile fee levied on registrants who are not members of a snowmobile club. The bill also adds \$10 to each registration fee to get needed money in the hands of clubs which do trail maintenance. The minority feels that the Legislature should not be forcing snowmobile owners to pay an extra \$30 to join a club. The minority also recognizes the clubs' need for more money to maintain the trails and feels a \$10 fee increase across the board should be sufficient for the short term. Snowmobile clubs should recruit members the old fashioned way – they should earn new members.

HB 516-LOCAL, relative to the standard of review for requests for excavating and dredging permits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kevin L. Camm for the **Majority** of Resources, Recreation and Development: This bill removes the Wetlands Bureau at the Department of Environmental Services from the task of substantiating bridge and highway designs such as public need, traffic counts, and traffic projections. The Department testified they do not have the expertise for bridge and highway design and they are in favor of the amendment. No environmental aspect of review regarding soils, wetlands, habitat, etc. is affected. The second part of this amendment confirms the need to dredge the Seabrook Harbor in the timeframe necessary, by the end of March 2004. The money is already appropriated in the capital budget. The Department testified in favor of this part of the amendment, as well. **Vote 14-2.**

Rep. Donald Brueggemann for the **Minority** of Resources, Recreation and Development: As written, this bill significantly circumscribes the ability of local communities to question many aspects of projects brought by the Department of Transportation. By limiting the scope of appeal on Department of Transportation projects, these local concerns may not be given the weight they deserve, thereby limiting the breadth of vision and experience that is brought to a particular project. In the end, better project designs will result by including more and varied voices which this bill seeks to silence.

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard T. Cooney for the **Majority** of Resources, Recreation and Development: This bill, as introduced in the Senate, would put in statute the provisions of Governor Shaheen's Executive Order 2002-Y, dated May 15, 2002. This order requires the Department of Environmental Services to notify owners of property with wells within 500 feet of a well which is found to be contaminated. Radon and arsenic are naturally occurring contaminants and not covered by this process. This notification is intended to warn well owners of potential contamination and to suggest that their wells be tested. This process is intended to protect public health. The amendment improves on this process by shortening the time delay in the notification and by requiring notification of remediation when it occurs. The Senate added a provision to require a report on a Department of Environmental Services plan to opt out of the MtBE program. The committee amendment clarifies this requirement by referring to RSA 485:16-b, which requires the Department to have a plan in place by January 1, 2004 to opt out of the MtBE program. **Vote 9-7.**

Rep. Pierre W. Bruno for the **Minority** of Resources, Recreation and Development: This bill creates legislation that codifies an Executive Order of former Governor Shaheen. The minority of the committee feels that SB 19, though well intentioned, does not serve the public good. The language requires that notification of groundwater contamination be made to all property owners within 500 feet of the contaminated well, regardless of the actual distance to their wells, and regardless of the position of those wells with respect to the actual presence of contamination. Such notification tends to incite concerns that may not be grounded in scientific reality and will unnecessarily place a stigma on many unaffected properties. Such stigma does little to protect public health, while undermining the property values of adjoining properties even if they are not contaminated. Department of Environmental Services (DES) rules that have existed since prior to the Executive Order require that owners of contaminated groundwater identify and remediate the source of contamination, as well as require the testing of water supply wells that are potential receptors of that contamination. SB 19 would even require notification to well owners that are up hydraulic gradient ("uphill") of a groundwater contamination source. DES issues "no further action at this time" when the standards are met. The caveat of "at this time" means that those property owners who were unnecessarily notified will always have an unnecessary stigma attached to their property. Since DES is complying with the Executive Order, there is no need to codify something that will cost \$63,500 in FY 2004 and increase by 3% annually in FY 2005 and each year thereafter.

SCIENCE, TECHNOLOGY AND ENERGY

HB 366, relative to mercury reduction. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Roy D. Maxfield for the **Majority** of Science, Technology and Energy: This bill establishes certain restrictions on the sale, distribution and use of mercury added products for which non-mercury alternatives exist. The majority of the Science, Technology and Energy Committee agrees that these actions will reduce incidental exposure to mercury, reduce mercury in the solid waste stream, and facilitate the recycling of mercury-containing products. Several states in the northeast region are taking similar action to ban specific products containing mercury and we are concerned that these products could be promoted in states that do not take action. Approximately 20% of the mercury deposited in the northeast originates from sources within the region. The committee held nine public hearings on this bill and concluded that this amended version will continue our commitment during the past several years for emissions reductions. The committee rejected an outright disposal ban proposed by the bill sponsor because of 28-a issues associated with monitoring, collection and disposal. **Vote 10-1.**

Rep. Lee G. Slocum for the **Minority** of Science, Technology and Energy: This bill bans the most commonly used thermostat, the round Honeywell thermostat, that is known for stability and efficiency. Inexpensive substitutes result in temperature fluctuations, which tend to cause the user to raise the temperature setting. The net effect is that more energy is consumed which generates more pollution, which increases the mercury in New Hampshire lakes and streams. This bill also bans switches used in gas ranges which have no electrical supply and bans certain pressure-sensitive switches which, according to industry spokesmen, have no substitute and involve significant safety issues. Finally, the bill bans several types of medical equipment which are, by law, already disposed of properly by medical providers and are, in some cases, the most reliable. While we can all agree that we need to reduce mercury in New Hampshire waters, this is clearly not the way to go about it.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HCR 10, recognizing New Hampshire's ratification of the original Thirteenth Amendment to the United States Constitution. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Peter M. Sullivan for the **Majority** of State-Federal Relations and Veterans Affairs: This bill calls upon the Legislature to recognize the ratification of the so-called “original Thirteenth Amendment”. This issue may have a place in the internet political discussion groups, but does not receive the support of the committee. **Vote 7-4.**

Rep. Richard Marple for the **Minority** of State-Federal Relations and Veterans Affairs: Page 101 of the House Journal of December 9, 1812 recorded that the committee assigned to report on this amendment was, “in their opinion, not expedient to adopt”. The innate wisdom of the entire General Court ignored the committee’s opinion, and it was ratified as recorded on Page 101 as aforesaid. The minority asks that the current General Court emulate their forebearers and do likewise.

HCR 11, relative to state and federal government relations. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter M. Sullivan for the **Majority** of State-Federal Relations and Veterans Affairs: In the 1860’s, the United States fought a civil war over the issue of state vs. federal authority. In the 1950’s, southern segregationists cited “State’s Rights” in a failed effort to deny millions of Americans their God-given rights. Now, HCR 11 once again joins the battle over state vs. federal sovereignty. This resolution would have the New Hampshire Legislature second-guess the United States Supreme Court. To allow such activity is to undermine the rule of law and to turn our backs on over two centuries of established Constitutional principles. **Vote 9-2.**

Rep. Henry W. McElroy for the **Minority** of State-Federal Relations and Veterans Affairs: In 1787, the peoples’ representatives for the thirteen sovereign states in session in Philadelphia in the Continental Congress took materials from several sources, including their then-existing State Constitutions, and wrote the United States Constitution. In this United States Constitution, the thirteen sovereign states spelled out precisely what the states wanted the federal government to do for them in Article 1, Section 8, Clauses 1-18. All other powers as stated in the 10th Amendment would remain with the sovereign states, respectively, or to the people. The states were to be the ultimate authority. HCR 11 states that any activity on the part of any United States government official or function that is deemed as unconstitutional by the New Hampshire General Court shall not have any authority in New Hampshire.

TRANSPORTATION

HB 243, relative to motor vehicle exhaust noise standards. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Lawrence A. Artz for the **Majority** of Transportation: This bill addresses redundant language in respect to the current statute that is causing some confusion regarding interpretation and enforcement of the current motor vehicle exhaust noise standards. The bill still retains the language requiring a muffler defined by current state law on every motor vehicle to be maintained in good working order and to prevent excessive or unusual noise, as well as to prevent the escape of excessive fumes, smoke, flame, gas, oil or fuel residue. This bill permits the use of non-factory specification exhaust system components that are industry-certified for legal use on motor vehicles where strict interpretation of the current statute would otherwise prohibit its use. This is of particular concern in situations where factory specification exhaust system components are no longer available due to vehicle age or other circumstances, or where a more durable and/or performance-oriented exhaust system component becomes available for a particular motor vehicle application. **Vote 8-7.**

Rep. Brenda L. Ferland for the **Minority** of Transportation: This bill was about exhaust noise levels and setting a 95-decibel reading on aftermarket systems. Some new systems have been modified by owners and car owners should be able to purchase another system and meet the standards. Because there are laws already in existence regarding noise levels and aftermarket exhaust systems, the minority of the committee feels this bill is not necessary.

HB 266, requiring youth bicyclists and skateboarders to wear protective headgear. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. George N. Katsakiores for the **Majority** of Transportation: The amended bill requires youth bicyclists under 16 years of age to wear protective headgear. As we are all aware, serious head injuries to bicyclists can be traumatic and devastating. Testimony before

the committee supported the amended bill from organizations such as the New Hampshire Hospital Association to the Department of Health and Human Services Office of Community and Public Health to the American Automobile Association (AAA) and the New Hampshire Bike Association. Nobody appeared in opposition. A total of 335 children less than 16 years of age were seen in hospital emergency departments for head injuries resulting from riding bicycles in 1999-2000. The New Hampshire Transportation Safety Agency (NHTSA) states that bicycle helmets are 85-88% effective in mitigating head and brain injuries. **Vote 8-7.**

Rep. Robert J. Letourneau for the **Minority** of Transportation: The minority of the committee adamantly opposes this proposed legislation that, in our opinion, reaches too far into the lives of New Hampshire citizens. While we believe that all children should protect their head, knees and elbows while riding bicycles, rollerblades, rollerskates, skateboards, skydiving, skiing, or when engaged in any other numerous risky activities, we also believe that this is a personal responsibility issue that is best left to the parents and citizens involved. After all, they have a vested interest in their own safety. We believe that this legislation is flawed in many ways. There is no exemption for private property. There is no standard for the protective headgear and the bill leaves that decision to the Commissioner of Health and Human Services. The penalty for this infraction is a violation. Who will enforce the law? Who will be responsible for the fine, and how will this criminal record affect the child's future in terms of law enforcement? Will the parents be responsible for the fine and ultimately the record? We do not know, and the bill does not address these concerns. The sponsors of this bill did not show any evidence that this is a major problem in New Hampshire. There were no New Hampshire statistics showing that we need this law. The testimony was based upon emotion rather than fact. We understand the compassion and intent of the sponsors, but disagree on the solution. The bottom line is that this bill reaches into the personal lives of New Hampshire citizens, and the minority of the committee trusts our citizens to make the right choices in terms of safety both for themselves and their children.

SB 159-FN, relative to milfoil and other exotic aquatic weeds. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Letourneau for Transportation: This bill creates an access water permit fee to fund programs relative to milfoil and other exotic weeds. The bill creates a myriad of splits to the boat registration fees, thus creating a number of special accounts. The amount of revenue that will be created by this legislation is unknown and cannot be determined by the state agencies involved. Testimony did not reveal how this will resolve the milfoil issue, nor where there are any specific programs mentioned - only that more revenue is needed. This House passed legislation last session that added fees to the boat registration and directed those dollars into the milfoil problem. The Director of Marine Patrol has told us that he believes that this issue is best resolved on a regional basis rather than by individual states. The U.S. Fish and Wildlife Service, through the International Association of Fish and Wildlife agencies, has awarded New Hampshire a grant to study this issue on a regional basis. When this three-year grant is concluded, the four regions will get together and pool their resources to formulate a plan or model for all states to follow. We believe that this bill is not needed at this time, and we will be addressing this issue in the future with a better understanding of the problem. **Vote 11-3.**

WAYS AND MEANS

HB 760-FN-A, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John M. Gibson for the **Majority** of Ways and Means: Any increase in the New Hampshire tobacco tax will create a noticeable effect on retailers along the border region. This could create a downward ripple effect on several important sources of revenue like the business enterprise tax, business profits tax, rooms and meals tax, gasoline tax, and the tax on beer and liquor. Reducing the rate of those who smoke in our state is a laudable goal. Any state-sponsored program to reduce the rate of smoking in New Hampshire should be prioritized in the budget of the Department of Health and Human Services during the budget process. This tax increase targets low- and middle-income smokers. Raising the tobacco tax will not guarantee a reduction of smokers in the state. This legislation also creates another dedicated fund in the State Budget. For the above-mentioned reasons, the majority of the committee voted Inexpedient to Legislate. **Vote 13-6.**

Rep. Susan W. Almy for the **Minority** of Ways and Means: New Hampshire has, by far, the lowest tobacco tax in the region. It also has among the highest smoking rates in the country, yet it spends less than any other state per capita on prevention and cessation. For the last few years, as the State contributed \$4.6 million annually toward these activities, the number of teen smokers dropped by 25-50%. The minority believes it is important to continue these tobacco prevention efforts and to increase them to the levels recommended by the national epidemiology center (CDC). Under the current budget, the State has invested \$1.6 million toward smoking reduction, but these dollars come from grants that will disappear due to the loss of matching funds. Our current low tobacco tax encourages youth smoking. By raising the tobacco tax, we could do a great deal to discourage childhood smoking and subsequent adult addiction. More teen smokers today means vastly higher health care costs, as well as productivity losses for the State's government, business and citizens in years to come. The new Commissioner of Revenue testified in March 2003 that a \$1.52 tobacco tax would conservatively generate \$102 million per year. By voting for this bill, the Legislature could restore the \$20 million in cuts to the Health and Human Services budget. By voting against it, we are increasing the burden for social welfare on our cities and towns, our seniors and disabled. We believe it is important to dedicate part of the revenues to reversing these cuts before sending the remainder (about \$80 million for 2005) to the Education Trust Fund to be distributed through legislative action for the reduction of escalating local property taxes.

HOUSE DEADLINES

Wednesday, January 7, 2004	First session day.
Thursday, January 29, 2004	Last day to report supplemental House bills going to a second committee.
Thursday, February 5, 2004	Last day to act on retained House and Senate bills and supplemental House bills going to a second committee.
Thursday, March 11, 2004	Last day to report all remaining supplemental House bills.
Thursday, March 18, 2004	CROSSOVER. Last day to act on all remaining retained bills and supplemental

House bills.

COMMITTEE MEETINGS

MONDAY, JANUARY 12

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

10:00 a.m. Subcommittee meeting.

CONSENSUS REVENUE ESTIMATING PANEL (RSA 17-Q), Room 103, State House

2:00 p.m. Rescheduled regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

1:00 p.m. Subcommittee on issues related to the integrated criminal justice information system.

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Room 102, LOB

1:00 p.m. Regular meeting.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Rooms 205-207, LOB

9:30 a.m. **HB 1234**, establishing a study committee to examine ways to prevent and address homelessness in New Hampshire.

11:30 a.m. **HB 1266**, relative to the long-term care ombudsman.

1:30 p.m. **HB 1290**, establishing a time limit on the receipt of Temporary Assistance for Needy Families.

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

TUESDAY, JANUARY 13

CHILDREN AND FAMILY LAW, Room 206, LOB

9:30 a.m. **HB 1332**, relative to child support in cases of shared custody.

10:30 a.m. **HB 1198**, relative to reporting child custody statistics.

11:30 a.m. **HB 1312**, relative to the court's discretion to extend child support obligations.

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

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1133**, relative to disclosures required prior to a condominium sale.

11:00 a.m. **HB 1233**, relative to the accuracy of information used by consumer reporting agencies.

1:15 p.m. **HB 1149**, relative to the provision of credit reports to consumers.

2:00 p.m. **HB 1329**, relative to the length of time consumer credit reporting agencies retain individual credit information.

2:30 p.m. **HB 1330**, relative to the investigation of disputed credit reporting items by consumer credit reporting agencies.

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

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks.

10:30 a.m. **HB 1235-FN**, establishing a criminal penalty for throwing an incendiary object from a motor vehicle.

11:00 a.m. **HB 1195-FN**, increasing the penalty assessment on fines imposed by the courts.

1:00 p.m. **HB 1289-FN-LOCAL**, relative to drug-free senior housing zones.

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

EDUCATION, Room 207, LOB

10:00 a.m. **HB 1232-FN**, allowing a disabled person to enroll in a class free of charge at any institution within the university system of New Hampshire, provided a seat is available in the class.

11:00 a.m. **HB 1352-FN**, requiring school districts to recommend daily physical activity to pupils.

1:00 p.m. **HB 1345-FN-LOCAL**, establishing an education scholarship fund.

2:00 p.m. **HB 1353-FN**, mandating open enrollment schools statewide.

ELECTION LAW, Room 308, LOB

10:00 a.m. **HJR 23**, relative to the process for choosing United States Senators.

11:00 a.m. **CACR 26**, relating to the apportionment of representatives. Providing that representation in the house of representatives shall be as equal as one person, one vote, as defined by certain federal courts will permit.

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

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

1:00 p.m. Subcommittee work session on **HB 1227**, relative to land assessed for current use which is taken by eminent domain.

ETHICS COMMITTEE (RSA 14-B:2), Room 105A, State House

10:00 a.m. Regular meeting.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:30 a.m. **HB 1159**, relative to prohibited employment for state liquor commission employees.

10:30 a.m. **HB 1208**, relative to standards of certification in credentialing for New Hampshire public school food service directors and staff.

11:30 a.m. **HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care.

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

FINANCE, Rooms 210-211, LOB

10:00 a.m. **HB 698-FN**, relative to electronic toll collections.

10:30 a.m. **HB 812**, relative to state acquisition of privately owned airports.

11:00 a.m. **HB 511**, transferring the authority over the New Hampshire hospital security force to the department of safety.

11:45 a.m. **HB 640-FN**, relative to post-conviction DNA testing.

FISH AND GAME, Room 307, LOB

10:00 a.m. **HB 1314**, relative to the taking of deer by crossbow.

10:30 a.m. **HB 1334**, relative to retention of records of fish and game law violations by the fish and game department.

11:00 a.m. **HB 1327-FN**, relative to allowing persons to be bonded for search and rescue costs in hiking and climbing in New Hampshire.

11:30 a.m. **HB 1288-FN**, reducing the membership of the fish and game commission.

1:15 p.m. **HB 1249-FN**, relative to the recreational taking of lobster by scuba diving.

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

10:00 a.m. **HB 1322**, relative to the rules for the operation and regulation of supported residential care facilities.

10:15 a.m. **HB 1323**, relative to the rules for the operation and regulation of residential care facilities.

1:00 p.m. **HB 1397**, relative to youth suicide prevention.

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

JUDICIARY, Room 208, LOB

10:00 a.m. **HB 1134**, relative to appointment of the chief justice of the supreme court.

11:00 a.m. **HB 1135**, relative to appointment of the chief justice of the superior court.

1:00 p.m. **HB 1238-FN**, requiring interpreters for persons with limited English proficiency in court and administrative proceedings.

2:00 p.m. **HB 1384**, relative to challenges to statutes.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1377-LOCAL**, relative to the repeal of municipal ordinances by petition.

11:00 a.m. **HB 1358-FN**, requiring municipal auditors to be bonded, and relative to audits within political subdivisions.

1:30 p.m. **HB 1152**, relative to the salaries of elected town officials.

2:30 p.m. **HB 1299**, relative to the removal of the tax collector or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

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

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:00 a.m. Rescheduled public hearing on **HB 1138**, establishing a Nash Stream forest citizens committee.

10:00 a.m. **HB 1379**, relative to boating on certain lakes and ponds by disabled persons.

11:00 a.m. **HB 1164**, relative to moorings on Bow Lake.

1:30 p.m. **HB 1131**, requiring the department of environmental services to study the cost effectiveness of programs to control exotic aquatic weeds and to examine alternatives.

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

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. **HB 1390**, relative to MTBE.

1:00 p.m. **HB 1141**, relative to dioxin emissions reduction and medical waste incinerators.

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

SETBACK REQUIREMENTS FOR SEPTAGE, BIOSOLIDS AND SHORT PAPER FIBERS STUDY (SB 87, Chapter 302:1,

Laws of 2003), Room 303, LOB

9:00 a.m. Regular meeting.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

11:15 a.m. **HR 23**, urging the President and Congress to amend federal selective service and immigration laws to grant the right of citizenship to all immigrants honorably discharged from United States military service.

1:00 p.m. **HB 1246**, nullifying the USA Patriot Act.

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

WAYS AND MEANS, Room 202, LOB

10:30 a.m. **HB 1213-FN-LOCAL**, exempting persons age 70 and older from the state and local education portion of property taxes.

11:15 a.m. **HB 1254-FN**, granting certain disabled veterans an exemption from state education property taxes.

1:00 p.m. **HB 1356-FN-A-LOCAL**, assessing a fee on water withdrawn for commercial bottling purposes from water supply sources in the state.

2:30 p.m. **HB 645-FN-A-LOCAL**, relative to the reimbursement of certain property taxes paid by qualifying private education institutions for the purpose of educational scholarship grants.

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

WEDNESDAY, JANUARY 14

CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2), Room 201, LOB

9:30 a.m. Regular meeting.

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1163**, establishing a commission to study methods of increasing the number of insurance carriers doing business in New Hampshire.

11:00 a.m. **HB 1287**, establishing a study committee to review insurance statutes and rules to assure conformity with the mission statement published by the insurance department.

1:15 p.m. **HB 1130**, relative to certain insurance agents.

2:00 p.m. **HB 1161**, relative to solicitation and marketing of insurance products.

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

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1274**, relative to evidence admissible in sexual assault cases.

11:00 a.m. **HB 1337-FN**, prohibiting any person convicted of an offense against a child from purchasing a residence or entering a rental or lease agreement for rental property in the vicinity of a school.

1:00 p.m. **HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

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

DAM MANAGEMENT REVIEW (RSA 482:93), Room 305, LOB

9:30 a.m. Regular meeting.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:30 a.m. **HB 1160**, relative to the membership of the board of professional geologists.

10:15 a.m. **HB 1248-FN**, adding a licensed nursing assistant member to the state board of nursing.

11:00 a.m. **HB 1265**, establishing a committee to study prescriptive authority of qualified psychologists.

1:00 p.m. **HB 1174**, relative to acceptance of electronic records by government agencies.

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

FINANCE, Rooms 210-211, LOB

9:00 a.m. **HB 1216-FN-A**, making an appropriation to the small business innovation research support program.

9:45 a.m. **HB 1223**, establishing a committee to study state reimbursement to municipalities for emergency responses along interstate highways.

10:15 a.m. **HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program and making an appropriation to the barn preservation fund.

10:45 a.m. **HB 651-FN**, relative to the purchase of prior service credit by certain political subdivision employee members, and repealing certain provisions permitting additional contributions.

11:15 a.m. **HB 781-FN-A**, establishing the office of corrections ombudsmen.

1:00 p.m. **HB 1339-FN-A-L**, relative to distribution of tobacco settlement funds.

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

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

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

JUDICIARY, Room 208, LOB

9:30 a.m. **HB 1309**, relative to noise pollution from shooting ranges.

11:00 a.m. **HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons.

1:00 p.m. **HB 1383**, relative to full faith and credit in judicial proceedings.

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

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

10:00 a.m. Rescheduled public hearing on **HB 1153**, relative to employment security.

11:00 a.m. Rescheduled public hearing on **HB 1278-FN-LOCAL**, relative to the applicable minimum wage for hourly employees.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

2:00 p.m. **HB 1270**, prohibiting the deduction of any taxes from mileage reimbursement checks for house members.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1375**, relative to powers of conservation commissions.

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

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:00 p.m. **HB 1325-FN-A**, relative to the E-Z Pass toll system.

1:30 p.m. **HB 1261**, relative to closing a certain rest area on the F. E. Everett turnpike.

2:00 p.m. **HB 1354-FN**, relative to certain tolls on the Everett Turnpike.

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

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

10:00 a.m. **HB 1284**, relative to setbacks from wetlands.

11:00 a.m. **HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands.

1:30 p.m. **HB 1283**, relative to wetlands permits.

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

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. **HB 1293**, relative to emission control equipment for certain vehicles.

1:00 p.m. **HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

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

WAYS AND MEANS, Room 202, LOB

9:00 a.m. **HB 1132-LOCAL**, establishing a committee to study allowing the operation of slot machines and keno in restaurants and establishments serving liquor.

10:00 a.m. **HB 1168**, establishing a committee to study the effects of the current business tax structure on New Hampshire's economy.

11:00 a.m. **HB 1370**, establishing a committee to study property tax relief for low-income and elderly persons.

1:00 p.m. **HB 1281**, relative to the determination of the amount of taxes to be raised to support a cooperative school district.

2:00 p.m. **CACR 21**, relating to state education property tax exemption for certain disabled veterans. Providing that veterans with certain service connected disabilities shall be exempt from the state education property tax.

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

FRIDAY, JANUARY 16

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

9:00 a.m. Regular meeting.

COMMISSION TO IDENTIFY MEDICAL ERRORS AND THEIR CAUSES (HB 287, Chapter 255:6, Laws of 2003), Room 205, LOB

10:00 a.m. Regular meeting.

EMERGENCY MANAGEMENT SYSTEM OVERSIGHT COMMITTEE (RSA 21-P:51), Room 205, LOB

1:00 p.m. Regular meeting.

TASK FORCE ON FAMILY LAW (HB 447, Chapter 250:1, Laws of 2002), Room 307, LOB

2:00 p.m. Regular meeting.

TUESDAY, JANUARY 20

COMMERCE, Room 302, LOB

- 10:00 a.m. *HB 1252-FN*, requiring the posting of notice by uninsured liquor licensees.
 - 11:00 a.m. *HB 1267*, requiring fast food restaurants to provide nutritional information to consumers.
 - 1:15 p.m. *HB 1178-FN*, relative to sales of tobacco products to persons under 21 years of age.
 - 2:00 p.m. *HB 1240*, prohibiting minors from sitting in the smoking sections of restaurants.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

COMMISSION TO STUDY CHILD SUPPORT AND RELATED CHILD CUSTODY ISSUES (HB 310, Chapter 277:1, Laws of 2003), Room 206, LOB

- 3:00 p.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY

- 10:00 a.m. Tour of the New Hampshire State Prison for Women at Goffstown

EDUCATION, Room 207, LOB

- 10:00 a.m. *HB 1188*, relative to indoor air quality in public schools.
 - 11:00 a.m. *HB 1226-LOCAL*, establishing a debt retirement fund in the Governor Wentworth regional school district.
 - 1:00 p.m. *HB 1297*, relative to credit for American sign language and transliteration as a foreign language.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ELECTION LAW, Room 308, LOB

- 10:00 a.m. *HB 1269*, establishing a citizens' legislative redistricting advisory board.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FISH AND GAME, Room 307, LOB

- 10:00 a.m. *HB 1237*, allowing deer hunting with a primitive flintlock muzzleloader.
 - 10:30 a.m. *HB 1313*, relative to establishing a spring season for bear baiting.
 - 11:00 a.m. *HB 1126*, relative to obstructing or hindering hunting, fishing, or trapping of fish and game.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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

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

JUDICIARY, Room 208, LOB

- 10:00 a.m. *HB 1295*, relative to the right-to-know law.
 - 11:00 a.m. *HB 1176*, relative to government access to private property.
 - 1:00 p.m. *HB 1242*, establishing a committee to study protecting law enforcement officers and others from public disclosure of their personal information.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB

- 9:30 a.m. Regular meeting.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. *HB 1182-FN*, allowing municipalities to adopt a property tax exemption for long-time resident elderly persons.
 - 11:00 a.m. *HB 1346*, relative to income qualification in the elderly property tax exemption.
 - 1:30 p.m. *HB 1211*, relative to the expenditure of land use change tax revenues.
 - 2:30 p.m. *HB 1187-LOCAL*, allowing municipalities to deposit land use change tax revenues into a heritage fund.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

- 1:00 p.m. *HB 1399-FN-A*, establishing the telecommunications planning and development fund.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

- 10:00 a.m. *HB 1372*, defining certain terms relating to military service.
 - 11:30 a.m. *HR 24*, opposing the exploration for oil in the Arctic National Wildlife Refuge.
 - 1:00 p.m. *HB 1245*, nullifying the Sixteenth amendment to the United States Constitution.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee

is initially convened.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 1401-FN**, limiting the use of traffic signal preemption devices.
- 11:00 a.m. Continued public hearing on **HB 1258-FN**, establishing supporting public schools number plates.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WAYS AND MEANS, Room 202, LOB

- 10:15 a.m. Continued public hearing on **HB 1387-FN-A**, reducing the rate of the business enterprise tax.
- 11:00 a.m. Continued public hearing on **HB 1388-FN-A**, reducing the rate of the business profits tax.
- 11:30 a.m. **HB 1402-FN-A**, requiring a discount to wholesalers on cash purchases of tobacco tax stamps.
- 1:00 p.m. **CACR 20**, relating to: the conservation of the gravel and water resources of the state. Providing that the general court may provide for special assessments, rates and taxes on gravel and water extracted from the resources of the state.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WEDNESDAY, JANUARY 21

COMMERCE, Room 302, LOB

- 10:00 a.m. **HB 1210**, relative to self-service storage facility liens.
- 11:00 a.m. **HB 1244**, relative to subcontractors' liens for labor and materials.
- 1:15 p.m. **HB 1180**, relative to the creation of express trusts for pets.
- 2:00 p.m. **HB 1224**, establishing the Uniform Trust Code in New Hampshire.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HCR 23**, on non-citizens during times of war.
- 10:45 a.m. **HB 1385**, establishing the protection of liberty act.
- 1:15 p.m. Electronic bracelet discussion/demonstration.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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

- 9:00 a.m. Regular business.
- 9:30 a.m. Audits: The Unique College Investing Plan Annual Report September 30, 2003.
- Fidelity Advisor 529 plan annual report September 30, 2003.
- State of New Hampshire comprehensive annual financial report for the fiscal year ended June 30, 2003.
- State of New Hampshire New Hampshire Sweepstakes Commission comprehensive annual financial report for the year ended June 30, 2003.

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

- 10:00 a.m. Executive session on pending legislation, if needed.

JUDICIARY, Room 208, LOB

- 9:30 a.m. **HB 1389**, relative to appearances and representation in courts.
- 10:30 a.m. **HB 1321-FN**, relative to claims before the state commission on human rights.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

- 10:00 a.m. **HB 1335-LOCAL**, relative to workers' compensation requirements for out-of-state employers doing business in New Hampshire.
- 11:00 a.m. **HB 1298**, relative to dispute resolution within the context of public employee labor relations.
- 1:00 p.m. **HB 1376**, relative to agency fees assessed pursuant to collective bargaining agreements and representation of certain employees in grievances.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

- 2:00 p.m. **HB 1336**, relative to the procedures for the legislative ethics committee.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1189-FN-LOCAL**, increasing the property tax credit for service-connected total disability.
- 11:00 a.m. **HB 1333-LOCAL**, extending the veterans' property tax credit to all honorably discharged veterans.

1:30 p.m. **HB 1331**, allowing recipients of the National Defense Service Medal to be eligible for the veterans’ property tax credit.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:15 p.m. **HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge.
2:15 p.m. **HB 1363**, establishing a policy for naming state highways, bridges, and buildings.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:30 a.m. **HJR 22**, concerning foliage protection.
10:00 a.m. **HB 1205**, establishing a committee to study alternative waste disposal systems.
11:00 a.m. **HB 1136**, relative to homeowner exemptions from certain environmental permitting.
1:30 p.m. **HB 1209**, relative to substances added to public water supplies.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WATER RESOURCES STUDY COMMITTEE RSA (481:1-b), Room 103, State House

1:00 p.m. Regular meeting.

WAYS AND MEANS, Room 202, LOB

9:00 a.m. **CACR 25**, elating to prohibiting an income tax. Providing that no tax on personal income shall be levied by the state of New Hampshire.
1:00 p.m. Rescheduled public hearing on **CACR 22**, relating to taxation. Providing that a 2/3 vote is required to pass a new tax or to increase a tax after it is levied and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, JANUARY 23

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), New Hampshire Department of Revenue Administration, Training Room, Community Services Division

9:30 a.m. Regular meeting.

COMMISSION TO STUDY THE RIGHT-TO-KNOW LAW (HB 606, Chapter 287:3, Laws of 2003), Room 304, LOB

10:00 a.m. Regular meeting.

FINANCIAL EXPLOITATION OF THE ELDERLY AND PERSONS WITH DISABILITIES (HB 461, Chapter 227:2, Laws of 2003), Room 205, LOB

1:00 p.m. Regular meeting.

TASK FORCE ON DEAFNESS AND HEARING LOSS (HB 225, Chapter 117:2, Laws of 2003), Room 205, LOB

9:00 a.m. Regular meeting.

MONDAY, JANUARY 26

EQUALIZATION STANDARDS BOARD (RSA 21-J:14-c), New Hampshire Department of Revenue Administration, Training Room, Community Services Division

1:00 p.m. Regular meeting.

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE, (RSA 126-A:13), Room 205, LOB

1:00 p.m. Regular meeting.

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

9:00 a.m. Regular meeting and hearing.

WEDNESDAY, JANUARY 28

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1264**, relative to advertisement of prescription drugs.
11:00 a.m. **HB 1319**, relative to the percentage of ownership in physician hospital organizations.
1:15 p.m. **HB 1202**, relative to third-party payment of covered services ordered by the juvenile court.
2:00 p.m. **HCR 24**, urging the state to include individual development accounts in the Temporary Aid to Needy Families
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. *HB 1257-FN*, relative to penalties for driving under the influence with a minor in the vehicle.
- 10:45 a.m. *HB 1391-FN*, relative to motor vehicle violations.
- 11:45 a.m. *HB 1368*, establishing a committee to study means of interdicting and preventing the distribution of controlled substances in New Hampshire.
- 1:00 p.m. *HJR 24*, concerning misdemeanors and probable cause.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EDUCATION, Room 207, LOB

- 10:00 a.m. *HB 1155*, establishing a committee to study the feasibility of implementing a training program for school board members.
- 11:00 a.m. *HB 1162*, relative to school district policies on bullying.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 9:30 a.m. *HB 1364-FN*, establishing a statutory joint committee to review and propose changes to state unclassified officers' salaries.
- 11:00 a.m. *HB 1324-FN*, authorizing the position of clerk of the board of manufactured housing.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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

- 10:00 a.m. Executive session on pending legislation, if needed.

JUDICIARY, Room 208, LOB

- 10:00 a.m. *HB 1201*, prohibiting the application of the doctrine of adverse possession or prescription when boundary lines can be proven by a preponderance of the evidence.
- 11:00 a.m. *HB 1286*, relative to oaths of office.
- 1:30 p.m. *HB 1218*, relative to criminal threatening by public servants.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

- 10:00 a.m. Rescheduled public hearing on *HB 1263*, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

- 2:00 p.m. *CACR 24*, relating to election of the attorney general. Providing that the attorney general shall be elected by the house of representatives and the senate.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. *HB 1127*, relative to consideration of road improvements in property appraisals.
- 11:00 a.m. *HB 1317-FN-LOCAL*, requiring cities and towns to complete valuations of property and relative to the implementation of property tax hardship relief provisions.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

THURSDAY, JANUARY 29

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 10:00 a.m. *HB 1306*, relative to collective bargaining by state employees.
- 1:00 p.m. *HB 1355*, changing the name of the sweepstakes commission to the lottery commission.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

JUDICIARY, Rooms 206-208, LOB

- 9:30 a.m. *HB 1340-FN*, relative to the Informed Consent for Abortion Act.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

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

FRIDAY, JANUARY 30

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

9:00 a.m. Regular meeting.

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

10:00 a.m. Regular meeting.

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

9:00 a.m. Regular meeting.

MONDAY, FEBRUARY 2

BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2), Room 105A, State House

2:00 p.m. Regular meeting.

DEVELOPMENTAL DISABILITY WAITLIST OVERSIGHT COMMITTEE (RSA 171-A:1-c), Room 205, LOB

10:00 a.m. Regular meeting.

TUESDAY, FEBRUARY 3

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1348-FN**, relative to registration of business organizations.

1100 a.m. **HB 1282**, relative to exemptions from the consumer protection act.

1:15 p.m. **HB 1396**, relative to implementing a bottle deposit program.

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

EDUCATION, Room 207, LOB

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

JUDICIARY, Rooms 206-208, LOB

10:00 a.m. **HB 1253-FN-LOCAL**, prohibiting public funds, employees, and facilities to assist or perform abortions.

1:00 p.m. **HB 1177-FN**, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1175**, relative to the use of official ballot referenda as an optional form of town meeting.

11:00 a.m. **HB 1181**, relative to certain deliberative session amendment procedures in official ballot voting.

1:30 p.m. **HB 1185**, relative to the adoption of amendments to articles proposed in the first session in official ballot proceedings.

2:30 p.m. **HB 1214-FN**, relative to the penalty for filing an erroneous default budget.

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

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

10:00 a.m. **HB 1193**, establishing a committee to study the constitutionality of the federal income tax and constitutional abuses in the collection of the income tax and its effects on New Hampshire citizens.

11:30 a.m. **HCR 20**, affirming civil rights and liberties and opposing federal measures that infringe on such rights and liberties.

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

WEDNESDAY, FEBRUARY 4

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1173**, establishing a committee to study the discontinuation of the use of social security numbers in the criminal justice system.

10:30 a.m. **HB 1239**, relative to records access by private investigators.

11:00 a.m. **HB 1347-FN**, implementing a “good time” sentence reduction system for inmates in the state prison system.

11:30 a.m. **HB 1349-FN-LOCAL**, relative to medical parole.

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

JUDICIARY, Room 208, LOB

10:00 a.m. **HB 1228**, requiring legislative approval of changes in the uniform fine schedule.

- 1:00 p.m. **HB 1191-FN**, relative to court proceedings.
- 2:00 p.m. **HB 1142**, relative to tort liability to third persons for oil spills.

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

LEGISLATIVE ADMINISTRATION, Room 307, LOB

- 2:00 p.m. **HB 1307-FN**, relative to review of final proposed rules under the administrative procedures act.
- 3:00 p.m. **HB 1308-FN**, relative to lobbying activities by state employees.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1304-LOCAL**, relative to notice for zoning rehearings.
- 11:00 a.m. **HB 1151**, relative to membership on the zoning board of adjustment.
- 1:30 p.m. **HB 1357**, relative to cluster zoning and the village plan alternative.
- 2:30 p.m. **HB 1359-FN-LOCAL**, relative to notice requirements for public hearings on certain zoning changes.

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

TUESDAY, FEBRUARY 10

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HB 1351-FN**, relative to penalties for acts committed during a riot.
- 10:30 a.m. **HB 1361**, relative to sentences for certain offenses committed on or near a public college or university campus.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1291-LOCAL**, relative to elderly and handicapped priority low-income housing.
- 11:00 a.m. **HB 1236-FN-LOCAL**, relative to municipal use of impact fees.
- 1:30 p.m. **HB 1137**, relative to the use of impact fees.

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

SETBACK REQUIREMENTS FOR SEPTAGE, BIOSOLIDS AND SHORT PAPER FIBERS STUDY (SB 87, Chapter 302:1, Laws of 2003), Room 303, LOB

- 9:00 a.m. Regular meeting.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

- 10:00 a.m. **HCR 22**, urging Congress to withdraw the United States from the United Nations.
- 11:30 a.m. **HCR 21**, urging the reduction of the federal gasoline and diesel fuel excise tax.

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

WEDNESDAY, FEBRUARY 11

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HB 1279**, establishing a committee to study the adoption and implementation of the multistate forensic DNA compact in New Hampshire.

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

JUDICIARY, Rooms 206-208, LOB

- 9:30 a.m. **HB 1220-FN**, relative to banning partial birth abortion.

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

LEGISLATIVE ADMINISTRATION, Room 307, LOB

- 2:00 p.m. Executive session on pending legislation.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

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

FRIDAY, FEBRUARY 13

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

- 10:00 a.m. Subcommittee meeting.

TUESDAY, FEBRUARY 17

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. *HB 1190*, relative to exceptions to the carrying or selling of certain weapons.
 - 10:30 a.m. *HB 1271-FN*, repealing the license to carry provisions of state law.
 - 11:30 a.m. *HB 1310*, relative to licenses to sell firearms.
 - 1:00 p.m. *HB 1371-FN*, prohibiting the sale or possession of pocket knives in safe school zones.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. *HB 1172-LOCAL*, relative to compensation of county convention members for county business.
 - 11:00 a.m. *HB 1328*, requiring the development of a plan for the elimination of county government by the year 2011.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

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

WEDNESDAY, FEBRUARY 18

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. *HR 21*, reaffirming the death penalty.
 - 11:00 a.m. *HB 1380-FN*, establishing a criminal penalty for unauthorized video surveillance.
 - 11:30 a.m. *HB 1341-FN*, relative to prohibited computer practices.
 - 1:30 p.m. *HB 1219-FN*, establishing penalties for transmission or distribution of obscene electronic mail.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, FEBRUARY 20

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

- 9:00 a.m. Regular meeting.

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

- 10:00 a.m. Regular meeting.

TASK FORCE ON FAMILY LAW (HB 447, Chapter 250:1, Laws of 2002), Room 208, LOB

- 2:00 p.m. Regular meeting.

TUESDAY, MARCH 2

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. *HB 1147*, relative to the use of deadly force in defense of a fetus.
 - 11:00 a.m. *HB 1343-FN*, making it a crime to cause the death of a fetus as a result of committing a violent act against a pregnant woman.
 - 1:00 p.m. *HB 1360-FN*, including “unborn child” in the definition of “another” for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. Executive session on pending legislation, if needed.

WEDNESDAY, MARCH 3

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. Executive session on pending legislation, if needed.

FRIDAY, MARCH 5

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

- 9:00 a.m. Regular meeting.

COMMISSION TO IDENTIFY MEDICAL ERRORS AND THEIR CAUSES (HB 287, Chapter 255:6, Laws of 2003), Room 205, LOB

- 10:00 a.m. Regular meeting.

WEDNESDAY, MARCH 10

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. Executive session on pending legislation, if needed.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Hillsborough County Executive Committee will hold a public hearing on Tuesday, **January 13** at 6:00 p.m. in the Manchester Superior Courthouse, 300 Chestnut Street, Manchester for the following purpose: 1. Consistent with RSA 273-A, to consider approval of the proposed Collective Bargaining Agreement for Hillsborough County Sheriff Office and AFSCME Local 3657. 2. Consistent with RSA 273-A, to consider approval of the proposed Collective Bargaining Agreement for Hillsborough County Attorney Office and Teamsters Local 633 (secretarial, clerical, and professional employees).

Hillsborough County Delegation will meet in convention on Tuesday, **January 13** at 7:00 p.m. at the Manchester Superior Courthouse, 300 Chestnut Street, Manchester for the following purpose: 1. Consistent with RSA 661:9 to elect a County Attorney to fill the unexpired term of the resigning incumbent. 2. Consistent with RSA 273-A, to consider approval of the proposed Collective Bargaining Agreement for Hillsborough County Sheriff Office and AFSCME Local 3657. 3. Consistent with RSA 273-A, to consider approval of the proposed Collective Bargaining Agreement for Hillsborough County Attorney Office and Teamsters Local 633 (secretarial, clerical, and professional employees).

Rep. Robert Milligan, Clerk
Hillsborough County Delegation

REVISED FISCAL NOTES

The following HBs have revised fiscal notes: HBs 1207, 1213, 1339, 1352, 1353, 1387 and 1388.

Karen O. Wadsworth, Clerk of the House

When the House Clerk's Office is aware of House Members who are hospitalized or homebound by serious illness, we will publish a list of names and addresses requested.

Robert H. Milligan, 42 Patten Road, Merrimack, New Hampshire 03054-3064.

Colleagues who so desire may send cards and greetings to the address listed above.

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

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

From time to time the Speaker receives reports and audits from various committees, commissions, and departments. On the chance that some of these reports might be of interest to a member, I will periodically list the report that are received in the Speaker's office and available for viewing.

Reports most recently received include:

Park Revenue and Expenditures, including Cannon Mountain ski area, for FY 2003

Biennial Report for the NH Public Utilities Commission for FYs 2002 and 2003

Gene G. Chandler, Speaker

The House Republican Alliance will meet each Wednesday at 8:30 a.m. at the Upham Walker House, Park Street (across from the State House).

Rep. Michael A. Balboni

The Main Street Republican Caucus will meet on Thursdays at 8:15 a.m. at the Upham Walker House, Park Street. Members are invited to attend.

Rep. Paul D. Spiess

A historical collection of the State of New Hampshire Liquor Commemorative Bottles issued between 1967-1985, on loan from state Representative Bob L’Heureux, will be on display in the State House Visitors’ Center until March 1, 2004.
Rep. Robert J. L’Heureux

The Legislative Caucus for Young Children (LCYC) will meet Monday, **January 12** at 1:30 p.m. in Room 206, LOB. The agenda will include planning for Dr. Marian Wright Edelman’s visit on January 20th and continuing the review of 2004 legislation related to the LCYC’s mission and goals. In the event of inclement weather (i.e. snowstorm) the alternate date will be January 15 following the session.
Rep. Lee M. Hammond

Coordinated Transportation: Creating Efficiencies Using Existing Resources with Pat Crocker, Executive Director of the Vermont Public Transportation Association. The first session of the 2004 legislative education series: SUPPORTING OLDER ADULTS AND INDIVIDUALS WITH DISABILITIES IN YOUR COMMUNITY: AN EDUCATION SERIES FOR LEGISLATORS is being held on Tuesday, **January 13** at the NH Historical Society, Tuck Library, Park Street, Concord. A breakfast session will be held from 7:30 to 9:00 a.m. A luncheon session will be held from noon to 1:30 p.m. Please contact Judy King at 1-800-238-2048 or jaking@cisunix.unh.edu to confirm your attendance
Rep. Peter L. Batula

The Missile Defense Advocacy Alliance and its founder, Riki Ellison (former NFL player), invite all members to a legislative breakfast briefing on Tuesday, **January 13** at 8:30 a.m. at the Capitol Grille on North Main Street. Mr. Ellison will be releasing the results of a survey regarding the attitude of NH residents toward missile defense.
Gene G. Chandler, Speaker

The New Hampshire Association of Counties will host a meeting of the County Delegation Chairs, Vice-Chairs, Clerks and Executive Committee Chairs on Wednesday, **January 14** at 8:45 a.m. in the State House Cafeteria.
Rep. Betsey L. Patten

The Legislative Caucus for Young Children (LCYC) will be hosting a continental breakfast with Marian Wright Edelman, President of the Children’s Defense Fund, on Tuesday, **January 20** at 9:00 a.m. at the Upham Walker House. All members of the House and Senate are invited.
Rep. Mary Jane Wallner

The Greater Concord Chamber of Commerce cordially invites all legislators to a “Welcome Back” Breakfast, sponsored by Ransmeier and Spellman, at the Capital Grille, One Eagle Square on Thursday, **January 22** from 7:30 to 9:00 a.m.
Rep. Elizabeth S. Hager

Northeast Delta Dental cordially invites all members of the New Hampshire Legislature, and their staff, to its Fifth Annual Legislative Reception to be held Thursday, **January 22**, 2004 from 4:00 to 6:30 p.m. at its corporate offices at One Delta Drive in Concord.
Rep. Sheila T. Francoeur

The members of the NH Chapter of the National Association of Insurance and Financial Advisors (NAIFA-NH) cordially invite all House members and staff to a legislative reception on Thursday, **January 29**, at the Barley House from 3:00 to 6:00 p.m.
Rep. Michael D. Whalley

All legislators are invited to the New Hampshire Community Health Centers’ “Breakfast of Champions,” at St. Paul’s Church on Thursday, **February 5**. A session-day hot breakfast will be served from 7:30 to 9:00 a.m. There will be a brief program from 8:00-8:30 a.m. featuring Champions of Community Health Centers, including Mike Hickey (President and CEO of Verizon New Hampshire), providing an opportunity to learn about Health Centers and the role they play in the health and vitality of New Hampshire communities.

Reps. Sheila T. Francoeur and Edward D. Densmore

All members are invited to attend the Strafford County Republican Committee’s Lincoln Day Dinner to be held on Friday, **February 20** at the Rochester Elks Lodge on 41 Columbus Avenue, Rochester. Social hour is from 5:30 to 6:30 p.m. with dinner and program to follow. Price for tickets is \$30. For tickets see Rep. Phyllis Woods or a member of the Strafford County Delegation.
Rep. Phyllis L. Woods

The Department of Transportation will hold the following meeting:
Jan 15 – Andover Town Office, 31 School Street, Andover, 7:00 p.m. Public officials/public informational meeting, Andover-Franklin, reconstruction of NH Route 11, from Sam Hill Road to Chance Pond Road.
Jan 28 – Lancaster Town Hall, 25 Main Street, Lancaster, 7:00 p.m. Public officials/public informational meeting, Lancaster, rehabilitating US Route 2, from the intersection of US Route 3 easterly 1.3 miles to the Cabot Motel.
Rep. Edwin O. Smith, Chairman
Public Works and Highways Committee

As a convenience to the members of the NH General Court, the Visitors’ Center offers the following schedule of schools and other groups visiting the State House in **January 2004**. These listings will replace individual notifications in an effort to reduce paper usage and to ensure all members will be notified in a timely manner. Our schedule is tightly booked for the remainder of the school year. Please contact the Visitors’ Center concerning school tour booking information. Thank you for your continued participation with your School Visitation Program.
Kenneth Leidner, Director

DATE	TIME	GROUP	CLASS/Size
1-12-04	10:00 to 11:00	Granite State Christian School – Salem	4/6
1-12-04	10:00 to 12:30 SH/SC	Stratham Memorial School	4/42
1-13-04	9:30 to 10:30	Jolicoeur School-Manchester	Hs/20
1-13-04	11:00 to 12:00	Wheelock Elementary – Keene	4/33
1-14-04	9:30 to 12:00 SH/HM	Peter Woodbury School – Bedford	4/60
1-15-04	9:30 to 12:00 SH/HM	Peter Woodbury School – Bedford	4/60
1-16-04	9:30 to 10:30	Jolicoeur School-Manchester	Hs/20
1-16-04	9:30 to 12:00 SH/HM	Peter Woodbury School - Bedford	4/60
1-16-04	1:00 to 2:00	NH Grange	Adults/30
1-20-04	10:45 to 1:00 SH/P	Belmont Elementary	4/48
1-21-04	10:45 to 1:00 SH/P	Belmont Elementary	4/70
1-22-04	10:30 to 12:30 SH/Lunch	Hills-Garrison School – Hudson	4/45
1-23-04	10:30 to 12:30 SH/Lunch	Hills-Garrison School – Hudson	4/65
1-26-04	10:00 to 12:30 SH/SC	Stratham Memorial School	4/54
1-27-04	9:45 to 12:00 SH/FG	Charlotte Ave. School – Nashua	4/75
1-28-04	9:45 to 12:00 SH/FG	Charlotte Ave. School - Nashua	4/50
1-28-04	12:30 to 2:00 SH/HM	North Hampton Elementary	5/56
1-29-04	9:45 to 12:00 SH/HM	Auburn Village School	4/73
1-30-04	9:45 to 12:00 SH/HM	Hooksett Village School	5/85
1-27-04	9:45 to 12:00 SH/FG	Charlotte Ave. School – Nashua	4/75
1-28-04	9:45 to 12:00 SH/FG	Charlotte Ave. School - Nashua	4/50
1-28-04	12:30 to 2:00	North Hampton Elementary	5/56

1-29-04	SH/HM 9:45 to 12:00	Auburn Village School	4/73
1-30-04	SH/HM 9:45 to 12:00	Hooksett Village School	5/85

THURSDAY, JANUARY 15
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2003-0528h

Amendment to CACR 2
Proposed by the Committee on Education - R

Amend the title of the resolution by replacing it with the following:
RELATING TO: the legislature’s authority concerning the content, extent, beneficiaries, level and source of funding of public education.
PROVIDING THAT: the legislature shall have exclusive authority to determine the content, extent, beneficiaries, level and source of funding of public education.
Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:
[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]
Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Amend the bill by replacing section IV with the following:
IV. That the wording of the question put to the qualified voters shall be:
“Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:
[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]
Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons,

associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature exclusive authority to determine either directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education.
2003-2504h

Amendment to CACR 5
Proposed by the Committee on Judiciary - R

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

RELATING TO: the rulemaking authority of the supreme court.

PROVIDING THAT: the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

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

I. That part II, article 73-a of the constitution be repealed and reenacted in order to clarify that both the judiciary and the legislature have the authority to regulate court practices and procedures and to resolve potential conflicts that may arise, so that it reads as follows:

[Art.] 73-a. [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all the courts in the state. The chief justice shall have the power, with the concurrence of a majority of the other supreme court justices, to make rules of general application regulating court administration and the practice, procedure, and admissibility of evidence, in all courts in the state. The legislature shall have a concurrent power to regulate the same matters by statutes of general application, except that such legislative enactments may not abridge the judiciary’s necessary adjudicatory functions. In the event of a conflict between a rule promulgated by the judiciary and a statute enacted by the legislature, the statute, if not otherwise contrary to this constitution shall prevail over the rule.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2004.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:
“Are you in favor of repealing and reenacting part II, article 73-a of the constitution in order to clarify that both the judiciary and legislature have the authority to regulate court practices and procedures and to resolve potential conflicts that may arise so that it reads as follows:

[Art.] 73-a. [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all the courts in the state. The chief justice shall have the power, with the concurrence of a majority of the other supreme court justices, to make rules of general application regulating court administration and the practice, procedure, and admissibility of evidence, in all courts in the state. The legislature shall have a concurrent power to regulate the same matters by statutes of general application, except that such legislative enactments may not abridge the judiciary’s necessary adjudicatory functions. In the event of a conflict between a rule promulgated by the judiciary and a statute enacted by the legislature, the statute, if not otherwise contrary to this constitution shall prevail over the rule.”

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2004 General Court” shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the supreme court may adopt rules of general application and that the general court may also regulate these matters by statutes of general application, provided that the general court may not abridge the judiciary’s necessary adjudicatory functions. The resolution also provides that in the event of a conflict between a statute and a rule, the statute shall prevail over the rule, if not contrary to the provisions of the constitution.
2003-2562h

Floor Amendment to CACR 5
Proposed by Rep. Sorg

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

RELATING TO: the rulemaking authority of the supreme court.

PROVIDING THAT: the supreme court may adopt rules to regulate court administration and the practice, procedure, and admissibility of evidence in all courts of the state; that the general court may regulate these matters by statute; and that in the event of a conflict between a rule and a statute, the statute shall prevail.

Amend the resolution by replacing paragraph I with the following:

I. That article 73-a of the second part of the constitution be repealed and reenacted to read as follows:

[Art.] 73-a [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all courts in the state. In such capacity, the chief justice shall have the power, with the concurrence of a majority of the members of the supreme

court, to regulate court administration and the practice, procedure, and admissibility of evidence in all courts of the state by rules of prospective general application. The legislature shall have concurrent power to regulate the same matters by statute. In the event of a conflict between any such rule and any such statute, the statute shall prevail over the rule, anything else in this constitution to the contrary notwithstanding.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be:

“Are you in favor of repealing and reenacting part II, article 73-a of the constitution in order to clarify that both the judiciary and legislature have the authority to regulate court practices and procedures and that conflicts will be resolved in favor of the legislature:

[Art.] 73-a [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all courts in the state. In such capacity, the chief justice shall have the power, with the concurrence of a majority of the members of the supreme court, to regulate court administration and the practice, procedure, and admissibility of evidence in all courts of the state by rules of prospective general application. The legislature shall have concurrent power to regulate the same matters by statute. In the event of a conflict between any such rule and any such statute, the statute shall prevail over the rule, anything else in this constitution to the contrary notwithstanding.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the supreme court may adopt rules to regulate court administration and the practice, procedure, and admissibility of evidence in all the courts of the state, and that the legislature may also regulate these matters by statute. The resolution also provides that in the event of a conflict between a statute and a rule, the statute shall prevail.

2003-2368h

Amendment to CACR 9

Proposed by the Minority of the Committee on Judiciary - R

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

RELATING TO: 10-year terms for state judges.

PROVIDING THAT: all state judges appointed on or after January 1, 2005 be commissioned for 10-year terms, which may be renewed.

Amend the bill by replacing paragraph II with the following:

II. That article 73 of the second part of the constitution be amended to read as follows:

[Art.] 73. [Tenure of Office to be Expressed in Commissions; Judges to Hold Office During Good Behavior~~[-etc.]~~ **for 10-year Terms; Removal.**] The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions, and all judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behavior except those for whom a different provision is made in this constitution. The governor with consent of the council may remove any commissioned officer for reasonable cause upon the address of both houses of the legislature, provided nevertheless that the cause for removal shall be stated fully and substantially in the address and shall not be a cause which is a sufficient ground for impeachment, and provided further that no officer shall be so removed unless he shall have had an opportunity to be heard in his defense by a joint committee of both houses of the legislature. **All judges appointed on or after January 1, 2005 shall be duly commissioned and sworn to 10-year terms and shall hold their offices during good behavior; except for those judicial officers for whom a different provision is made in this constitution. A judge appointed on or after January 1, 2005 may be reappointed, commissioned, and sworn to subsequent 10-year terms.**

Amend the bill by replacing paragraph IV - VI with the following:

IV. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

V. That the wording of the question put to the qualified voters shall be:

“To provide for 10-year, renewable judicial terms, are you in favor of amending article 35 of the first part of the Constitution and article 73 of the second part of the Constitution to read as follows:

[Art.] 35. [The Judiciary; Tenure of Office, etc.] It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well and for any term appointed; subject, however, to such limitations, on account of age, as may be provided by the constitution of the state; and that they should have honorable salaries, ascertained and established by standing laws.” and

[Art.] 73. [Tenure of Office to be Expressed in Commissions; Judges to Hold Office During Good Behavior for 10-year Terms; Removal.] The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions, and all judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behavior except those for whom a different provision is made in this constitution. The governor with consent of the council may remove any commissioned officer for reasonable cause upon the address of both houses of the legislature, provided nevertheless that the cause for removal shall be stated fully and substantially in the address and shall not be a cause which is a sufficient ground for impeachment, and provided further that no officer shall be so removed unless he shall have had an opportunity to be heard in his defense by a joint committee of both houses of the legislature. All judges appointed on or after January 1, 2005 shall be duly commissioned and sworn to 10-year terms and shall hold their offices during good behavior; except for those judicial officers for whom a different provision is made in this constitution. A judge appointed on or after January 1, 2005 may be reappointed, commissioned, and sworn to subsequent 10-year terms.”

VI. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2004 General Court” shall be printed in bold type at the top of the ballot.

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution provides that all state judges appointed on or after January 1, 2005 shall be commissioned for 10-year terms, which may be renewed.
2003-1353h

Amendment to HB 72

Proposed by the Committee on Environment and Agriculture - R

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

- 1 Sale of Animals and Pets; Administrative Fines. RSA 437:9 is repealed and reenacted to read as follows:
437:9 Penalty.
 - I. Any person who violates this subdivision shall be guilty of a misdemeanor.
 - II. Any person or owner who violates any of the provisions of this subdivision or rule adopted under it may also be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.
 - III. In addition, once a license has been revoked under the provisions of RSA 437:3, the department may require that all animals and birds located on the premises for which such license was revoked shall be removed by the licensee from such premises within 3 working days after the revocation and be relocated to a safe and sanitary place approved by the department.
- 2 Health Certificate for Cats; Administrative Fines. RSA 437:13-a, VI is repealed and reenacted to read as follows:
 - VI.(a) Any person who violates this subdivision shall be guilty of a misdemeanor.
 - (b) In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.
- 3 Breeder's Health Certificate; Administrative Fines. RSA 466:6-a, VI is repealed and reenacted to read as follows:
 - VI.(a) Any person who violates this subdivision shall be guilty of a misdemeanor.
 - (b) In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.
- 4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill provides uniform penalties for violations of animal health certificate law.
2003-0288h

Amendment to HB 133-LOCAL

Proposed by the Committee on Education - R

Amend the bill by replacing section 2 with the following:

- 2 Effective Date. This act shall take effect July 1, 2004.
2003-2478h

Amendment to HB 243

Proposed by the Majority of the Committee on Transportation - R

Amend the bill by replacing section 1 with the following:

- 1 Repeal. RSA 266:59, III, relative to modification of motor vehicle exhaust system, is repealed.

AMENDED ANALYSIS

This bill repeals a limitation on the modification of motor vehicle exhaust systems.
2003-2458h

Amendment to HB 264

Proposed by the Majority of the Committee on Election Law - R

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

- 1 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:
662:5 State Representative Districts. The state is divided into districts for the choosing of state representatives, each of which may elect the number of representatives set forth opposite the district, as follows:
 - I. Belknap County
 - District No. 1
 - Center Harbor
 - New Hampton
 - Sanbornton
 - Tilton3
 - District No. 2
 - Laconia Wards 1-6
 - Meredith7
 - District No. 3
 - Alton
 - Barnstead
 - Belmont
 - Gilford7
 - District No. 4
 - Gilmanton1
 - II. Carroll County

House Calendar No.		
District No. 1	Bartlett Chatham Conway Hale's Location Hart's Location Jackson	4
District No. 2	Albany Eaton Madison	1
District No. 3	Freedom Ossipee Sandwich Tamworth	3
District No. 4	Moultonborough Tuftonboro Wolfeboro	4
District No. 5	Brookfield Effingham Wakefield	2
III. Cheshire County		
District No. 1	Alstead Gilsum Marlow Nelson Roxbury Stoddard Sullivan Surry Walpole Westmoreland	4
District No. 2	Keene Wards 1-5	7
District No. 3	Chesterfield Hinsdale Winchester	4
District No. 4	Fitzwilliam Richmond	1
District No. 5	Harrisville Marlborough Swanzey Troy	4
District No. 6	Dublin Jaffrey Rindge	4
IV. Coos County		
District No. 1	Atkinson & Gilmanton Academy Grant Cambridge Clarksville Colebrook Columbia Dix's Grant Dixville Dummer Errol Erving's Location Millsfield Odell Pittsburg Second College Grant Stewartstown Wentworth's Location	2
District No. 2	Bean's Grant Carroll Chandler's Purchase	

	Crawford's Purchase	
	Cutt's Grant	
	Dalton	
	Gorham	
	Green's Grant	
	Hadley's Purchase	
	Jefferson	
	Kilkenny	
	Lancaster	
	Low and Burbank's Grant	
	Martin's Location	
	Northumberland	
	Pinkham's Grant	
	Randolph	
	Sargent's Purchase	
	Stark	
	Stratford	
	Thompson and Meserve's Purchase	
	Whitefield	5
District No. 3	Bean's Purchase	
	Berlin Wards 1-4	
	Milan	
	Shelburne	
	Success	4
	V. Grafton County	
District No. 1	Littleton	
	Lyman	2
District No. 2	Bethlehem	
	Franconia	1
District No. 3	Bath	
	Easton	
	Landaff	
	Lincoln	
	Lisbon	
	Livermore	
	Monroe	
	Sugar Hill	
	Waterville Valley	2
District No. 4	Thornton	
	Woodstock	1
District No. 5	Benton	
	Haverhill	
	Piermont	
	Warren	2
District No. 6	Campton	
	Ellsworth	
	Orford	
	Rumney	
	Wentworth	2
District No. 7	Hebron	
	Plymouth	2
District No. 8	Alexandria	
	Ashland	
	Bridgewater	
	Bristol	
	Groton	
	Holderness	3
District No. 9	Hanover	
	Lyme	4
District No. 10	Canaan	
	Dorchester	
	Enfield	
	Grafton	

	Orange	3
District No. 11	Lebanon Wards 1-3	4
	VI. Hillsborough County	
District No. 1	Antrim	
	Hancock	
	Hillsborough	
	Windsor	3
District No. 2	Bennington	
	Deering	
	Francestown	
	Greenfield	2
District No. 3	Greenville	
	New Ipswich	
	Peterborough	
	Sharon	4
District No. 4	Lyndeborough	
	Mont Vernon	
	New Boston	
	Temple	
	Wilton	4
District No. 5	Brookline	
	Hollis	
	Mason	4
District No. 6	Amherst	
	Milford	8
District No. 7	Goffstown	
	Weare	8
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
District No. 15	Manchester Ward 8	3
District No. 16	Manchester Ward 9	3
District No. 17	Manchester Wards 10, 11, and 12	8
District No. 18	Bedford	6
District No. 19	Litchfield	
	Merrimack	11
District No. 20	Nashua Ward 1	3
District No. 21	Nashua Ward 2	3
District No. 22	Nashua Ward 3	3
District No. 23	Nashua Wards 4 and 6	6
District No. 24	Nashua Ward 5	3
District No. 25	Nashua Wards 7 and 8	6
District No. 26	Nashua Ward 9	3
District No. 27	Hudson	
	Pelham	11
	VII. Merrimack County	
District No. 1	Danbury	
	New London	
	Wilmot	2
District No. 2	Franklin Wards 1-3	
	Hill	3
District No. 3	Newbury	
	Sutton	1
District No. 4	Hopkinton	
	Warner	
	Webster	3
District No. 5	Bradford	
	Henniker	2
District No. 6	Andover	

	Boscawen	
	Canterbury	
	Loudon	
	Northfield	
District No. 7	Salisbury	6
	Chichester	
District No. 8	Pembroke	3
	Allenstown	
	Epsom	
	Hooksett	
	Pittsfield	8
District No. 9	Concord Wards 1, 2, and 3	4
District No. 10	Concord Wards 4, 8, 9, and 10	5
District No. 11	Concord Wards 5, 6, and 7	4
District No. 12	Bow	
	Dunbarton	3
	VIII. Rockingham County	
District No. 1	Candia	
	Deerfield	
	Northwood	
	Nottingham	5
District No. 2	Raymond	3
District No. 3	Auburn	
	Londonderry	9
District No. 4	Salem	
	Windham	12
District No. 5	Derry	11
District No. 6	Atkinson	2
District No. 7	Chester	
	Danville	
	Sandown	4
District No. 8	Hampstead	
	Kingston	
	Plaistow	7
District No. 9	Brentwood	
	Epping	
	Fremont	4
District No. 10	East Kingston	
	Newton	2
District No. 11	Newfields	
	Newmarket	3
District No. 12	Exeter	
	North Hampton	
	Stratham	8
District No. 13	Hampton Falls	
	Kensington	
	Seabrook	
	South Hampton	4
District No. 14	Hampton	5
District No. 15	Newington	
	Portsmouth Wards 1-5	7
District No. 16	Greenland	1
District No. 17	New Castle	
	Rye	2
	IX. Strafford County	
District No. 1	Rochester Wards 1-6	9
District No. 2	Rollinsford	
	Somersworth Wards 1-5	5
District No. 3	Barrington	
	Farmington	
	Middleton	
	Milton	
	New Durham	

	Strafford	8
District No. 4	Dover Wards 1 and 2	3
District No. 5	Dover Wards 3 and 4	3
District No. 6	Dover Wards 5 and 6	3
District No. 7	Durham	
	Lee	
	Madbury	6
	X. Sullivan County	
District No. 1	Cornish	
	Grantham	
	Plainfield	2
District No. 2	Croydon	
	Goshen	
	Newport	
	Springfield	
	Washington	3
District No. 3	Sunapee	1
District No. 4	Claremont Wards 1-3	
	Lempster	
	Unity	5
District No. 5	Acworth	
	Charlestown	
	Langdon	2

2 Application. The changes in state representative districts established by this act shall not affect constituencies or terms of office of representatives presently in office. The state representative districts established by this act shall be in effect for the purpose of electing representatives at the 2004 state general election. If there shall be a vacancy in a state representatives district for any reason prior to the 2004 state general election, the vacancy shall be filled by and from the same state representative district that existed for the 2002 state general election. No provision of this act shall affect in any manner any of the proceedings of the membership of the house of representatives of the general court that assembled for a biennial session in January 2003.

3 Effective Date. This act shall take effect 60 days after its passage.
2004-0036h

Floor Amendment to HB 264
Proposed by Rep. Whalley

Amend the bill by replacing section 1 with the following:

1 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:		
662:5 State Representative Districts. The state is divided into districts for the choosing of state representatives, each of which may elect the number of representatives set forth opposite the district, as follows:		
I. Belknap County		
District No. 1	Center Harbor	
	New Hampton	
	Sanbornton	
	Tilton	3
District No. 2	Laconia Wards 1-6	
	Meredith	7
District No. 3	Alton	
	Barnstead	
	Belmont	
	Gilford	7
District No. 4	Gilmanton	1
II. Carroll County		
District No. 1	Bartlett	
	Chatham	
	Conway	
	Hale's Location	
	Hart's Location	
	Jackson	4
District No. 2	Albany	
	Eaton	
	Madison	1
District No. 3	Freedom	
	Ossipee	
	Sandwich	
	Tamworth	3

House Calendar No.		
District No. 4	Moultonborough	
	Tuftonboro	
	Wolfeboro	4
District No. 5	Brookfield	
	Effingham	
	Wakefield	2
	III. Cheshire County	
District No. 1	Gilsum	
	Surry	
	Westmoreland	1
District No. 2	Alstead	
	Marlow	
	Nelson	
	Roxbury	
	Stoddard	
	Sullivan	
	Walpole	3
District No. 3	Keene Wards 1-5	7
District No. 4	Chesterfield	
	Hinsdale	
	Winchester	4
District No. 5	Fitzwilliam	
	Richmond	1
District No. 6	Harrisville	
	Marlborough	
	Swanzey	
	Troy	4
District No. 7	Dublin	
	Jaffrey	
	Rindge	4
	IV. Coos County	
District No. 1	Atkinson & Gilmanton Academy Grant	
	Cambridge	
	Clarksville	
	Colebrook	
	Columbia	
	Dix's Grant	
	Dixville	
	Dummer	
	Errol	
	Erving's Location	
	Millsfield	
	Odell	
	Pittsburg	
	Second College Grant	
	Stewartstown	
	Wentworth's Location	2
District No. 2	Bean's Grant	
	Carroll	
	Chandler's Purchase	
	Crawford's Purchase	
	Cutt's Grant	
	Dalton	
	Gorham	
	Green's Grant	
	Hadley's Purchase	
	Jefferson	
	Kilkenny	
	Lancaster	
	Low and Burbank's Grant	
	Martin's Location	
	Northumberland	
	Pinkham's Grant	

	Randolph	
	Sargent’s Purchase	
	Stark	
	Stratford	
	Thompson and Meserve’s Purchase	
District No. 3	Whitefield	5
	Bean’s Purchase	
	Berlin Wards 1-4	
	Milan	
	Shelburne	
	Success	4
District No. 1	V. Grafton County	
	Littleton	
District No. 2	Lyman	2
	Bethlehem	
District No. 3	Franconia	1
	Bath	
	Easton	
	Landaff	
	Lincoln	
	Lisbon	
	Livermore	
	Monroe	
	Sugar Hill	
District No. 4	Waterville Valley	2
	Thornton	
District No. 5	Woodstock	1
	Benton	
	Haverhill	
	Piermont	
District No. 6	Warren	2
	Campton	
	Ellsworth	
	Orford	
	Rumney	
District No. 7	Wentworth	2
	Hebron	
District No. 8	Plymouth	2
	Alexandria	
	Ashland	
	Bridgewater	
	Bristol	
	Groton	
District No. 9	Holderness	3
	Hanover	
District No. 10	Lyme	4
	Canaan	
	Dorchester	
	Enfield	
	Grafton	
District No. 11	Orange	3
	Lebanon Wards 1-3	4
District No. 1	VI. Hillsborough County	
	Antrim	
	Hancock	
	Hillsborough	
District No. 2	Windsor	3
	Bennington	
	Deering	
	Francetown	
District No. 3	Greenfield	2
	Greenville	
	New Ipswich	

District No. 4	Peterborough	4
	Sharon	
	Lyndeborough	
	Mont Vernon	
District No. 5	New Boston	4
	Temple	
	Wilton	
	Brookline	
District No. 6	Hollis	4
	Mason	
	Amherst	
District No. 7	Milford	8
	Goffstown	
	Weare	
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
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District No. 18	Bedford	6
District No. 19	Litchfield	11
District No. 20	Merrimack	
	Nashua Ward 1	
	Nashua Ward 2	
District No. 21	Nashua Ward 3	3
District No. 22	Nashua Wards 4 and 6	6
District No. 23	Nashua Ward 5	3
District No. 24	Nashua Wards 7 and 8	6
District No. 25	Nashua Ward 9	3
District No. 26	Hudson	11
District No. 27	Pelham	
District No. 1	VII. Merrimack County	
	Danbury	
District No. 2	New London	2
	Wilmot	
	Franklin Wards 1-3	
	Hill	
District No. 3	Newbury	3
	Sutton	
	Hopkinton	
	Warner	
District No. 4	Webster	3
	Bradford	
	Henniker	
	Andover	
District No. 5	Boscawen	6
	Canterbury	
	Loudon	
	Northfield	
District No. 6	Salisbury	6
	Chichester	
	Pembroke	
	Allenstown	
District No. 7	Epsom	8
	Hooksett	
	Pittsfield	
	Concord Wards 1, 2, and 3	
District No. 8	Concord Wards 4, 8, 9, and 10	5

District No. 11	Concord Wards 5, 6, and 7	4
District No. 12	Bow	
	Dunbarton	3
	VIII. Rockingham County	
District No. 1	Candia	
	Deerfield	
	Northwood	
	Nottingham	5
District No. 2	Raymond	3
District No. 3	Auburn	
	Londonderry	9
District No. 4	Salem	
	Windham	13
District No. 5	Derry	11
District No. 6	Atkinson	2
District No. 7	Chester	
	Danville	
	Sandown	4
District No. 8	Hampstead	
	Kingston	
	Plaistow	7
District No. 9	Brentwood	
	Epping	
	Fremont	4
District No. 10	East Kingston	
	Newton	2
District No. 11	Newfields	
	Newmarket	3
District No. 12	Exeter	
	North Hampton	
	Stratham	8
District No. 13	Hampton Falls	
	Kensington	
	Seabrook	
	South Hampton	4
District No. 14	Hampton	5
District No. 15	Newington	
	Portsmouth Wards 1-5	7
District No. 16	Greenland	1
District No. 17	New Castle	
	Rye	2
	IX. Strafford County	
District No. 1	Rochester Wards 1-6	9
District No. 2	Rollinsford	
	Somersworth Wards 1-5	5
District No. 3	Barrington	
	Farmington	
	Middleton	
	Milton	
	New Durham	
	Strafford	8
District No. 4	Dover Wards 1 and 2	3
District No. 5	Dover Wards 3 and 4	3
District No. 6	Dover Wards 5 and 6	3
District No. 7	Durham	
	Lee	
	Madbury	6
	X. Sullivan County	
District No. 1	Cornish	
	Grantham	
	Plainfield	2
District No. 2	Croydon	
	Goshen	

	Newport	
	Springfield	
	Washington	3
District No. 3	Sunapee	1
District No. 4	Claremont Wards 1-3	
	Lempster	
	Unity	5
District No. 5	Acworth	
	Charlestown	
	Langdon	2

2003-2430h

Amendment to HB 265
Proposed by the Committee on Commerce - R

Amend RSA 420-K:1 as inserted by section 1 of the bill by replacing it with the following:
420-K:1 Purpose of Chapter. The purpose of this chapter is to reduce waste, medical errors, inconsistent care, and misallocation of resources in the state’s health care delivery system by instituting a pilot program that encourages health carriers to develop health benefit plans and provider payment policies that promote a better alignment of financial incentives with health care quality improvement and efficiency.

Amend RSA 420-K:4 through 420-K:6 as inserted by section 1 of the bill by replacing them with the following:
420-K:4 Eligibility for Waiver of Statutory or Regulatory Requirements. A health carrier seeking to offer a health benefit plan that will promote a better alignment of financial incentives with health care quality improvement and efficiency shall be eligible, pursuant to RSA 420-K:5, to apply to the commissioner for a waiver or modification of specified statutory or regulatory requirements relating to such health benefit plan. To be eligible for the waiver, the carrier shall demonstrate to the commissioner that the design of the health benefit plan and the provider payment policies associated with the health benefit plan will meet at least 4 of the following standards:

- I. Encourages providers to actively manage the care of patients with chronic health conditions or more complicated conditions and to treat such patients in accordance with evidence-based best practice guidelines.
- II. Provides an opportunity for providers to share in the benefits of quality improvement and efficiency enhancements.
- III. Provides the opportunity and incentive for covered persons and purchasers to recognize cost and quality differences in health care and make their decisions accordingly.
- IV. Aligns financial incentives with the implementation of care processes based on evidence-based best practices and the achievement of better patient outcomes.
- V. Aligns financial incentives with the implementation of programs for reducing medical errors and improving patient safety that are based on evidence-based best practices.
- VI. Enables providers to coordinate care for patients across settings and over time.
- VII. Creates financial incentives for providers to make resource allocation decisions based on established practice benchmarks.

420-K:5 Waiver Authority.
I. A health carrier offering or intending to offer a health benefit plan that meets the requirements of RSA 420-K:4 may apply to the commissioner for a waiver or modification of specified statutory or regulatory provisions concerning mandatory coverage requirements or network adequacy standards as they apply to such health benefit plan. The commissioner shall hold a public hearing on the proposed plan and after public hearing may grant such waiver or modification request upon a determination that:
(a) The health benefit plan and associated provider payment policies meet the requirements of RSA 420-K:4;
(b) The waiver or modification is a significant component of, and integral to, the effort to better align financial incentives with health care quality improvement and efficiency; and
(c) The health benefit plan establishes qualitative and quantitative benchmarks for measuring provider performance and the success of the payment mechanism in increasing compliance with evidenced-based practice guidelines.

II. The authority to grant waivers under this section on newly issued policies shall cease on July 1, 2007.
420-K:6 Rulemaking Authority. The commissioner may, in accordance with RSA 541-A, adopt rules as are necessary or proper to implement the waiver provisions of RSA 420-K:5.

Amend the bill by replacing all after section 1 with the following:
2 Repeal. RSA 420-K, relative to aligning health care payment policies with quality improvement, is repealed.
3 Effective Date.
I. Section 2 of this act shall take effect July 1, 2007.
II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a pilot program to allow health benefit plans which offer better alignment of financial incentives with health care quality improvement to apply to the commissioner for a waiver of certain requirements. The pilot program is repealed on July 1, 2007.
This bill is a request of the insurance department.

2003-2374h

Amendment to HB 266
Proposed by the Majority of the Committee on Transportation - R

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

AN ACT requiring youth bicyclists to wear protective headgear.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Riding on Bicycles; Headgear. Amend RSA 265:144 by inserting after paragraph IX the following new paragraph:

X. No person less than 16 years of age may operate or ride upon a bicycle unless he or she wears protective headgear of a type approved by the commissioner of health and human services.

Amend the bill by deleting sections 3-4 and renumbering the original section 5 to read as 3.

AMENDED ANALYSIS

This bill requires youth bicyclists to wear protective headgear.

2003-2438h

Amendment to HB 359

Proposed by the Majority of the Committee on Election Law - R

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

1 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The senate shall divide the state into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be adopted by senate concurrent resolution, which shall be forwarded by the senate to the secretary of state for implementation at the next biennial election.

2 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:

662:5 State Representative Districts. The house of representatives shall divide the state into districts for the choosing of state representatives, each of which may elect the number of representatives designated by the house for the district. The districts shall be adopted by house concurrent resolution, which shall be forwarded by the house of representatives to the secretary of state for implementation at the next biennial election.

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

AMENDED ANALYSIS

This bill requires the senate and house of representatives to apportion their districts by resolution.

2003-2480h

Amendment to HB 366

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

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

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or
- (2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger

product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a

written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

- (a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and
- (b) One of the following applies:
 - (1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or
 - (2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and], use [it appropriately so that no person is exposed to the mercury],~~ **and otherwise handle and dispose of it in accordance with state and federal law;** and

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

AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.
2003-2551h

Floor Amendment to HB 366
Proposed by Reps. Phinizy and P. Allen - R

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

AN ACT relative to mercury reduction and the disposal of mercury-added products.

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

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. “Mercury relay” means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. “Mercury switch” means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. “Mercury switch” does not include a mercury-added thermostat.

IV-c. “Mercury thermostat” means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or
- (2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger

product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

- (a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and
- (b) One of the following applies:
 - (1) Use of the product provides a net benefit to the environment, public health or public safety when compared to

available non-mercury alternatives; or

(2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~and~~, use ~~[it appropriately so that no person is exposed to the mercury]~~, **and otherwise handle and dispose of it in accordance with state and federal law**; and

4 New Section; Disposal of Mercury-added Products. Amend RSA 149-M by inserting after section 57 the following new section:

149-M:58 Disposal Ban. Owners and operators of solid waste landfills, transfer stations, and incinerators may develop programs to sort, collect, and recycle or dispose of mercury-added products in accordance with applicable laws and regulations, and beginning January 1, 2006:

I. No person shall knowingly dispose of mercury-added products in solid waste landfills, transfer stations, or incinerators.

II. Except as otherwise provided by this section, every person who discards solid waste within the state shall separate mercury-added products from that solid waste for recycling or disposal as a hazardous waste. Any contractor who replaces or removes mercury-added products shall assure the proper separation and recycling or the disposal as a hazardous waste of any discarded mercury-added product.

III. After proper separation of mercury-added products, each person who discards that waste shall either:

(a) Set that waste in a designated area for collection by a hauler who shall deliver that waste to a facility that is legally authorized and permitted to accept that waste; or

(b) Deliver that waste to a facility that is legally authorized and permitted to accept that waste.

IV. Owners and operators of solid waste transfer, incineration, and landfill facilities shall not be found to have knowingly accepted or disposed of mercury-added products if, at a minimum, the facility has implemented all of the following mechanisms as required:

(a) Posting of signs at the facility providing notice of the prohibition against the disposal and incineration of mercury-added products.

(b) Written notification to, or agreements with, the facility's customers, providing notice of the prohibition against the disposal and incineration of mercury-added products.

(c) Implementation of a procedure, approved by the department, for periodically monitoring incoming wastes to detect the presence of mercury-added products at the facility and for separating out observed mercury-added products for return to the generator, recycling, or disposal as a hazardous waste.

(d) Provide customers with information about collection programs or facilities that are permitted to accept mercury-added products for recycling or disposal as a hazardous waste.

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

AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.

This bill also prohibits the disposal of mercury-added products after January 1, 2006.

2003-2508h

Amendment to HB 516-LOCAL

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 relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

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

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

I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, the department of environmental services shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. **On appeal of requests proposed, sponsored, or administered by the department of transportation, the council shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.** All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. **On appeal of requests proposed, sponsored, or administered by the department of transportation, the court shall presume a public need for the requested project, and that the department of**

transportation has exercised appropriate engineering judgment in the project's design. The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion	\$18,300,000
Total state appropriation section 5	\$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of [~~\$1,000,000~~] **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor[~~, provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects~~] **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.**)

5 Effective Date.

- I. Section 4 of this act shall take effect upon its passage.
- II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.
This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

2004-0033h

**Floor Amendment to HB 516-LOCAL
Proposed by Reps. Spang and Soltani**

Amend the title of the bill by replacing it with the following:
AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

Amend the bill by replacing all after the enacting clause with the following:
1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:
I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. **On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.** All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. **On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.** The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to

maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion	\$18,300,000
Total state appropriation section 5	\$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of ~~[\$1,000,000]~~ **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor~~[-, provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects]~~ **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.)**

- 5 Effective Date.
- I. Section 4 of this act shall take effect upon its passage.
- II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.
This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

2003-2482h

Amendment to HB 612-FN-LOCAL
Proposed by the Committee on Education - R

Amend the title of the bill by replacing it with the following:
AN ACT making certain changes to the allocation of catastrophic aid expenditures.
Amend the bill by replacing all after the enacting clause with the following:

- 1 Special Education; State Aid. Amend RSA 186-C:18, III-IV to read as follows:

III.(a) The state board of education through the commissioner, department of education, shall distribute aid available under this paragraph as entitlement to such school districts as have a special education pupil for whose costs they are responsible, for whom the costs of special education in the fiscal year ~~[exceed 3-1/2]~~ **exceeds the sum of 3** times the estimated state average expenditure per pupil for the school year preceding the year of distribution **plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both.** If in any year, the amount appropriated for distribution as catastrophic special education 186-C:18 aid in accordance with this section is insufficient therefor, the appropriation shall be prorated proportionally based on entitlement among the districts entitled to a grant. If there are unexpended funds appropriated under this paragraph at the end of any fiscal year, such funds shall be distributed for court-ordered placements under RSA 186-C:19-
b. **Any funds remaining after distribution for court-ordered placements shall be distributed to school districts in proportion to the number of educationally disabled pupils in each school district.** The state may designate up to \$250,000 of the funds which are appropriated as required by this paragraph, for each fiscal year, to assist those school districts which, under guidelines established by rules of the state board of education, may qualify for emergency assistance for special education costs. Upon application to the commissioner of education, and approval by the commissioner, such funds may be accepted and expended by school districts in accordance with this chapter; provided, however, that if a school district has received emergency assistance funds for certain educationally disabled children, it shall not receive catastrophic special education aid for those same educationally disabled children. If any of the funds designated for emergency assistance under this paragraph are not used for such emergency assistance purposes, the funds shall be used to assist school districts in meeting catastrophic cost increases in their special education programs as provided by this paragraph.

(b) The school district shall be liable for ~~[3-1/2]~~ **3** times the estimated state average expenditure per pupil for the school year preceding the year of distribution, **plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both** plus 20 percent of the additional cost, up to ~~[10]~~ **8** times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

(c) The department of education shall be liable for 80 percent of the cost above the ~~[3-1/2]~~ **3** times the estimated state average expenditure per pupil for the school year preceding the year of distribution, **plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both,** up to ~~[10]~~ **8** times the estimated state average expenditure per pupil for the school year preceding the year of distribution. The department of education shall be liable for all costs in excess of ~~[10]~~ **8** times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

(d) **Upon the effective date of this subparagraph, any additional federal special education funds received by school districts shall be dedicated for distribution as catastrophic aid in accordance with this paragraph.**
(e) **Beginning November 1, 2004, and annually thereafter, the governing body of the school district shall submit a report to the house and senate finance committees detailing all federal special education funds received in the**

immediately preceding school year including an accounting of how such funds were expended.

IV. The state shall appropriate \$300,000 for each fiscal year to assist special education programs that are statewide in their scope, and that meet the standards for such programs established by the state board of education. Funds under this paragraph shall be administered and distributed by the state board of education through the commissioner.

2 Special Education; State Aid. Amend RSA 186-C:18, VIII to read as follows:

VIII. A school district shall raise, appropriate and expend funds, reflecting the total cost in meeting catastrophic special education student costs as provided under RSA 186-C:18, including the school district and department of education liability. A school district may issue reimbursement anticipation notes as provided for in RSA 198:20-d to be redeemed upon receipt of reimbursement from the state. The department of education shall be liable for the cost of the school districts borrowing of any funds for special education student costs over ~~[3-½]~~ **3** times the estimated state average expenditure per pupil for the school year preceding the year of distribution ***plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both.***

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

AMENDED ANALYSIS

This bill changes the formula used to determine liability for catastrophic aid expenses.
2003-2396h

Amendment to HB 729-FN

Proposed by the Committee on Executive Departments and Administration - R

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

1 New Paragraph; Barbering, Cosmetology and Estheticians; Definition Added. Amend RSA 313-A:1 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Fitzpatrick scale" means the following scale for classifying the 6 skin types, based on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season:

Skin Type Sunburning and Tanning History

- 1 Always burns easily; never tans
- 2 Always burns easily; tans minimally
- 3 Burns moderately; tans gradually
- 4 Burns minimally; always tans well
- 5 Rarely burns; tans profusely
- 6 Never burns; deeply pigmented.

2 New Paragraphs; Barbering, Cosmetology and Estheticians; Definitions Added. Amend RSA 313-A:1 by inserting after paragraph IX the following new paragraphs:

XI-a. "Operator" means a person age 18 or older who has received training through a program approved by the board in the safe operation of tanning devices, operates the tanning device, controls the length of the exposure to UV light, and instructs the consumer in the proper use of the device.

XI-b. "Phototherapy device" means equipment that emits UV radiation and is used by licensed health care professionals in the treatment of disease.

3 New Paragraphs; Barbering, Cosmetology and Estheticians; Definition Added. Amend RSA 313-A:1 by inserting after paragraph XIII the following new paragraphs:

XIV. "Tanning device" includes any equipment, including a sunlamp, tanning booth, and tanning bed, that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for the tanning of human skin. The term also includes any accompanying equipment, including protective eyewear, timers, and handrails.

XV. "Tanning facility" means any location, place, area, structure or business which provides access to a tanning device for a fee, membership dues or any other compensation.

XVI. "Ultraviolet (UV) radiation" means electromagnetic radiation with wavelengths between 200 nanometers and 400 nanometers.

4 Board Member Changed. Amend RSA 313-A:2, I to read as follows:

I. There shall be a board of barbering, cosmetology, and esthetics consisting of 7 members as follows: one licensed barber, one licensed cosmetologist, one licensed esthetician, one licensed manicurist, one licensed cosmetology school owner who shall be a resident of New Hampshire or a designee of such owner who shall be a licensed cosmetologist and a resident of New Hampshire, ***one owner of a registered tanning facility*** and ~~[2]~~ **1** public ~~[members]~~ **member**; each to be appointed by the governor with the consent of the council to a term of 5 years. No board member shall be appointed to more than 2 consecutive terms. Only board members provided for in this paragraph shall have the authority to vote in board determinations.

5 New Paragraph; Board Duties; Complaints. Amend RSA 313-A:7 by inserting after paragraph II the following new paragraph:

II-a. Maintain a telephone line or an electronic mail address for the purpose of accepting consumer complaints;

6 Board Rulemaking; Ethical Violations. Amend RSA 313-A:8, VI to read as follows:

VI. Ethical and professional standards required to be met by each holder of a license to practice under this chapter and how disciplinary actions by the board shall be implemented for violations of these standards ***or for any violation of this chapter;***

7 Rulemaking; Reference Added. Amend RSA 313-A:8, XVII to read as follows:

XVII. A schedule of administrative fines for violations of this chapter under RSA 313-A:22, III(e) ***and (f)*** and procedures for the payment of such fines.

8 New Paragraph; Rulemaking Added; Tanning Facilities. Amend RSA 313-A:8 by inserting after paragraph X the following new paragraph:

X-a. The regulation of tanning facilities including:

- (a) Sanitation and hygiene standards to be met and maintained by tanning facilities.
- (b) Standards for approving the training curricula and programs used for training tanning device operators.
- (c) Registering tanning facilities.
- (d) Standards for the inspection of tanning facilities.
- (e) Standards for the consumer consent form required under RSA 313-A:30, IV.

9 New Subparagraph; Disciplinary Proceedings. Amend RSA 313-A:22, I by inserting after subparagraph (b) the following new subparagraph:

(c) In an action concerning a registered tanning facility, upon written complaint from any person which charges a registered tanning facility or operator has violated any provision of RSA 313-A:26-34.

10 Administrative Fines. Amend RSA 313-A:22, III(e) to read as follows:

(e) By imposing an administrative fine not to exceed \$500 for each offense **committed by a licensee of the board**. Each violation shall constitute a separate offense. The fine shall be paid to the board which shall forward it to the state treasurer to be deposited into the general fund.

11 New Subparagraph; Administrative Fines; Tanning Facility Operation. Amend RSA 313-A:22, III by inserting after subparagraph (e) the following new subparagraph:

(f) In an action concerning a registered tanning facility, by imposing an administrative fine not to exceed \$250 for each offense upon any person who violates any provision of RSA 313-A:26-34 or rules adopted pursuant to such subdivision. Any administrative fine imposed under this subparagraph shall not preclude the imposition of further penalties or administrative actions under this chapter. The fine shall be paid to the board which shall forward it to the state treasurer to be deposited into the general fund.

12 New Paragraph; Disciplinary Proceedings; Appeals. Amend RSA 313-A:22 by inserting after paragraph III the following new paragraph:

IV. Appeals and rehearings from a decision of the board shall be made pursuant to RSA 541-A.

13 New Subdivision; Registration of Tanning Facilities. Amend RSA 313-A by inserting after section 25 the following new subdivision:

Registration of Tanning Facilities

313-A:26 Advisory Committee Established. There is hereby established the tanning facility advisory committee. The committee shall consist of 2 physicians, licensed under RSA 329, appointed by the New Hampshire Medical Society, 2 tanning facility owners, appointed by the Indoor Tanning Association of America or its successor organization, and one member of the board, appointed by the chairman of the board, who shall serve as the chairman of the advisory committee. Members shall serve without compensation. The committee shall meet at least twice a year. The committee shall:

- I. Advise the board relative to matters pertaining to the regulation of tanning facilities.
- II. Advise and assist the board in the development of administrative rules necessary for the implementation of this division;
- III. Make recommendations on methods for the appropriate inspection of tanning facilities and methods to monitor compliance with state and federal regulations; and
- IV. Advise and assist the board in identifying programs and curricula available in the state for the training of operators and developing standards for the approval of such programs.

313-A:27 Compliance with Law.

- I. Every tanning device used by a tanning facility shall comply with all applicable federal and state laws and regulations, including those promulgated by the Federal Trade Commission and the US Food and Drug Administration.
- II. The board shall enforce this chapter against a person who adulterates or misbrands a tanning device. The board may investigate a person accused of adulterating or misbranding a tanning device.

313-A:28 Registration of Tanning Facility.

- I. It shall be unlawful for any person to engage in the business of operating a tanning facility unless the facility is registered in accordance with this chapter and the registration of such facility is current and valid.
- II. Any person, corporation, partnership, association, or other entity operating or intending to open or operate a tanning facility within this state shall file registration statement annually with the board in accordance with rules adopted under RSA 541-A. Such registration statement shall be required for each facility location, shall be duly signed and verified, and shall be posted in a prominent location at the tanning facility. Such registration statement shall include, but not be limited to, the name and the business address of the applicant; if an individual, the name under which the business will be conducted; if a partnership, the name and business address of each member thereof; the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and business address of each of the officers of the corporation; and the place, including the complete mailing address and physical address, where the business is to be conducted. Registration statements shall also list the number and type of tanning devices at each tanning facility location.

313-A:29 Registration Fee Required. No person shall operate a tanning facility without paying an annual registration fee established by the board. Registration fees received from each tanning facility shall be deposited into the general fund.

313-A:30 Operational Requirements.

- I. Operators shall have sufficient knowledge in the operation of the tanning devices, including but not limited to:
 - (a) Requirements of this section and of 21 CFR 1040.20;
 - (b) Proper use of U.S.F.D.A. Recommended Exposure Schedule;
 - (c) Procedures for correct operation of the tanning facility/device;
 - (d) Recognition of injuries and the facility's procedures for handling such injuries from overexposure to ultraviolet

radiation;

- (e) Manufacturer’s procedures for operation and maintenance of the tanning device;
- (f) Proper use of protective eyewear;
- (g) Emergency procedures in case of injury;
- (h) Effects of UV radiation, acute and chronic exposure, biological effects and health risks;
- (i) Photosensitizing agents; and
- (j) Recognition of the 6 skin types and the Fitzpatrick Scale.

II. Operators shall be trained in all of the areas listed in paragraph I. Training shall be received through curricula and programs approved by the board. A tanning facility shall maintain a list of the facility’s operators who have been trained in accordance with this section. Such list shall include the date of the training and shall be available for inspection by the board.

III. Operators shall obtain proof of age from each tanning device user pursuant to RSA 313-A:31, I.

IV. Operators shall read aloud and shall provide each tanning device user with a written consent statement containing the wording listed below and the Fitzpatrick Scale. In the event that the user is under the age of 18, this wording shall be read to the user’s parent or guardian. Operators shall obtain the signature of the user or parent or guardian on the written consent prior to the initial exposure to the tanning device. The consumer consent form shall include the following wording in at least size 12 font:

“DANGER - ULTRAVIOLET RADIATION

Follow instructions.

Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions.

Repeated exposure may cause premature aging of the skin and skin cancer.

Wear protective eyewear. Failure to use protective eyewear may result in severe burns or long-term injury to the eyes.

Medication or cosmetics may increase your sensitivity to the ultraviolet radiation.

Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight.”

V. Upon notification by a consumer of a complaint or an alleged tanning injury, a registrant shall provide information to the consumer about how complaints may be filed with the board.

VI. The tanning facility registrant shall maintain a record for each individual tanning device user which shall include dates exposed, length of exposure and signed consent form. Records shall be maintained for a minimum of 3 years or 3 years past the age of majority of the client.

313-A:31 Tanning of Minors.

I. No person under the age of 18 shall be allowed to utilize a tanning device at a tanning facility without the written consent of that person’s parent or legal guardian. Proof of age shall be satisfied with a driver license or other government issued identification containing date of birth and a photograph of the individual. This consent requirement shall be satisfied only if the parent or legal guardian is physically present at the time of the initial use of the tanning device; the responsible adult signs a document declaring that they are the parent or legal guardian of the minor and attesting to the age of the minor. The consent of the parent or legal guardian shall be valid for 12 subsequent uses of the tanning device by the minor.

II. No minors under the age of 14 shall be allowed to utilize a tanning device at a tanning facility without a written order from a physician licensed under RSA 329. Persons using a tanning facility under the provisions of this paragraph shall be accompanied by a parent or legal guardian for every use of the tanning facility.

313-A:32 Suspension of Operation. Upon finding a facility in violation of any of the provisions of RSA 313-A:26-34, the board may order the owner of a tanning facility to suspend operation of the facility. Such suspension shall remain in effect until the owner submits proof of compliance with any deficiencies identified by the board. Failure to suspend operation of a tanning facility in accordance with a board order shall be subject to a civil penalty of up to \$500 for each day that the facility remains in operation after issuance of the board order.

313-A:33 Exemption. This subdivision shall not apply to a phototherapy device used by or under the supervision of a licensed health care professional for treatment of disease.

313-A:34 Unregistered Tanning Facilities. Upon notification by the board, operating an unregistered tanning facility shall result in a fine of \$100 per day, for every day the facility remains in operation after 7 business days from the date notification was issued.

14 Repeal RSA 313-A:8, VII, relative to rulemaking authority for matters of administration.

15 Prospective Repeal. RSA 313-A:26, relative to the tanning facility advisory committee, is repealed.

16 Effective Date.

I. Section 15 of this act shall take effect January 1, 2008.

II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill requires the board of barbering, cosmetology and esthetics to regulate tanning facilities.

2004-0020h

Floor Amendment to HB 754-FN-LOCAL

Proposed by Reps. Alger, Balboni, Laurent, Scott and Weyler

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

1 Statement of Purpose. It is the purpose of this act to maintain and improve the quality of education in all schools in the state by providing to all parents or legal guardians in the state enhanced opportunity for the exercise of parental choice in the education of their school-age children.

2 New Chapter; Education Certificate Program. Amend RSA by inserting after chapter 193-H the following new chapter:

CHAPTER 193-I

EDUCATION CERTIFICATE PROGRAM

193-I:1 Program Established. The education certificate program is hereby established for the purpose of allowing the parent or legal guardian of a child to receive, on request, a certificate that may be used for tuition at a nonpublic school in New Hampshire selected by the child's parent or legal guardian.

193-I:2 Eligibility and Funding.

I.(a) Education certificates shall be available as set forth in this section to the parent or legal guardian of a child for tuition as determined by the nonpublic school up to the value of the certificate. Funding of education certificates shall be made through the education trust fund established in RSA 198:39.

(b) Entry into the program shall be limited to those pupils entering the first grade or pupils enrolled in a New Hampshire public school for a full school year preceding the year of entry into the program, whose family income does not exceed 400 percent of the federal poverty guidelines, as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2). The superintendent of the school administrative unit where the pupil resides shall require proof that a pupil is a legal resident of this state as a prerequisite to participation in this program.

(c) Applications for the program shall be submitted to the superintendent no later than March 30 of the year preceding the year of participation. The superintendent shall notify applicants of the decision within 30 days of the date of application.

II. Certificates shall be made available as follows:

- (a) In the first year of the program, to children entering grades 1-2, up to a maximum of 2,000 certificates statewide.
- (b) In the second year of the program, to children entering grades 1-3, up to a maximum of 4,000 certificates statewide.
- (c) In the third year of the program, to children entering grades 1-4, up to a maximum of 6,000 certificates statewide.
- (d) In the fourth year of the program, to children entering grades 1-5, up to a maximum of 8,000 certificates statewide.
- (e) In the fifth year of the program, to children entering grades 1-6, up to a maximum of 10,000 certificates statewide.
- (f) In the sixth year of the program, to children entering grades 1-7, up to a maximum of 12,000 certificates statewide.
- (g) In the seventh year of the program, to children entering grades 1-8, up to a maximum of 14,000 certificates statewide.

III. The number of certificates allocated to a school district in a given year shall be a percentage of the total number of certificates available in that year. Such percentage shall be calculated by dividing the most recently available average daily membership in residence in the school district by the most recently available total statewide average daily membership in residence as calculated by the department of education.

IV. In any school district where there are more requests for certificates than certificates available in a given year as determined under paragraph III, a lottery shall be held and certificates shall be allocated according to the following criteria:

- (a) First, to pupils who were awarded certificates in the immediately preceding year.
- (b) Second, to pupils from families where the family income is below 200 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).
- (c) Third, to pupils from families where the family income is below 400 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

V. Pupils enrolled in the program must reapply each school year.

193-I:3 Value of Certificate. The value of a certificate, for any individual pupil, shall not exceed 80 percent of the average statewide per pupil cost of an adequate education, as determined by the department of education in the fiscal year in which the certificate is requested. If the tuition amount is less than 80 percent of the average statewide per pupil cost of an adequate education, the remainder shall be retained by the pupil's resident school district.

193-I:4 Participating Schools.

I. The appropriate official for each nonpublic school shall decide whether to participate in the certificate program.

II. A nonpublic school may admit a child with a certificate, up to the limit of the school's capacity, after reserving places for children admitted in accordance with the school's regular admissions practices.

III. Nonpublic schools shall establish criteria for the admission of children with certificates that are consistent with the admissions criteria that it regularly applies.

IV. Participating schools shall be permitted flexibility to educate pupils in accordance with the school's educational mission.

V. Only nonpublic schools within the state of New Hampshire shall be eligible to participate in this program.

193-I:5 Redeeming Certificates.

I. The appropriate official in the pupil's resident school district shall administer the certificate program for each pupil in that district who participates in the program. Each nonpublic school which participates in this program shall, no later than June 30 of each year, submit verification of each student in attendance for the full school year under this program on a form provided by the department of education. Such verification shall list the name, address, dates of attendance, and the tuition cost for each student attending under this program.

II. The certificate shall be in the form of a check issued by the pupil's resident school district to the pupil's parent or legal guardian and sent to the nonpublic school of choice by the parent or legal guardian. A parent or legal guardian shall indorse the check for redemption by an official of the nonpublic school.

193-I:6 Transportation. The school district in which a child resides shall be obligated to provide transportation for a child to the nonpublic school of his or her parent's or legal guardian's choice provided the nonpublic school selected is within the local school district. Any transportation costs for transporting a child to a nonpublic school outside of the local school district shall be borne by the child's parent or legal guardian.

193-I:7 Rulemaking. The state board of education shall adopt rules pursuant to RSA 541-A for the development of forms necessary to implement this act.

193-I:8 Legislative Oversight Committee. An oversight committee is established consisting of the following members:

- I. The chairperson of the house education committee, or a designee.
- II. The chairperson of the senate education committee, or a designee.
- III. One member of the house of representatives, appointed by the speaker of the house.
- IV. One member of the senate, appointed by the senate president.
- V. One member of the house finance committee, appointed by the speaker of the house.
- VI. One member of the senate finance committee, appointed by the senate president.

193-I:9 Duties of the Legislative Oversight Committee.

I. The oversight committee shall review the development and implementation of the education certificate program established in this chapter to ensure compliance with legislative policy.

II. In the third, sixth, and eighth years of the program, the oversight committee shall conduct a review of the education certificate program and submit a report, in each year of review, to the speaker of the house of representatives and the president of the senate detailing the status of the program.

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

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

AMENDED ANALYSIS

This bill establishes an education certificate program which would allow the parent or legal guardian of certain children who attend a nonpublic school to be reimbursed for tuition costs.

2003-2523h

Amendment to HB 760-FN-A

Proposed by the Minority of the Committee on Ways and Means - R

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

AN ACT increasing the cigarette tax for certain purposes.

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

1 Cigarette Tax Increased. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[52 cents]~~ **\$1.52** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

2 Distribution of Funds. Amend RSA 78:32 to read as follows:

78:32 Distribution of Funds.

I.(a) The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 37 cents **and less than 53 cents** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all ~~[tobacco products]~~ **cigarettes** sold at retail in this state imposed by RSA 78:7 and shall certify such amount to the state treasurer by October 1 of each year for deposit in the education trust fund established by RSA 198:39.

~~[H-](b)~~ The commissioner shall make quarterly estimates of the amount of additional revenues that will be produced by such increase in tax rate for the next fiscal year and shall certify such amount to the state treasurer for deposit in the education trust fund established by RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1, and March 1 of each year.

II. The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state imposed by RSA 78:7 and shall certify such amount to the state treasurer by June 30 of each year for deposit as follows:

(a) The sum of no less than \$7,800,000 shall be deposited in the tobacco use prevention fund established pursuant to RSA 126-K:15.

(b) A sum of no less than \$10,000,000 shall be deposited in the general fund.

(c) The remainder of the amount shall be deposited in the education trust fund, established by RSA 198:39.

3 Applicability. Section 1 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable cigarettes in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 2003 shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

4 Tobacco Use Prevention Fund. Amend RSA 6:12, I(b)(67) to read as follows:

(67) Moneys received under RSA 126-K:15 **and RSA 78:32, II(a)**, which shall be credited to the tobacco use prevention fund.

5 Tobacco Use Prevention Fund. Amend the introductory paragraph of RSA 126-K:15 to read as follows:

126-K:15 Tobacco Use Prevention Fund. There is hereby established in the office of the state treasurer a fund to be known as the tobacco use prevention fund. Of tobacco settlement funds received by the state of New Hampshire, \$3,000,000 annually, commencing with fiscal year 2001, shall be deposited in the tobacco use prevention fund. **The sum of \$7,800,000 from tobacco tax revenues**

shall be deposited annually in the fund, pursuant to RSA 78:32, II(a). Moneys in this fund shall be nonlapsing and continually appropriated, beginning with fiscal year 2001, for tobacco use prevention and cessation programs, which shall include but not be limited to:

- 6 Reference Change; Education Trust Fund. Amend RSA 198:39, I(d) to read as follows:
 - (d) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, **I and II(c)**, relative to tobacco taxes.
- 7 General Fund Appropriations Reductions for Department of Health and Human Services Repealed. 2003, 318:9, relative to general fund appropriations reductions for the department of health and human services, is hereby repealed.
- 8 Effective Date.
 - I. Section 7 of this act shall take effect upon its passage.
 - II. The remainder of this act shall take effect 30 days after its passage.

AMENDED ANALYSIS

This bill increases the cigarette tax. Under this bill, the increased amount is to be used for the tobacco use prevention fund, to replace general fund appropriation reductions for the department of health and human services in fiscal years 2004 and 2005, and for property tax relief under the education trust fund.
2003-1897h

Amendment to HB 767-FN
Proposed by the Committee on Election Law - R

Amend RSA 664:14, VI as inserted by section 2 of the bill by replacing it with the following:
VI. Notwithstanding any other provision of this section, any advertising in support of or in opposition to a candidate by a political committee **shall comply with this paragraph. If the advertising is** not authorized by the candidate or candidate committee, **the advertising** shall so state and shall identify the sponsor of the advertisement. All such political advertising [~~broadcast on television~~] shall include the statement: “This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate.” Such statement shall be made both aurally and visually **if broadcast on television**. The visual presentation **on television** shall be clearly legible and shall use letters equal to or greater than 12 percent of the vertical picture height and shall be broadcast for not less than 4 seconds at the conclusion of the advertisement.
Amend the bill by replacing section 4 with the following:

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

This bill expands the definition of “communication” for purposes of political advertising to include Internet, telephone, and facsimile, and requires a disclaimer for advertising that is not political advertising, but which mentions or depicts a candidate.
2003-2550h

Floor Amendment to HB 803-FN-A-LOCAL
Proposed by Reps. Patten, Brundige, Lockwood and Kenison

Amend the title of the bill by replacing it with the following:
AN ACT relative to the establishment of municipal economic development and revitalization districts by municipalities.
Amend the bill by replacing all after the enacting clause with the following:

- 1 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:
 - I. The total acreage included in any one development district when designated shall not exceed [~~1 1/2~~] **5** percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed [~~3~~] **10** percent of the total acreage of the municipality.
 - II. The total assessed value of taxable real property of any one development district when designated shall not exceed [~~5~~] **8** percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed [~~10~~] **16** percent of the most recent total assessed value of taxable real property in the municipality.
- 2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill changes the limitations for municipalities that may create a municipal economic development and revitalization district under RSA 162-K.
2003-2571h

Floor Amendment to HB 803-FN-A-LOCAL
Proposed by Reps. Akins, Gillick, Theberge, Stohl and Schmidt

Amend the bill by replacing all after the enacting clause with the following:
1 Purpose and Findings. New Hampshire’s urban, town, and village centers (“downtowns”) are of critical importance to maintaining the long-term health and livability of our communities and our state. Our downtowns are an integral part of New Hampshire’s social fabric. However, the trend toward low-density, automobile-dependent sprawl development that has taken root over the past decades has left many of our downtowns struggling to reach their full potential. The goal of this chapter is to address the public purpose and need to provide new tools for communities to encourage the development and revitalization of downtowns that are economically, culturally, and socially vibrant, pedestrian-friendly places in which to live, work, and recreate. This chapter is premised on the notion that communities that are committed to enhancing the viability and livability of their downtowns should be provided new tools to foster downtown development and revitalization through enhanced access to funding and through the authority to implement new funding and planning mechanisms.
2 New Chapter; New Hampshire Downtown Development Program. Amend RSA by inserting after chapter 162-O the following

new chapter:

CHAPTER 162-P
NEW HAMPSHIRE DOWNTOWN DEVELOPMENT PROGRAM

162-P:1 Definitions. In this chapter:

I. “Designated downtown” means all or a portion of an urban, town, or village center designated by the local legislative body of a municipality for purposes of encouraging compact, mixed-use, pedestrian-friendly development consistent with the purpose and goal of this chapter.

II. “Downtown development and revitalization” means development, infrastructure improvements, operations, and planning activities that foster the creation or maintenance of a designated downtown that contains a mix of residential, retail, and commercial uses laid out in a compact, pedestrian-friendly manner. Such development and revitalization includes, but is not limited to, public or private projects that:

(a) Rehabilitate and reuse existing buildings within the designated downtown;

(b) Develop vacant lots, including brownfields, within the designated downtown;

(c) Increase the availability of housing within the designated downtown;

(d) Improve transportation infrastructure and systems in a manner that fosters a pedestrian-friendly environment within the designated downtown; or

(e) Increase the capacity of infrastructure, that may or may not be located in the designated downtown, to support higher density development within the designated downtown.

III. “Downtown development and revitalization fund” means a fund established by a city or town with a designated downtown, to be administered by the local downtown committee, as designated agent, for the sole purpose of fostering, supporting, and funding downtown development and revitalization within the designated downtown, consistent with goals of the downtown development and revitalization strategy adopted by the municipality. Such funds may be used as partial funding to support an application to the New Hampshire Main Street Center for designation as a Main Street Community, and as funding to support downtown development and revitalization projects under the Main Street program. Such funds also may be used to provide loans or other assistance for downtown development and revitalization projects on private property within the designated downtown, or on public property subsequently sold or leased to private interests, provided that the local downtown committee, following a public hearing, determines that the project will serve a public use and provide a public benefit, that it will not be primarily of benefit to private persons or uses even though such benefits may incidentally result, and that it will directly further the strategy adopted by the city or town for fostering downtown development and revitalization within the designated downtown and the public purpose of this chapter. A downtown development and revitalization fund within the meaning of this chapter shall be continuous and non-lapsing, such that any and all revenues placed in such a fund shall be allowed to accumulate without lapsing to a municipal general fund.

IV. “Downtown transportation projects” means any transportation infrastructure or operations designed to improve access to or within a designated downtown, such as through enhanced parking, public transit, and bicycle/pedestrian facilities, as well as streetscape improvements and measures designed to control or slow traffic to enhance pedestrian safety. Such projects shall not interfere with the character and pedestrian environment of the designated downtown.

V. “Local downtown committee” means a committee appointed by the governing body, or a subcommittee of a planning board, municipal agency, or governing body established for the purpose of recommending to the local legislative body the area to be delineated as a designated downtown, and a strategy for fostering downtown development and revitalization within the designated area.

162-P:2 Establishment of Designated Downtowns by Local Legislative Bodies.

I. A municipality may establish a designated downtown for purposes of this chapter by:

(a) Establishing a local downtown committee, which shall develop and submit to the local legislative body a recommendation of the area to be delineated as a designated downtown, as well as a strategy for fostering downtown development and revitalization within the designated downtown. Prior to submitting its recommendations to the local legislative body, the local downtown committee shall hold at least one public hearing to discuss the boundaries of the designated downtown and the strategy for fostering downtown development and revitalization within it.

(b) Designating an appropriate area as a designated downtown, and adopting a strategy for fostering downtown development and revitalization within the designated area. This shall be accomplished in the following manner:

(i) In a town, the questions whether to establish a particular designated downtown, and whether to adopt a strategy for fostering downtown development and revitalization therein, shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(ii) In a city or a town with a town council, the legislative body may consider and act upon the questions in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the questions on the official ballot for any regular municipal election.

II. No area of a city or town shall be deemed a designated downtown for purposes of this chapter unless and until:

(a) The boundaries of the area to be established as a designated downtown are delineated on a map adopted as part of the municipality’s zoning ordinance.

(b) There is established a special downtown zoning district, local historic district, central business district or downtown overlay district that is co-extensive with the designated downtown, or of which the designated downtown is a part. Such district or districts shall contain provisions allowing or encouraging a mix of residential, retail, and commercial uses in a compact, pedestrian-friendly manner consistent with the goal of downtown development and revitalization within the meaning of this chapter. A designated downtown shall not include areas not contained within one or more of the above districts.

(c) There is a local downtown committee that is responsible for implementing the downtown development and revitalization

strategy, including efforts to adopt and implement tools provided in this chapter, in the short and long-term.

III. Any municipality that has established a designated downtown shall notify the office of state planning and energy programs of such designation.

IV. Official designation of a downtown within the meaning of this chapter shall expire 5 years from the date of designation. Any municipality may renew designation of the downtown prior to a 5-year expiration, to continue the designation in full force and effect, by following the procedures set forth in paragraphs I-III of this section, and may do so unlimited times. Any legislation, planning tools, or programs adopted by a municipality by virtue of its designation of a downtown, including the establishment of a downtown development and revitalization fund and any moneys contained therein, shall continue from one 5-year period to subsequent, consecutive 5-year periods. If a municipality does not renew designation prior to the expiration of a 5-year period, any legislation, tools, or programs adopted by a municipality by virtue of its designation of a downtown, including any downtown development and revitalization fund and moneys contained therein, shall remain in effect for a period of one year following the 5-year expiration date, during which time a municipality's designation status may be renewed pursuant to the procedures set forth in paragraphs I-III of this section, except that a municipality may terminate its designation status at an earlier time, in the same manner in which such status was adopted. If a municipality does not renew designation status within one year of a 5-year expiration date, or terminates the designation, any funding mechanisms, planning tools, or programs established solely by virtue of this chapter shall terminate, except that any money in a downtown development and revitalization fund shall continue to be used for downtown revitalization and development purposes.

162-P:3 Priority Consideration for Grant and Loan Programs.

I. Consistent with the policy of RSA 9-B and the provisions of RSA 9-B:4, all state agencies may, when awarding grants or providing funding assistance, give priority consideration to projects that contribute to downtown development and revitalization in designated downtowns.

II. To obtain priority consideration in applications for grants or funding assistance, a municipality shall provide, with any such funding application, documentation of the establishment of a designated downtown. Such documentation shall consist of documentation of the official local legislative action establishing the designated downtown, a copy of a map delineating the designated downtown, a list of members of the local downtown development committee and a statement of their support for the funding request, and a copy of the municipality's downtown development and revitalization strategy.

III. For purposes of this section, "priority consideration" means that a project's contribution to downtown development and revitalization in a designated downtown shall be a factor weighing in favor of an application for funding or other financial assistance. Priority consideration shall not require an agency to grant a request in all circumstances; however, all other factors being equal, it may result in a successful funding application for a project contributing to downtown development and revitalization in a designated downtown, as compared to projects not located within or otherwise enhancing a designated downtown. When a project that contributes to downtown development and revitalization in a designated downtown is unsuccessful in an application for funding assistance, the agency rendering the unfavorable decision shall explain, in writing, why the project was not funded.

162-P:4 Revenue Plan; Local Option.

I. The city or town in which a designated downtown is located may adopt a revenue plan, dedicated to downtown development and revitalization. Revenues shall be deposited in a continuous, non-lapsing downtown development and revitalization fund, to be administered by the local downtown committee, as designated agent. The annual report of any municipality adopting a revenue plan shall contain a financial report relative to the administration of the downtown development and revitalization fund. Such financial report shall include an accounting of the amount and source of revenues within the fund, and the amount and purpose of the expenditures, including the manner in which such expenditures further the goals of the downtown development and revitalization strategy adopted by the municipality. Revenue sources for the fund may include one or more of the following:

(a) Dedication of a portion of revenues collected pursuant to the land use change tax under RSA 79-A:25, II.

(b) A surcharge on motor vehicle registration fees of up to \$10 per vehicle to support downtown transportation projects, under RSA 261:153, VII.

(c) A surcharge of up to \$100 per 1,000 square feet on building permits issued by the municipality for commercial and/or residential structures located outside the designated downtown.

(d) General fund appropriations, donations, public or private grants, and other revenue funds, not specifically designated, including fines and forfeitures for violation of municipal ordinances.

II. Any town or city may adopt the provisions of paragraph I in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(b) In a city or a town with a town council, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the question on the official ballot for any regular municipal election.

III. The vote shall specify the provisions of the revenue plan provided in paragraph I. The revenue plan shall take effect in the tax year beginning April 1 following its adoption.

IV. A municipality may rescind all or a portion of any revenue plan established pursuant to this section in the manner described in paragraph II.

162-P:5 Enhanced Planning Tools; Local Option. A municipality that includes a designated downtown may, with the consent of the local governing body of the municipality:

I. Assess the property owners of historic buildings within the designated downtown that are substantially rehabilitated, at the pre-rehabilitation assessed value, for a period of up to 10 years. For purposes of this section, historic building means any building listed on, or eligible for listing on, the national or state historic register, or any building designated by a local historic district

commission.

II. Establish speed limits of less than 25 miles-per-hour on state and local roads within the designated downtown.

162-P:6 Priority Consideration for the Siting of State Buildings and Programs.

I. State agencies seeking to lease, expand, or locate offices or other buildings appropriate for downtowns shall coordinate with the department of administrative services to give priority consideration to designated downtowns, with detailed consideration given to the leasing or use of existing structures as a first priority, and the construction of new structures within a designated downtown as a second priority. In constructing new buildings within a designated downtown, state agencies shall strive to adhere to applicable local regulations to ensure that new construction is consistent with the scale and character of the surrounding building environment and the city or town's goals for downtown development and revitalization.

II. In this section, "priority consideration" means that qualification status shall be a factor weighing heavily in favor of continuing the lease or use of existing offices and buildings, or siting new or expanded offices or buildings, within a designated downtown. Although priority consideration shall not mandate the retention or siting of offices or buildings within a designated downtown, the relevant state agency, in coordination with the department of administrative services, shall give detailed consideration to designated downtowns and, if electing to relocate or construct new offices or buildings in locations that are not designated downtowns, shall explain its decision in writing to the local downtown committee for the designated downtown, and to the council on resources and development.

3 State Economic Growth, Resource, Protection, and Planning Policy; Expenditure of Funds; Priority Consideration for Designated Downtowns. Amend RSA 9-B:4 to read as follows:

9-B:4 Expenditure of State or Federal Funds. All state agencies shall give due consideration to the state's policy on smart growth under RSA 9-B:2 when providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities. The intent of this action is that new investments and grants for existing sites and buildings in existing community centers will be given preference over investments in outlying areas where that is a practical solution for the use and community in question. ***All state agencies may give priority consideration, as defined in RSA 162-P:3, III, to projects that contribute to downtown development and revitalization in designated downtowns, within the meaning of RSA 162-P.***

4 New Paragraph; Land Use Change Tax; Local Option to Dedicate to Downtown Development and Revitalization. Amend RSA 79-A:25,II to read as follows:

II. The legislative body of the town or city may, by majority vote, elect to place the whole or a specified percentage, amount, or any combination of percentage and amount, of the revenues of all future payments collected pursuant to this chapter in a conservation fund in accordance with RSA 36-A:5, III, ***and/or in a downtown development and revitalization fund pursuant to RSA 162-P:4.*** The whole or specified percentage or amount, or percentage and amount, of such revenues shall be deposited in the conservation fund ***and/or downtown development and revitalization fund*** at the time of collection.

5 New Paragraph; Title and Registration; Fees for Registration Permits; Additional Fee for Downtown Development. Amend RSA 261:153 by inserting after paragraph VI the following new paragraph:

VII. Pursuant to RSA 162-P:4, I(b), a city or town that includes a qualified downtown may direct the city clerk or town clerk to collect, in addition to the fees imposed in RSA 261:153, an additional fee, not to exceed \$10 per vehicle, the revenues from which shall be deposited in a downtown development and revitalization fund and used to support downtown transportation projects under RSA 162-P.

6 Establishment of State Speed Zones; Exception for Designated Downtowns. Amend RSA 265:62, IV to read as follows:

IV.(a) The commissioner of transportation, upon the petition of the governing body of a municipality, shall determine if any prima facie speed limit hereinbefore set forth should be reduced to provide reasonable and safe conditions upon any part of the state highway system within the compact part of cities or towns; provided, however, the resulting speed limit ***for parts of the state highway system not located within designated downtowns, as defined in RSA 162-P:1,*** shall not be less than 25 miles per hour.

(b) The petition shall designate the area of the state highway system and the reasons for the reduction in the speed limit. The review of the petition shall include an engineering and traffic investigation and consultation with the petitioners. The commissioner shall provide the petitioners, in writing, the results of his findings. The commissioner may recommend a decrease in the posted prima facie speed limit, but, ~~in no case shall the resulting speed limit be~~ ***with the exception of areas of the state highway system located within designated downtowns, as defined in RSA 162-P:1, the resulting speed limit shall not be*** below 25 miles per hour.

7 New Subparagraph; Alteration of Limits; Local Authority to Set Speed Limit in Designated Downtown. Amend RSA 265:63, I by inserting after subparagraph (d) the following new subparagraph:

(d) Decreases the limit within any designated downtown, as defined in RSA 162-P:1.

8 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed ~~[1-1/2]~~ ***5*** percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed ~~[3]~~ ***10*** percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed ~~[5]~~ ***8*** percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed ~~[10]~~ ***16*** percent of the most recent total assessed value of taxable real property in the municipality.

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

AMENDED ANALYSIS

This bill establishes the New Hampshire downtown development program in which municipalities choosing to designate their

downtown or town or village center for participation in the program may receive priority consideration for state grants and loans and siting of government facilities, and are provided local options to adopt planning tools and revenue raising measures dedicated to downtown development and revitalization.

The bill also changes the limitations for municipalities that may create a municipal economic and development district under RSA 162-K.
2003-2522h

Amendment to HCR 11

Proposed by the Minority of the Committee on State-Federal Relations and Veterans Affairs - R

Amend the resolution by replacing all after the title with the following:

Whereas, the original 13 States, including New Hampshire, ratified the Constitution of the United States of America upon the unanimous understanding and condition, later explicitly recognized in the Tenth Amendment to the Constitution, that the United States of America was delegated only such powers as were contained in the Constitution, and that powers not granted were withheld; and

Whereas, the original 13 States, including New Hampshire, ratified the Constitution of the United States of America upon the unanimous understanding and condition, later explicitly recognized in the Tenth Amendment to the Constitution, that each State reserved and retained all of its sovereignty not delegated to the United States of America in the Constitution; and

Whereas, all States subsequently admitted to the Union have entered upon the selfsame understanding and condition; and

Whereas, any purported act of the Government of the United States of America, or any Branch, Department, or officer thereof, in violation of the Constitution of the United States of America is not a valid statute, executive order, judicial decision, or law in any sense; binds no one; confers no rights and imposes no duties; is, in legal contemplation, as inoperative as though it had never been issued; and can have no force of effect within the jurisdiction of any State, including New Hampshire; and

Whereas, the Constitution of the United States of America delegates or otherwise grants no power to the Government of the United States of America, or any Branch, Department, or officer thereof, to compel, force, on in any manner require, or to induce by the offer of or the threat of withholding benefits, any of the several States, including New Hampshire, to follow, agree or accede to, acquiesce in, or in any other way consider itself legally bound by or required to enforce or to allow or suffer to be enforced within its jurisdiction any purported statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, supposedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violates the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; and

Whereas, none of the several States, including New Hampshire, can forfeit, lose, or in any way compromise to any degree its reserved sovereignty, as explicitly recognized in the Tenth Amendment to the Constitution, because any other States, through their State Governments or their Representatives or Senators in the Congress of the United States, may from time to time have sought to have enacted or issued, followed, agreed or acceded to, acquiesced in, or in any other way considered themselves legally bound by or required to enforce or to allow or suffer to be enforced within their jurisdictions any purported statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, supposedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violated the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; and

Whereas, the people of New Hampshire cannot forfeit, lose, or in any way compromise to any degree the rights they retain, as explicitly recognized in the Declaration of Independence, the body of the Constitution of the United States of America, and the First through the Tenth, the Thirteenth, and other Amendments to the Constitution of the United States of America, as well as elsewhere, because the people of any other State, through their State Governments or their Representatives or Senators in the Congress of the United States, may from time to time have sought to have enacted or issued, followed, agreed or acceded to, acquiesced in, or in any other way considered themselves legally bound by or required to allow or suffer to be enforced within their States any purported statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, supposedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violated the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; now, therefore, be it

Resolved by the House of Representative's, the Senate concurring:

That, from this day forward, the State of New Hampshire's General Court as representative of the people thereof shall deem and treat as null, void, and in legal contemplation as inoperative as though it had never been issued any and every statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, purportedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violates the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; and

That, from this day forward, whenever any statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, purportedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, or any entity contracted to, shall violate the Constitution of the United States of America as determined by the New Hampshire General Court, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way, and shall thereby infringe upon the sovereignty, powers, and rights reserved to and retained by the State of New Hampshire and the people thereof, as explicitly recognized in the Ninth and Tenth Amendments to the Constitution, New Hampshire may, as circumstances warrant, exercise its constitutional authority to nullify the aforesaid unconstitutional acts; and

That, should the Supreme Court of the United States uphold on grounds manifestly inconsistent with the Constitution of the United States of America the supposed validity of any statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, purportedly emanating from the Government of United States of America, or any Branch, Department, or

officer thereof, and challenged as to its unconstitutionality by the State of New Hampshire's General Court as aforesaid, then New Hampshire's General Court shall consider itself free to take whatever other action, in the exercise of its sovereign discretion, it determines shall comport with the Constitution of the United States of America, in order to interpose itself between the people of New Hampshire and the enforcement of such unconstitutional statute, executive order, judicial decision, or other mandate, or any judicial decision purportedly upholding the same.

2003-2426h

Amendment to SB 19-FN

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

Amend RSA 485-C:14-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Notification shall be made in writing within 45 days after the department receives analytical data indicating the presence of the contamination. Each property owner or public water supplier shall be notified at least once upon the discovery of contamination in an area. The commissioner shall provide the notification and shall provide additional notification as the extent of contamination at a site is further determined and remediation occurs.

Amend the bill by replacing section 2 with the following:

2 Department of Environmental Services Report; MTBE. The commissioner of the department of environmental services shall report to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library by July 1, 2004 relative to the status of department's plan to opt out of the MTBE additive to gasoline program by January 1, 2004, pursuant to RSA 485:16-b.

Amend the bill by replacing section 4 with the following:

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

2003-2490h

Amendment to SB 74-FN-A-LOCAL

Proposed by the Majority of the Committee on Municipal and County Government - R

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

1 Motor Vehicles; Preparation of Documents. Amend RSA 261:152 to read as follows:

261:152 Preparation of Documents.

I. Permits shall be in the form prescribed by the director and shall be issued with such duplicates as ~~he~~ **the director** shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter **or in an electronic format**. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$1 for each application. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

II. This paragraph shall apply only to towns that have adopted a records management and records preservation fund under RSA 31:95-c, II (c). Permits shall be in the form prescribed by the director and shall be issued with such duplicates as the director shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter or in an electronic format. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$2 for each application. Fifty cents of this amount shall be used to support records management and records preservation programs in local government adopted pursuant to RSA 31:95-c and RSA 31:95-d, and \$.50 shall be deposited in the local government records management improvement fund established under RSA 5:48. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

2 New Subparagraph; Special Revenue Funds; Records Management and Records Preservation. Amend RSA 31:95-c, II by inserting after subparagraph (b) the following new subparagraph:

(c) Provide records management and records preservation plan from funds received by town clerk under RSA 261:152, II, provided that an up-to-date records management plan has been approved by the local legislative body at an annual meeting.

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

2003-2491h

Amendment to SB 95-FN-LOCAL

Proposed by the Majority of the Committee on Municipal and County Government - R

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

AN ACT relative to workforce housing within municipalities.

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

1 Innovative Land Use Controls; Inclusionary Zoning; Workforce Housing. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, **or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units**. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

2 New Subparagraph; Workforce Housing Defined. Amend RSA 674:21, IV by inserting after subparagraph (b) the following new subparagraph:

(c) "Workforce housing" means housing which is affordable to a household with income of 80 percent or less of the median

income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission may compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674:21, IV(c), which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

4 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph:

V. Assist municipalities by:

(a) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment under RSA 36:47, II.

(b) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

5 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities for the development of workforce housing.

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

AMENDED ANALYSIS

This bill authorizes municipal land use ordinances to be used for the creation of workforce housing. This bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.
2003-2518h

Amendment to SB 95-FN-LOCAL

Proposed by the Minority of the Committee on Municipal and County Government - R

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

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing an acute shortage of housing that is affordable to a large number of working households.

II. The acute shortage of housing affordable to working households poses a grave threat to the state's continued economic growth. It presents a serious barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely impacts the ability of many communities to host new businesses.

III. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

IV. The New Hampshire supreme court, in *Britton v. Chester* (134 N.H. 439 (1991)) has established requirements for the exercise of municipal regulatory powers as they impact the development of workforce housing.

V. The purpose of this act is to codify and clarify the requirements established in *Britton v. Chester* and provide additional guidance regarding compliance with those requirements to local officials and the public.

2 New Chapter; Workforce Housing. Amend RSA by inserting after chapter 674 the following new chapter:

CHAPTER 674-A WORKFORCE HOUSING

674-A:1 Definitions. In this chapter:

I. "Accessory apartment" means a separate dwelling unit designed for occupancy by no more than 2 people created largely within an existing single family home, which does not increase the overall size of the structure by more than 33 percent.

II. "Multi-family housing" means a building or structure containing 6 or more dwelling units, each designed for occupancy by an individual household.

III. "Municipal land use ordinances" means zoning, subdivision, site plan review, growth management, impact fee, and other such municipal ordinances and by-laws.

IV. "Realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of the municipality's land use ordinances. The collective impact of all such ordinances on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are realistic.

V. "Reasonable opportunities for the development of workforce housing" means a sufficient amount of vacant, developable land on which workforce housing is permitted; or in municipalities which are largely built up, a sufficient area that is reasonably available for lawful development or redevelopment as workforce housing.

VI. "Workforce housing" means housing which is affordable to a household with income of no more than 80 percent of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than 2 bedrooms, shall not constitute workforce housing for the purposes of this chapter. For the purpose of this chapter, the following types of housing shall be considered workforce housing:

(a) Owner-occupied housing (including condominium units) in which at least 25 percent of the units:

(1) Are initially purchased by a family earning no more than 80 percent of the median income for a family of 4 for the

county or metropolitan area, as published by the U.S. Department of Housing and Urban Development from time-to-time, where the total cost of mortgage principal and interest, property taxes, association fees, and homeowner's insurance does not exceed 33 percent of the maximum allowed income of the purchaser. Calculation of housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the area; and

(2) For which there are deed restrictions or some other legally binding commitment requiring that the home be sold to a family earning no more than 80 percent of median income as set forth in subparagraph (1) for a period of not less than 15 years; or for which there is an equity-sharing arrangement by which a homeowner who sells the premises less than 15 years after purchasing it, contributes a share of the equity in said home to a non-profit workforce housing development organization, in accordance with written standards promulgated by the New Hampshire housing finance authority.

(b) Any housing subsidized by the state or federal government under any program to assist the creation of rental units in which all of the units are affordable to families earning 80 percent or less of median family income, as defined in the state or federal subsidy program. In order to qualify as workforce housing under this subparagraph, the developer must make a binding commitment that such units will remain affordable for not fewer than 30 years.

(c) Any subsidized or non-subsidized rental housing project in which the owner makes a legally-binding commitment for at least 20 years to maintain the rent in at least 25 percent of the dwelling units at no more than 30 percent of the income of a family earning 60 percent or less of the median income adjusted for family size for the county or metropolitan area in which the dwelling unit is located, as determined annually by the U.S. Department of Housing and Urban Development and to rent the rent-restricted units to such families.

(d) Manufactured housing, as defined in RSA 674:31, which is placed in a manufactured housing park, as defined in RSA 205-A:1, in which the park owner makes a legally binding commitment for at least 20 years, that for at least 25 percent of the dwelling units that the lot rent plus the mortgage principal and interest will not exceed 30 percent of the income of a family of 4 earning 80 percent of median family income for the county or metropolitan area in which the housing is located, as determined annually by the U.S. Department of Housing and Urban Development and to rent the rent-restricted units to such families. Calculation of housing costs shall be based on a 20-year fixed rate mortgage, 20 percent down payment, and prevailing mortgage rates for manufactured housing within the area.

(e) Accessory apartments.

(f) Apartments created by the conversion of single family houses into dwellings with 3 or more separate dwelling units.

674-A:2 Municipal Workforce Housing Opportunities.

I. Municipal land use ordinances shall afford reasonable and realistic opportunities for the siting of workforce housing including multi-family workforce housing.

II. When the provisions of RSA 674:1, VI require a legally binding commitment from the developer or owner, the municipality may require that during the entire period of the rent/cost restrictions, the developer or owner shall contract with the developer's choice of the following in order to monitor compliance and report to the municipality on an annual basis:

(a) The New Hampshire Housing Finance Authority.

(b) A professional property management firm in which no ownership interest is held by the owner of the workforce housing being monitored or any officer, director, or partner in such workforce housing.

(c) A certified public accounting firm.

(d) Local public housing authority.

674-A:3 Appeal of Local Decisions.

I. Any person whose application to develop workforce housing, as defined in RSA 674-A:1, VI, is denied or is approved with conditions or restrictions which have a substantial adverse impact on the viability of the proposed workforce housing development may bring an action in the superior court to obtain permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the municipal workforce housing requirements of RSA 674-A:2 or how the conditions or restrictions of approval have a substantial adverse impact on the viability of the proposal.

II. Except as provided in this section, the provisions of RSA 677 shall apply to appeals filed under this chapter.

III. A hearing on the merits shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause.

IV.(a) The court shall grant judgment for the plaintiff and the municipality shall be ordered to issue the necessary permits to enable the plaintiff's project to proceed, notwithstanding the non-compliance of the proposed project with any municipal land use ordinance, if the plaintiff establishes by a preponderance of the evidence that:

(1) He or she has applied in good faith for approval of a proposal to create workforce housing, and that such application has been denied, or approved with conditions or restrictions that have a substantial adverse impact on the viability of the proposal;

(2) The land use regulations of the municipality fail to comply with the requirements of RSA 674-A:2;

(3) The proposed housing complies with the statewide building code, set forth in RSA 155-A:1, IV and RSA 155-A:2, II;

and

(4) The proposed development would not increase the number of year-round dwelling units in the municipality by more than 40 in a municipality with fewer than 2,000 year-round dwelling units at the time the proposal is submitted to the planning board, or more than 2 percent in all other municipalities;

(5) The proposed development would be located in an area that permits residential uses; and

(6) The proposed development is not located on property that has been designated by the state or federal government or the municipality for historic preservation or environmental protection,

(b) Unless the municipality establishes that:

(1) The proposed project fails to comply with standards that are necessary to adequately provide for:

- (A) water supply;
- (B) sewage disposal and ground water protection;
- (C) wetlands protection;
- (D) roads and traffic safety;
- (E) fire and life safety protection; and
- (F) buffering of architecturally inconsistent development.

(2) The municipality's decision rejecting or modifying plaintiff's proposal is necessary to protect other substantial public interests in health or safety and that the public interests clearly outweigh the need for the workforce housing project;

674-A:4 Appeals. An appeal of superior court orders issued under RSA 674-A:3 shall be to the supreme court under the rules of said court.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674-A:1, VI, which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

II-a. Subject to available state funding, each regional planning commission shall review the local land use regulations of any municipality in its region within 6 months of receiving a written request from the planning board, selectmen, or city council and make suggestions concerning the exclusionary effects of the ordinances and the ordinances' compliance with the municipality's obligation under RSA 674-A:2. As part of such review the regional planning commissioner shall make recommendations concerning ways in which the ordinances could be changed to bring the municipality into compliance.

4 Innovative Land Use Controls; Inclusionary Zoning; Workforce Units Required. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, ***or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units.*** Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

5 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph.

V. Assist municipalities by:

(a) Making available, upon request from a municipality, data produced or collected by state, local, or federal government agencies in determining its need for workforce housing.

(b) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment required by RSA 36:47, II.

(c) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

6 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities in meeting their legal obligations to provide realistic and reasonable opportunities for the development of workforce housing.

7 Effective Date.

I. Section 2 of this act shall take effect June 1, 2005.

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

AMENDED ANALYSIS

This bill requires municipal land use ordinances to provide for the creation of workforce housing and provides an expedited appeal for projects that are denied. It also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.

2003-2432h

Amendment to SB 199

Proposed by the Committee on Executive Departments and Administration - R

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

1 Nurse Practice Act. RSA 326-B is repealed and reenacted to read as follows:

CHAPTER 326-B

NURSE PRACTICE ACT

326-B:1 Purpose. In order to safeguard life, health and public welfare of the people of New Hampshire and in order to protect the people of the state from the unauthorized, unqualified, and improper application of services by individuals in the practice of nursing, it is necessary that a regulatory authority be established and adequately funded. To further this policy, the practice of nursing shall be regulated through the New Hampshire board of nursing, and such board shall have the power to enforce the provisions of this chapter.

326-B:2 Definitions.

I. "Advanced registered nurse practitioner (ARNP)" means a registered nurse currently licensed in New Hampshire who is additionally licensed by the board in one or more practice specialties pursuant to RSA 326-B:13.

II. "Board" means the New Hampshire board of nursing established in RSA 326-B:3.

III. "Certified graduate nurse (CGN)" means those graduate nurses exempted by chapter 265, laws of 1959 and certified prior

to January 1, 1975.

IV. "Contact hour" means a minimum of 50 minutes of organized learning.

V. "Continuing competence" means integrated learning designed to enhance nursing knowledge, judgment and skills beyond those achieved during the education or other preparation required to qualify for initial licensing.

VI. "Delegation" means the transfer of authority for the performance of a specific task from a licensed nurse authorized to perform the task to someone who does not have that authority when such transfer is authorized by this chapter or the rules adopted by the board.

VII. "Licensed nursing assistant" means an individual who holds a current license to provide client care under the direction of a registered nurse or licensed practical nurse.

VIII. "Licensed practical nurse (LPN)" means an individual who holds a current license to practice practical nursing as defined in paragraph XII.

IX. "Medication nursing assistant" means a licensed nursing assistant holding a currently valid certificate authorizing the delegation to the nursing assistant of tasks of medication administration.

X. "Nursing" means assisting clients or groups of clients to attain or maintain optimal health by implementing a strategy of care to accomplish defined goals and by evaluating responses to nursing care and medical treatment. Nursing includes basic health care that helps both clients and groups of clients cope with difficulties in daily living associated with their actual or potential health or illness status and also those nursing activities that require a substantial amount of scientific knowledge or technical skill. Nursing also includes, but is not limited to:

(a) Promoting an environment conducive to well being.

(b) Planning and implementing independent nursing strategies and prescribed treatment in the prevention and management of illness, injury, disability and achievement of a dignified death.

(c) Providing health counseling and teaching.

(d) Collaborating on aspects of the health regimen.

(e) Advocating for the client.

XI. "Nursing-related activities" means client care provided by a licensed nursing assistant directed by an ARNP, an RN, or an LPN.

XII. "Practical nursing" means the practice of nursing as defined in paragraph VIII by a nurse who:

(a) Uses sound nursing judgment based on preparation, knowledge, skills, understanding, and past nursing experience.

(b) Works under the direction of a registered nurse, advanced registered nurse practitioner, dentist or physician.

(c) Functions as a member of a health care team and contributing to the assessment, planning, implementation and evaluation of client care.

XIII. "Registered nurse (RN)" means an individual who holds a current license to practice registered nursing as defined in paragraph XIV.

XIV. "Registered nursing" means the application of nursing knowledge, judgment, and skill drawn from broad in-depth education in the biological, psychological, social, and physical sciences in assessing and diagnosing the health status of a client, and in planning, implementing and evaluating client care which promotes the optimum health, wellness and independence of the individual, the family and the community.

326-B:3 Board of Nursing.

I. The board of nursing shall be composed of 11 members to be appointed by the governor with the consent of the council. Any interested individual, association, or entity may make recommendation to the governor. The members of the board shall include 5 registered nurses, one of whom shall be an advanced registered nurse practitioner, 2 licensed practical nurses, 2 licensed nursing assistants, and 2 representative members of the public. The terms of members shall be staggered as determined by the governor and council. All terms shall be for 3 years, and no member of the board shall be appointed to more than 2 consecutive terms.

II. Each registered nurse member shall be a resident of this state, licensed in good standing under the provisions of this chapter, currently engaged in the practice of nursing as a registered nurse, and shall have had no fewer than 5 years of experience as a registered nurse, at least 3 of which shall have immediately preceded appointment. Registered nurse members of the board shall represent the various areas of nursing practice including education, administration, and clinical practice.

III. The licensed practical nurse members of the board shall be residents of this state, licensed in good standing under the provisions of this chapter, currently engaged in the practice of nursing, and shall have had no fewer than 5 years of experience as a licensed practical nurse, at least 3 of which shall have immediately preceded the date of appointment.

IV. The licensed nursing assistant members of the board shall be residents of, and licensed in good standing in, New Hampshire, and currently engaged in nursing-related activities. These members shall have a minimum of 5 years of experience as a licensed nursing assistant, at least 3 of which shall have immediately preceded the date of their appointment.

V. The public members shall be residents of the state of New Hampshire who are not, and never have been, members of the nursing profession or the spouse of any such person. The public members shall not have, and shall never have had, a material financial interest in either the provision of nursing services or an activity directly related to nursing, including the representation of the board or its predecessor or the profession for a fee at any time during the 5 years preceding the date of appointment.

VI. No more than one board member shall be associated with a particular agency, corporation or other enterprise or subsidiary at one time.

VII. Each member of the board shall be compensated at the rate of \$100 for attendance at a regular board meeting and \$50 for each other day actually engaged in official duties of the board, and shall be reimbursed for actual and necessary expenses incurred in the discharge of official duties, including travel at the state employee mileage rate.

VIII. An appointee to a full term on the board shall be appointed by the governor with the consent of the council before the

expiration of the term of the member being succeeded and shall become a member of the board on the first day following the appointment expiration date of the previous appointee. Appointees to unexpired portions of full terms shall become members of the board on the day following such appointment, and shall serve the unexpired term and then be eligible to serve 2 full 3-year terms.

IX. The governor may remove any member from the board for neglect of any duty under RSA 326-B:4 or for incompetence or unprofessional or dishonorable conduct. Any person may file a complaint against a board member with the department of health and human services. The provisions of RSA 4:1 controlling the removal of public officials from office shall be followed in dismissing board members.

X. All members of the board and its agents or employees shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members, agents or employees, as long they are not acting in a wanton or reckless manner.

XI. Board meetings shall be open to the public. In accordance with RSA 91-A:3 the board may conduct part of a meeting in nonpublic session.

XII. The New Hampshire board of nursing shall be administratively attached, under RSA 21-G:10, to the department of health and human services.

326-B:4 Powers and Duties of the Board.

- I. The board shall have the power to:
 - (a) Regulate the practice of nursing and take disciplinary action authorized by this chapter.
 - (b) Adopt, amend, and repeal administrative rules as authorized by this chapter.
 - (c) Appoint and employ a qualified registered nurse to serve as executive director.
 - (d) Delegate to the executive director those activities which expedite the functions of the board, including the employment of professional and support staff, investigators, legal counsel, and other personnel necessary for the board to carry out its functions.
 - (e) Employ or contract with any entity for the purpose of administering examinations authorized by this chapter.
 - (f) Gather and report to the public statistical information regarding, but not limited to, the education and licensure of nurses and nursing assistants.
 - (g) Maintain membership in national organizations advancing the practice of nursing.
 - (h) Provide consultation and conduct conferences, forums, studies, and research on nursing education and practice.
- II. The board shall have the duty to:
 - (a) Interpret and enforce the provisions of this chapter and of the rules implementing it.
 - (b) Maintain a record of all persons and education programs regulated by the board.
 - (c) Determine and collect reasonable fees authorized by this chapter.
 - (d) Administer the state registry for nursing assistants in compliance with the Omnibus Budget Reconciliation Act of 1987, sections 1819 and 1919 of the Social Security Act.

326-B:5 Criminal Record Checks.

- I. Every applicant for initial licensure or license renewal or reinstatement under this chapter shall submit to the board a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the board pursuant to RSA 106-B:14.
- II. Upon receipt of a notarized criminal conviction record release authorization form from the board or from an applicant for licensure or license renewal or reinstatement under this chapter, the division of state police shall conduct a criminal conviction record check pursuant to RSA 106-B:14 and provide the results to the board.
- III. The board shall review the criminal record information prior to making a licensing decision and shall maintain the confidentiality of all criminal conviction records received pursuant to this section.

326-B:6 Administration By Executive Director.

- I. The executive director shall have at least the following qualifications:
 - (a) Be eligible for licensure to practice as a registered nurse in this state; and
 - (b) Hold a master's degree in nursing or hold a master's degree in a related field and a baccalaureate degree in nursing.
- II. The executive director shall be responsible for:
 - (a) The performance of the administrative responsibilities of the board.
 - (b) Employment of personnel needed to carry out the functions of the board.
 - (c) The performance of any other duties the board may direct.

326-B:7 Collection and Expenditure of Funds. The board shall receive and expend funds provided such funds are received and expended for the pursuit of the objectives authorized by this chapter. Fees, fines and administrative charges other than those collected pursuant to RSA 326-B:8 shall be deposited in the general fund.

326-B:8 Nursing Assistant Fees and Fines; Continual Appropriation.

- I. The nursing assistant fund is established in the state treasury and continually appropriated to the board of nursing which shall administer the fund. The fund shall be used only for administration of the nursing assistant component and expenses relating to that component.
- II. All fees, charges, and fines relating to nursing assistants shall be credited to the fund.

326-B:9 Fees; Charges.

- I. The board shall charge fees for the issuance, renewal, and reinstatement of all licenses, specialty licenses and certificates authorized by this chapter. The board shall recover at least 125 percent of its direct expenses through licensee fees, fines and administrative charges.
- II. The board may provide the following services and make administrative charges for them:
 - (a) The administration of examinations required by this chapter.
 - (b) Verification of licensure status.

(c) The sale of lists of licensees who have given their written authorization to have their names included on such lists.

(d) The actual costs of a criminal conviction record check required pursuant RSA 326-B:5.

326-B:10 Public Hearings on Fees.

I. The board shall be exempt from the requirements, procedures and provisions of RSA 541-A with respect to the establishment of fees.

II. The board shall review all fees established under this chapter on a biannual basis. The board shall hold at least one public hearing on all proposed changes to such fees. All interested parties shall be afforded reasonable opportunity to testify and to submit data, views or arguments in writing or in electronic format, relative to proposed fee changes. All materials submitted in writing shall be signed by the person who submits them. The board shall post the date, time and location of the public hearing and the cut-off date for the submission of written testimony at least 20 days prior to the hearing date. Such posting shall be on the board's website and in the newsletter published by the board. Copies of the proposed fee changes shall be available to the public at least 5 days prior to the hearing. A period of at least 10 days after the hearing shall be provided for the submission of materials in writing or electronic format.

III. Each hearing shall be attended by a quorum of the board. A public comment hearing on fees may be postponed in the event of inclement weather or a lack of a quorum of the board. If such hearing is postponed, the board shall provide at least 5 days' notice of the rescheduled hearing.

IV. The board shall consider all public input that has been submitted under the provisions of this section when voting on any changes to fees established under this chapter.

326-B:11 Rulemaking Authority.

I. The board shall adopt rules in accordance with RSA 541-A on the following topics:

(a) Application procedures and eligibility requirements, in addition to those set forth in this chapter, for the issuance of all initial, temporary and renewal licenses, specialty licenses and certificates issued by the board, including the issuance of such licenses to applicants holding a currently valid license or other authorization to practice in another jurisdiction.

(b) Application procedures and eligibility requirements, in addition to those set forth in this chapter, for the reinstatement of licenses after lapse and after disciplinary action.

(c) Approval of national certifying bodies issuing specialty certifications required for licensure as an advanced registered nurse practitioner.

(d) The standards to be met by education programs designed to prepare applicants to qualify for licensure or certification in any of the disciplines regulated by the board, including the time period within which noncompliance must be corrected before such approval is withdrawn.

(e) The standards to be met by education programs designed to prepare LPNs in intravenous therapy and by programs designed to prepare LNAs to perform tasks not addressed in the basic curriculum required for licensure.

(f) The determination of disciplinary sanctions authorized by this chapter, including the determination of administrative fines.

(g) The administration of examinations authorized by this chapter, and the manner in which information regarding the contents of any licensing examinations may be disclosed, solicited, or compiled.

(h) Ethical standards for the practice of nursing and nursing-related activities.

(i) Continuing competence requirements.

(j) Designations that may be used by persons regulated by the board and retired persons regulated by the board.

326-B:12 Scope of Practice; Advanced Registered Nurse Practitioner.

I. Only those licensees duly authorized under RSA 326-B:13 shall perform those common customary advanced nursing practices noted in this section. ARNPs are authorized to prescribe medications in the ARNP formulary established by the joint health council. The ARNP shall be competent as set forth below to practice independently in accordance with a scope of practice established by national standards in the following specialty areas:

(a) Certified nurse midwife.

(b) Pediatric nurse practitioner.

(c) Family nurse practitioner.

(d) Women's health nurse practitioner.

(e) Adult nurse practitioner.

(f) Geriatric nurse practitioner.

(g) School nurse practitioner.

(h) Psychiatric/mental health nurse practitioner.

(i) Emergency/trauma nurse practitioner.

(j) Neo-natal nurse practitioner.

(k) Certified registered nurse anesthetist.

(l) Acute care nurse practitioner.

(m) Community health nurse practitioner.

(n) Reproductive health nurse practitioner.

(o) Oncology nurse practitioner.

(p) Palliative care nurse practitioner.

(q) Wound care nurse practitioner.

II. The ARNP shall have the ability to:

(a) Elicit and record physical and mental health status, psychosocial history, including review of bodily systems.

- (b) Perform physical examination.
- (c) Initiate appropriate diagnostic tests to screen or evaluate the care-recipient's current health status.
- (d) Assess findings of history, review of systems, physical examination and diagnostic tests, and formulate a diagnosis prior to implementing a treatment regimen.
- (e) Identify health problems and learning needs of the care recipient.
- (f) Plan, teach, promote, and manage physical and mental health-care in a continuous program.
- (g) Implement and manage treatment regimens and administer, prescribe, dispense and procure pharmacological agents.
- (h) Arrange appropriate referrals.
- (i) Initiate appropriate emergency treatment in life-threatening or unusual situations in order to stabilize the care-recipient.
- (j) Provide other functions within the ARNPs scope of practice for which the ARNP is educationally and experientially prepared.

326-B:13 Advanced Registered Nurse Practitioner; Specialty License.

I. The board may issue one or more specialty licenses to applicants meeting the qualifications stated in paragraph III. Holding one or more currently valid specialty licenses qualifies the holder as an advanced registered nurse practitioner.

II. An applicant for licensure in a specialty shall:

- (a) Hold a currently valid license as a registered nurse;
- (b) Submit a completed application for specialty licensure and pay the specialty license fee;
- (c) Have graduated after July 1, 2004 with a master's degree earned in an advanced registered nurse practitioner education program accredited by a national accrediting body or have graduated before July 1, 2004 from an advanced registered nurse practitioner education program accredited by a national accrediting body; and
- (d) Be currently certified by a board-approved national certifying body in the specialty for which the applicant was educated.

III. An applicant for renewal of a specialty license issued after September 30, 1984 shall:

- (a) Submit a completed application for renewal and pay the renewal fee;
- (b) Hold, and have since first specialty licensure maintained, a currently valid license as a registered nurse;
- (c) Be, and have since first specialty licensure continued to be, certified by a board-approved national certifying body;
- (d) Meet any continuing competence requirements set by the board; and
- (e) Meet any continuing education requirements established under this chapter.

IV. An applicant for renewal of a specialty license issued before September 30, 1984 shall meet the requirements of paragraph III except that the applicant shall not be required to be and continue to have been certified by a board-approved national certifying body.

V.(a) An advanced registered nurse practitioner shall have plenary authority to possess, compound, prescribe, administer, and dispense and distribute to clients controlled and non-controlled drugs in accordance with the formulary established by the joint health council and within the scope of the ARNP's practice as defined by this chapter.

(b) Such plenary authority may be denied, suspended, or revoked by the board after notice and the opportunity for hearing, upon proof that the authority has been abused.

326-B:14 Joint Health Council.

I.(a) The joint health council shall consist of 9 members as follows: 3 licensed, practicing advanced registered nurse practitioners, appointed by the board of nursing; 3 licensed, practicing physicians who work with advanced registered nurse practitioners, appointed by the board of medicine; and 3 licensed clinical pharmacists who are practicing clinical pharmacists, appointed by the board of pharmacy. In no case shall a member of the joint health council be a member of the member's appointing board.

(b) The chairmanship of the council shall rotate annually among the appointees of the 3 respective boards. Administrative expenses shall be assumed, and administrative support services provided, by the board of nursing.

(c) Members of the council shall be appointed for 3-year terms and shall serve no more than 2 terms.

II. The council shall meet not less than once every 3 months to discuss matters pertinent to the ARNP formulary and matters of mutual concern to the board of medicine, the board of nursing and the board of pharmacy, unless there are no agenda items. Any council member may submit items to be considered by the council. Any council member may request that an item submitted for consideration by the council include relevant scientific information from recognized professional publications. A denial of a request to include a drug in the formulary or a decision to further restrict a drug already approved by the council shall be issued in writing and shall include relevant scientific information from recognized professional publications.

III. The duties of the joint health council shall include, but not be limited to, determining the type of ARNP formulary, exclusionary, inclusionary or other, and adding to or altering the list of controlled and non-controlled molecular entities in the ARNP formulary. The council shall render decisions on such additions or alterations within 3 months of initial consideration unless there is a request for additional scientific information. Appeals of decisions shall be submitted to the council in writing for further deliberation by the council. The ARNP formulary shall be updated at least annually and shall be available in paper and electronic format from the board of nursing, the board of medicine, and the board of pharmacy.

IV. Meetings of the joint health council shall be open to the public and conducted in accordance with the provisions of RSA 91-A. Meetings shall be conducted in a building owned or leased by the state and situated in Concord. Notice of the time and place of each meeting shall be posted in the house and senate calendars at least 30 days prior to the meeting date.

326-B:15 Scope of Practice; Registered Nurse.

I. Practice as a registered nurse means the full scope of nursing, with or without compensation or personal profit, that

incorporates caring for all clients in all settings; is guided by nursing standards and evidence-based practice guidelines developed by a nationally-recognized authority and approved by the board, and shall be limited to:

- (a) Providing comprehensive nursing assessment of the health status of clients, families, groups and communities.
- (b) Collaborating with a health care team to develop an integrated client-centered plan of health care.
- (c) Developing a plan of nursing strategies to be integrated within the client-centered health care plan that establishes nursing diagnoses, setting goals to meet identified health care needs, prescribing nursing interventions, and implementing nursing care through the execution of independent nursing strategies and prescribed medical regimen.
- (d) Delegating and assigning nursing interventions to implement the plan of care.
- (e) Providing for the maintenance of safe and effective nursing care rendered directly or indirectly.
- (f) Promoting a safe and therapeutic environment.
- (g) Providing health teaching and counseling to promote, attain and maintain the optimum health level of clients, families, groups and communities.
- (h) Advocating for clients, families, groups and communities by attaining and maintaining what is in the best interest of the client or group.
- (i) Evaluating responses to interventions and the effectiveness of the plan of care.
- (j) Communicating and collaborating with other health care professionals in the management of health care and the implementation of the total health care regimen within and across care settings.
- (k) Acquiring and applying critical new knowledge and technologies to practice domain.
- (l) Managing, supervising and evaluating the practice of nursing.
- (m) Teaching the theory and practice of nursing.
- (n) Participating in the development of policies, procedures and systems to support the client.
- (o) Other nursing services that require education and training prescribed by the board and in conformance with national nursing standards.

Additional nursing services shall be commensurate with the registered nurse's experience, continuing education and demonstrated competencies.

III. Each registered nurse is accountable to clients, the nursing profession and the board for complying with the requirements of this act and the quality of nursing care rendered, and for recognizing limits of knowledge and experience and planning for management of situations beyond the nurse's experience.

326-B:16 Scope of Practice; Licensed Practical Nurse.

I. Practice as a licensed practical nurse means a directed scope of nursing practice, with or without compensation or personal profit, under the supervision of a registered nurse, advance registered nurse practitioner, licensed physician or other health care provider authorized by the state to delegate health care activities and functions. Such practice is guided by nursing standards developed by a nationally-recognized authority and approved by the board, and shall be limited to:

- (a) Collecting data and conducting focused nursing assessments of the health status of clients.
- (b) Planning nursing care episode for clients with stable conditions.
- (c) Participating in the development and modification of the comprehensive plan of care for all types of clients.
- (d) Implementing appropriate aspects of the strategy of care within the LPN scope of practice.
- (e) Participating in nursing care management through delegating, assigning and directing nursing interventions that may be performed by others, including other LPNs, that do not conflict with this chapter.
- (f) Maintaining safe and effective nursing care rendered directly or indirectly.
- (g) Promoting a safe and therapeutic environment.
- (h) Participating in health teaching and counseling to promote, attain and maintain the optimum health level of clients.
- (i) Serving as an advocate for the client by communicating and collaborating with other health service personnel.
- (j) Participating in the evaluation of client responses to interventions.
- (k) Communicating and collaborating with other health care professionals.
- (l) Providing input into the development of policies and procedures.
- (m) Other nursing services that require education and training prescribed by the board and in conformance with national nursing standards.

Additional nursing services shall be commensurate with the licensed practical nurse's experience, continuing education and demonstrated licensed practical nurse competencies.

II. Each nurse is accountable to clients, the nursing profession, and the board for complying with the requirements of this chapter and the quality of nursing care rendered and for recognizing limits of knowledge and experience and planning for management of situations beyond the nurse's expertise.

III. Licensed practical nurses who have successfully completed the curriculum of a board-approved LPN intravenous therapy course may administer intravenous solutions under the direction of a physician or dentist, or as delegated by a registered nurse. LPNs shall be instructed that they are accountable and responsible for activities delegated to them. LPNs shall only perform intravenous therapy for clients that are 13 years old or older.

326-B:17 Qualifications for Licensure to Practice as a Registered Nurse or a Licensed Practical Nurse.

I. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who has never been licensed or who holds a currently valid license issued by a foreign jurisdiction other than a Canadian jurisdiction shall:

- (a) Submit a completed application and pay the license fee.
- (b) Be a graduate of a board-approved nursing education program or a program that is determined by the board to be comparable to a board-approved nursing education program.

- (c) Pass a national examination approved by the board.
- (d) Be of a good character as character relates to the practice of nursing.
- (e) Have complied with continuing competence requirements, if applicable.

II. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who holds or has held a license issued by another state shall meet the requirements of paragraph I, except that an applicant who has passed a national examination approved by the board shall not be required to take the examination again.

III. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who received nursing education in Canada and was never licensed by any state shall:

- (a) Meet the requirements of paragraph I; or
- (b) Meet the requirements of paragraph I (a), (d) and (e), have graduated from a Canadian nursing education program, and

demonstrate that:

(1) Between the years 1939 and 1970 the applicant passed the English version of the National League for Nursing Board Test Pool Examination;

(2) Between the years 1970 and 1980 the applicant took the English version of the Canadian Nurses' Association testing service 5-part examination and received a minimum passing score of 350 in each of the following topics: medical nursing, surgical nursing, pediatric nursing, maternity nursing, and psychiatric nursing; or

(3) Since the year 1980 the applicant took the English version of the Canadian Nurses' Association testing service comprehensive examination and received a minimum passing score of 400.

326-B:18 Scope of Practice; Licensed Nursing Assistant. Practice as a licensed nursing assistant means a scope of nursing assistant practice, with or without compensation or personal profit, under the supervision of the RN, ARNP, or LPN, as defined in RSA 326-B.

I. A licensed nursing assistant is responsible for competency in the nursing assistant curriculum approved by the board. Licensed nursing assistants are authorized to administer medication when they hold a currently valid certificate of medication administration and under the circumstances established by the board through rules adopted pursuant to RSA 541-A.

II. Following successful completion of the curriculum, a nursing assistant shall be able to:

- (a) Form a relationship, communicate, and interact effectively with individuals and groups.
- (b) Demonstrate comprehension related to individuals' emotional, mental, physical, and social health needs through skillful, direct nursing-related activities.
- (c) Assist individuals to attain and maintain functional independence in a home or health-care facility.
- (d) Exhibit behaviors supporting and promoting care-recipients' rights.
- (e) Demonstrate observational and documenting skills required for reporting of people's health, safety, welfare, physical and mental condition, and general well-being.
- (f) Provide safe nursing-related activities under the supervision of a registered or licensed practical nurse.

III. Licensed nursing assistants may perform tasks not addressed in the basic curriculum required for licensure if they obtain additional training in the performance of such tasks through programs approved by the board. Additional tasks can be delegated provided:

- (a) The task has been properly delegated to the nursing assistant by the supervising licensed nurse pursuant to RSA 326-B:22.
- (b) The task has not been made exempt from nursing assistant practice under this chapter.
- (c) The policies of the employing health care facility allow the delegation of the task to a LNA.

326-B:19 Qualifications for Licensure to Practice as a Licensed Nursing Assistant.

I. An applicant for licensure to practice as a licensed nursing assistant who is not licensed in any other state shall:

- (a) Submit a completed application and pay the license fee established by the board;
- (b) Be a graduate of a board-approved nursing assistant education program or a program that is determined by the board to be comparable to a board-approved nursing assistant education program;
- (c) Pass a national or regional examination approved by the board;
- (d) Be of a good character as character relates to the practice of nursing-related activities; and
- (e) Have complied with continuing competence requirements, if applicable.

II. An applicant for licensure to practice as a licensed nursing assistant who holds a current and valid license or other authorization to practice nursing-related activities in another state shall meet the requirements of paragraph I, except that the applicant shall either have passed a national or regional examination approved by the board or passed the last examination taken for licensure or other authorization to practice in any other state. The applicant shall submit verification of current and valid licensure or other authorization to practice issued by another state. The applicant shall not have committed in any other state acts or omissions which are grounds for disciplinary action under this chapter and for which the board determines that insufficient restitution was made or insufficient disciplinary action taken by the disciplining state.

326-B:20 Qualifications; Medication Nursing Assistant.

I. Practice as a medication nursing assistant means a scope of nursing assistant practice, with or without compensation or personal profit, as a licensed nursing assistant who holds a currently valid certification authorizing the delegation of medication administration under the supervision of the RN, ARNP or LPN as defined in RSA 326-B.

II. A medication nursing assistant shall be proficient in the following methods of medication administration:

- (a) Topical.
- (b) Oral.
- (c) Nasal.

- (d) Ocular.
- (e) Auricular.
- (f) Vaginal.
- (g) Rectal.
- (h) Gastrostomy or jejunostomy tube.

326-B:21 Certificate of Medication Administration for Licensed Nursing Assistants.

I. The board may issue a certificate of medication administration to a currently licensed nursing assistant who:

- (a) Has participated in and completed a board-approved medication administration education program;
- (b) Has passed an examination approved by the board; and
- (c) Has paid the certification fee.

II. Certification may be renewed on a biennial basis in accordance with RSA 326-B:26.

326-B:22 Delegation of Nursing Activities and Tasks.

I. A nurse holding a currently valid license as a registered nurse or a practical nurse may delegate specific nursing activities and tasks under the circumstances, and in accordance with the constraints, set forth in this section. The following licensees shall have the authority to delegate tasks of client care:

- (a) Any currently licensed registered nurse or advanced registered nurse when practicing registered nursing; and
- (b) Any currently licensed practical nurse when practicing practical nursing directed by an ARNP, RN, dentist, or

physician.

II. Licensed nursing assistants shall not delegate tasks of client care.

III. This section applies to the delegation of tasks of client care by all licensees except for licensees exempted by RSA 326-B:43.

IV. Any individual shall be eligible to receive the delegation of a task of client care not involving the administration of medication only if such individual has competence to perform the specific task. For tasks of client care involving the administration of medication, the following persons shall be eligible to be delegates:

- (a) Currently licensed registered nurses and advanced registered nurse practitioners;
- (b) Currently licensed practical nurses when:
 - (1) The method of medication administration is not intravenous; or
 - (2) The method of medication administration is intravenous, only in compliance with RSA 326-B:16, III;
- (c) Unlicensed assistive personnel who have competence to perform the specific task to be delegated;
- (d) Currently licensed nursing assistants when they hold a certificate of medication administration issued in accordance

with the provisions of this chapter.

V. The following limitations on the delegation of tasks of client care shall apply:

- (a) No delegation shall be made of any task of client care which is not within the competence of the delegating licensee.
- (b) A registered nurse or licensed practical nurse shall not delegate any task of client care for which the delegate does not have competence.
- (c) A delegation of a task of client care involving the administration of medication shall specify:
 - (1) The medication to be administered.
 - (2) The dosage, route, and time of the medication to be administered.
 - (3) The client to whom the medication is to be administered.

VI. Before delegating a task of client care, a delegating licensee shall determine:

- (a) The intended delegate's competence to perform the task; and
- (b) In the case of an intended delegation to a licensed nursing assistant of a task involving the administration of medication, the status of the nursing assistant's license and certificate of medication administration.

VII. In exercising such discretion in delegation as is permitted by this chapter a licensee intending to delegate a task of client care shall take into account:

- (a) The degree of the intended delegate's competence to perform the task;
- (b) Whether the client is stable; and
- (c) Whether the client's nursing needs are currently changing.

VIII. A delegating licensee shall introduce the delegate to the client.

IX. A delegating licensee shall supervise the delegate's performance of the delegated task. Such supervision shall be continual or intermittent as warranted by the following:

- (a) The complexity of the delegated task of client care.
- (b) The condition of the client.
- (c) The degree of the competence of the delegate.
- (d) The familiarity of the delegate with the environment in which the task is to be performed.

X. A delegating licensee shall reevaluate the nature of the supervision as often as the condition of the client changes.

XI. A delegating licensee shall rescind a delegation if:

- (a) An evaluation shows that the client's condition has changed in a way that renders the delegation no longer safe or appropriate;
- (b) The delegate proves unwilling or incompetent to perform the delegated task;
- (c) The client objects to the delegation; or
- (d) The delegating licensee is no longer able to supervise the performance of the delegated task.

XII. When rescinding a delegation, the licensee shall communicate the rescission clearly to the delegate to whom the task was originally delegated and to the administrative supervisor of the delegate, if any.

XIII. A licensee shall report to the board the fact of anyone's attempting to coerce the delegation of a task of client care in violation of RSA 326-B:24, II.

XIV. A licensee to whom a specific task of client care has been delegated shall:

- (a) Perform that task in accordance with this chapter and its implementing rules.
- (b) Wear a badge showing the delegate's name and title when performing the delegated task of client care; and
- (c) Report to the board the fact of any delegation which the delegate believes to be beyond the competence of the delegate.

326-B:23 Delegation; Administration of Medication.

I. A nurse holding a currently valid license as a registered nurse or a practical nurse may delegate tasks involving the administration of medication to a licensed nursing assistant holding a currently valid certificate as a medication nursing assistant under the circumstances, and in accordance with the constraints, set forth in this section.

II. A licensed nursing assistant shall perform a task involving the administration of medication if:

- (a) The task has been delegated to the licensed nursing assistant by a licensed nurse in accordance with the provisions of this chapter; and
- (b) The delegation is not prohibited by this section.

III. A licensed nursing assistant shall not perform a task involving the administration of medication if:

- (a) The task requires the determination of the client's need for the medication, the calculation of the dosage of the medication, or the conversion of dosage;
- (b) The delegating nurse is unavailable to monitor the progress of the client and the effect on the client of the medication; or
- (c) The client is not stable or has changing nursing needs.

IV. A licensee intending to delegate, or having delegated, a task involving medication administration to a licensed nursing assistant shall comply with the requirements of this chapter.

V. A licensee who, having delegated a task involving medication administration to a licensed nursing assistant, has any reason to believe that the delegate may have made an error in the administration of medication shall:

- (a) Immediately ascertain whether the error occurred; and
- (b) If the error occurred or its occurrence can not be immediately ascertained, take the following steps:
 - (1) Inform the administrator of the facility, institution, or agency in which the error occurred;
 - (2) Document the error in the client's clinical record;
 - (3) Complete any report required by the policies or rules of the facility, institution, or agency within the required time period;
 - (4) Determine whether immediate action is required to be taken with respect to the delegation of tasks to the licensed nursing assistant who made the error; and
 - (5) Maintain a record of errors in medication administration and actions taken by the delegating licensee for medication nursing assistant program site review.

VI. A licensed nursing assistant who has any reason to believe that he or she has made an error in the administration of medication shall:

- (a) Immediately report to the following people a possible or known error in the administration of medication:
 - (1) The licensee who delegated the task involving the administration of medication; and
 - (2) The licensed nursing assistant's immediate supervisor in the facility, institution or agency in which the error occurred, if such supervisor is someone other than the delegating licensee; and
- (b) Assist the delegating licensee and the immediate supervisor in the setting in which the error occurred in the completion of any document for reporting error which may be required to be completed.

326-B:24 Delegation; Circumstances Not Subject to Disciplinary Action.

I. A licensee who delegates or has delegated a specific nursing activity or task in compliance with this chapter shall not be subject to disciplinary action because of the performance of the person to whom the nursing activity or task is or was delegated.

II. No person may coerce a registered nurse or licensed practical nurse into compromising client safety by requiring the nurse to delegate a nursing activity or task when the nurse determines that it is inappropriate to do so. A licensee shall not be subject to disciplinary action for refusing to delegate nursing activities or tasks or refusing to provide training related to such delegation when the licensee has determined that such delegation may compromise client safety.

326-B:25 Duration of Initial Licenses. All initial licenses, other than temporary licenses, are valid from the date of issuance until midnight of the date of birth of the licensee in the year following the year in which the license was issued unless their validity has been continued in accordance with RSA 326-B:26, III.

326-B:26 Biennial Renewal of Licenses; Lapsed Licenses.

I. All license renewals shall be on a biennial basis.

II. Any person licensed under this chapter who intends to continue practicing nursing or nursing-related activities shall, by midnight on his or her date of birth in the renewal year, complete continuing education requirements, complete continuing competence requirements, pay the renewal fee and submit a completed application for license renewal. The payment of the renewal fee and the completed application must be at the board's office no later than midnight on the applicant's date of birth in the renewal year. The board shall mail a renewal application form with instructions to each licensee at the address on file with the board at least 30 days before the licensee's application deadline. However, failure by the licensee to receive the application form with instructions shall not relieve the licensee of the obligation to meet the deadline. The board shall not renew any license issued under this chapter unless it is satisfied that the applicant for renewal is of good character, as character relates to nursing or nursing-related activities.

III. If an applicant for license renewal has met the requirements of paragraph II, a license previously issued to the applicant under this or a predecessor chapter shall continue valid and in effect pending the decision by the board on the application for renewal.

IV. If an applicant for license renewal has not met the requirements of paragraph II, any license previously issued to the applicant under this or a predecessor chapter shall lapse at midnight of the applicant's date of birth in the renewal year. A holder of a lapsed license shall not practice nursing or nursing-related activities until the license has been reinstated.

V. Application for reinstatement of a license lapsed under this section shall include payment of a reinstatement fee and be made, and granted or denied, in accordance with rules adopted by the board pursuant to RSA 541-A.

326-B:27 Temporary Licensure.

I. The board may issue temporary licenses valid for no more than 180 days to applicants described in paragraph II, and may renew such temporary licenses in accordance with rules adopted pursuant to RSA 541-A. A temporary license shall become void on the date the board denies the permanent license sought by the holder of the temporary license.

II. The following applicants for licensure as registered nurses or practical nurses may be issued temporary licenses:

(a) Unlicensed applicants for licensure under paragraph I and applicants for licensure under RSA 326-B:17, III who have met all requirements for licensure except that they have not yet taken the required examination or the results of the examination are not yet available to the board.

(b) If they can demonstrate proficiency in English, currently foreign-licensed applicants for licensure under RSA 326-B:17, I who have met all requirements for licensure except that they have not yet taken the required examination or the results of the examination are not yet available to the board.

(c) Applicants for licensure under RSA 326-B:17, II who have met all of the requirements of that paragraph and are awaiting the board's decision on their application for permanent licensure.

(d) Applicants for licensure under RSA 326-B:17, II who have met all requirements except for any continuing competence requirements applicable to them.

III. Applicants described in paragraph II who have received temporary licenses shall practice only under the supervision of a registered nurse currently licensed in New Hampshire.

326-B:28 Obligations of Licensees.

I. In response to board inquiries relevant to a licensee's status or practice of nursing or nursing-related activities, each licensee shall provide complete and truthful information.

II. Each licensee shall notify the board if a license is lost or stolen.

III. Each licensee shall notify the board of a change of name or address as soon as such change occurs.

IV. Each licensee shall report to the board those acts or omissions which are violations of this chapter or grounds for disciplinary action.

326-B:29 Continuing Education. Applicants for license renewal and license reinstatement after lapse shall complete continuing education as follows:

(a) An LNA, shall complete 12 contact hours of continuing education in programs approved by the board each year; provided that licensees who hold a certificate of medication administration, shall complete at least 4 hours of those 12 contact hours in medication administration.

(b) An LPN or an RN, shall complete 30 contact hours of continuing education every 2 years; or

(c) An ARNP, in addition to the continuing education requirements to renew or reinstate a license as an RN, shall complete 30 contact hours of continuing education every 2 years; 20 contact hours of which shall be specific to the specialty for which renewal or reinstatement is sought, and 5 contact hours of which shall be training in pharmacology appropriate to the specialty for which license renewal or reinstatement is sought.

326-B:30 Continuing Competence.

I. Applicants for first licensure, license renewal, or license reinstatement after lapse shall have or maintain continuing competence in their area of licensure and may be required to achieve and demonstrate such competence as a condition of licensure, license renewal or license reinstatement.

II. In addition, individuals seeking reinstatement of their licenses after disciplinary denial of license renewal, disciplinary suspension or disciplinary revocation or seeking the removal of disciplinary limitations placed on their licenses may be required to achieve and demonstrate continuing competence as a condition of license reinstatement or the removal of limitations.

326-B:31 Education Programs.

I. The board shall approve, disapprove, and withdraw approval for education programs intended to prepare students for licensure or for certification. An educational institution or other entity conducting such an education program shall comply with rules consistent with paragraphs II and III and adopted by the board pursuant to RSA 541-A.

II. With respect to the education programs named in paragraph I, the board is authorized to establish:

(a) Minimum qualification of faculty and administrators.

(b) The content of the curriculum.

(c) The minimum number of hours of instruction and clinical work.

(d) Any standards to be met for successful completion of the programs which may be additional to any required by the entities conducting the programs.

(e) Procedures for initial, full, and conditional approval of the programs by the board.

(f) Qualifications for entrance into education programs intended to prepare licensed nursing assistants to become medication nursing assistants, which qualifications may be additional to any required by the entities conducting the programs.

(g) Application procedures for entrance into education programs intended to prepare licensed nursing assistants to become medication nursing assistants, which procedures may be additional to any required by the entities conducting the programs.

(h) Administrative organization of education programs intended to prepare licensed nursing assistants to become medication nursing assistants.

(i) The content of, and standards for passing, examinations administered by education programs intended to prepare licensed nursing assistants to become medication nursing assistants.

III. Education programs shall include:

(a) Curricular topics consistent with the knowledge and skills required for the licensure or certification and for the practice for which they are designed to prepare.

(b) Instruction administered and organized in accordance with established educational principles.

(c) Content relating to the biological, physical, social, behavioral and nursing and medical sciences.

IV. The board shall periodically survey all education programs intended to prepare students for licensure or certification under this chapter to determine compliance with this section and the rules adopted by the board. If an education program is in overall compliance, the board shall grant initial, full or conditional approval.

V. If the board determines that an education program does not comply with the requirements of this section and the rules adopted by the board, the board shall notify the education program of the specific areas of non-compliance.

VI. The board shall withdraw approval from any education program failing to correct specified areas of non-compliance within a time period established by rules adopted by the board, provided that such action shall be taken only after consultation with representatives of the program.

VII. Any education program conducted in another state shall be deemed to be an education program approved by the board if that program meets the requirements for approval established by this section and the boards, rules and the program has been approved by the regulatory authority of its state.

326-B:32 Duty to Warn of Violent Acts of Client; Civil Liability.

I. Any licensee, or person working under the supervision of a licensee to provide services that are customary and necessary for diagnosis or treatment, has a duty to warn of, or to take reasonable precautions to provide protection from, a client's violent behavior when the client has communicated to the registered nurse practitioner or the person working under an advanced registered nurse licensee, or person working under the supervision of a licensee, a serious threat of physical violence against a clearly identified or reasonably identifiable victim or victims, or a serious threat of substantial damage to real property.

II. The duty may be discharged by the licensee, or a person working under the supervision of a licensee to provide services that are customary and necessary for diagnosis or treatment by making reasonable efforts to communicate the threat to the victim or victims, notifying the police department closest to the client's or potential victim's residence, or obtaining civil commitment of the client to the state mental health system.

III. No monetary liability or cause of action based on breach of client privacy, confidentiality or any other ground shall arise from an act or communication done in a good faith effort to discharge a duty in accordance with paragraph II.

326-B:33 Duties of Licensees Relating to Reports of Sexual Relations.

I. In this section:

(a) "Former client" means a person who was diagnosed or treated by a licensee of the board within the 2 years prior to the sexual relations in question.

(b) "Sexual relations" means the intentional touching of any part of the client's body, or any verbal or non-verbal communication, for the purpose of sexual arousal or gratification of either party.

II. If, during the course of diagnosis or treatment by a licensee, a client alleges that another counselor or health care practitioner licensed by the board of nursing or any other state licensing or certifying agency has engaged with the client in sexual relations, the licensee shall have a duty to inform the client that the act reported by the client may be unprofessional or unethical and may subject the actor to disciplinary action by the actor's licensing or certifying agency.

III. No liability for breach of client confidentiality, slander or defamation, or other civil or criminal liability, shall arise from the disclosure by a licensee of information related to reported sexual relations between a client and any licensee of a state licensing or certifying agency when the disclosure is made in good faith and made to the board of nursing or any other state licensing or certifying agency.

IV. If the client of a licensee on the client's own initiative reports to the board of nursing sexual relations with a licensee of another state agency, the licensee shall provide support and advocacy to the client, either directly or indirectly through referral.

326-B:34 Privileged Communications Between Licensees and Their Clients.

I. Confidential communications between licensees and their clients are placed on the same basis as those provided by law between physician and patient, and, except as otherwise provided by law, no licensee shall be required to disclose such privileged communications. Confidential communications between a client of a licensee and any person working under the supervision of such licensee to provide services that are customary and necessary for diagnosis and treatment are privileged to the same extent as would be the same communications between the supervising licensee and the client.

II. This section shall not apply to disciplinary proceedings conducted by:

(a) The board under this chapter;

(b) The board of examiners of nursing home administrators under RSA 151-A:11; or

(c) Any other statutorily created health care occupational licensing board conducting disciplinary proceedings.

III. This section shall not apply to hearings conducted pursuant to RSA 135-C or RSA 464-A.

IV. This section shall also not apply to the release of blood samples and the results of laboratory tests for blood alcohol content taken from a person who is under investigation for driving a motor vehicle while such person was under the influence of intoxicating liquors or controlled drugs. The use and disclosure of such information shall be limited to the official criminal proceedings.

326-B:35 Confidentiality of Information. Any reports, information or records provided to the board by an individual, agency, facility, institution, or organization pursuant to this chapter shall be confidential insofar as the reports, information or records identify or permit identification of any client. However, the board may disclose confidential information:

I. When required to do so by this chapter or any other law.

II. When the information is relevant, during an adjudicative hearing or informal conference before the board.

III. In an agreement to settle a matter subject to adjudicative hearing, when the information constitutes or pertains to the basis of board action.

326-B:36 Emergency Treatment; Assisting the Board; Immunity From Civil Liability.

I. No person authorized to practice under this chapter or under the laws of any other state who, in good faith, renders emergency care at the scene of an emergency, which occurs both outside the place and the course of employment, shall be liable for any civil damages as a result of acts or omissions in rendering such emergency care, or as a result of any act or failure to act to provide or arrange for further medical treatment or care.

II. Any person acting in good faith shall be immune from civil liability to a licensee or an applicant for licensure for making any report or other information available to the board or assisting the board in carrying out any of its duties.

326-B:37 Disciplinary Action; Misconduct.

I. In order to assure the citizens of New Hampshire a reasonable standard of nursing care the board may undertake investigations and disciplinary proceedings:

(a) Upon its own initiative.

(b) Upon written complaint of any person which charges that a licensee has committed any acts of misconduct under paragraph III of this section and which specifies the grounds for such complaint.

(c) Upon notification by the licensing authority of another jurisdiction that a licensee's license has been disciplined in that jurisdiction.

II. The board shall conduct an investigation of any person licensed by the board who has had brought against him or her 3 reservable claims, written complaints, or actions for medical injury, or any combination thereof, which pertain to 3 different acts or events within any consecutive 5-year period. For the purpose of this paragraph, medical injury means any adverse, untoward or undesired consequences arising out of or sustained in the course of professional services rendered by a licensee, whether resulting from negligence, error or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

III. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) Knowingly or negligently, whether or not intentionally, providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of license application.

(b) Conviction of a felony or any criminal act, not including traffic offenses, or failure to report such conviction within 30 days.

(c) Unethical or unprofessional conduct, including sexual relations with a client as defined in RSA 326-B:33.

(d) Failure to provide care with reasonable skill, safety and regard for patient rights, with or without actual patient injury.

(e) Actual or potential inability to render care with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of mental or physical conditions.

(f) Disciplinary action by a licensing authority in another jurisdiction.

(g) Failure to take appropriate action to safeguard individuals from incompetent counselors and health care practitioners, whether or not they are licensed in this state.

(h) Violations of any provision of this chapter, any substantive rule adopted by the board pursuant to RSA 541-A, or any other state or federal statute or substantive rule reasonably related to the licensee's ability to safely practice nursing or nursing-related activities.

IV. The board may refuse to renew or reinstate a license on disciplinary grounds, or take disciplinary action in any one or more of the following ways:

(a) By reprimand or by suspension, limitation, conditions or probation of a license for a period of time as determined reasonable by the board.

(b) By revocation of a license.

(c) By requiring licensees to participate in educational or rehabilitative programs in the area or areas in which they have been found deficient or incompetent.

(d) By requiring the licensee to submit to the care, counseling, or treatment of a physician, counseling service, health care facility, professional assistance program, or any comparable person or facility approved by the board.

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

(f) By imposition, after notice and the opportunity for hearing, of fines not to exceed \$1,000 for each violation or, in the case of a continuing violation, \$100 for each day the violation continues.

V. In cases involving imminent danger to public health, safety, or welfare, the board may order the immediate suspension of a license pending an adjudicative proceeding. The board shall commence this adjudicative proceeding not later than 10 working days after the date of the board order suspending the license. The licensee may waive the 10-day commencement requirement to allow for additional time to prepare for a hearing. If the licensee waives the requirement, the license shall remain suspended until the completion of the hearing. A record of the proceeding shall be made by a certified shorthand court reporter provided by the board. Unless expressly waived by the licensee, board failure to commence an adjudicative proceeding within 10 working days shall mean that the suspension order is automatically vacated. The board shall not again suspend the license for the same conduct which formed the basis of the vacated suspension without granting the licensee prior notice and an opportunity for an adjudicative proceeding.

VI. Every individual, agency, facility, institution or organization that employs licensed nursing personnel within the state shall report to the board within 30 days any action by a licensee that willfully violates paragraph II. The board shall have authority, after notice and the opportunity for hearing, to impose civil penalties of up to \$1,000 per violation upon persons found to have willfully violated the reporting requirements of this paragraph.

326-B:38 Investigations and Hearings.

- I. The board shall investigate possible misconduct by licensees and other matters governed by the provisions of this chapter. Investigations shall be conducted with or without the issuance of a board order setting forth the general scope of the investigation. Board investigations and any information obtained by the board pursuant to such investigations shall be exempt from the public disclosure provisions of RSA 91-A, unless such information subsequently becomes part of a public disciplinary hearing. However, the board may disclose information acquired in an investigation to law enforcement or health licensing agencies in this state or any other jurisdiction, or in accordance with specific statutory requirements or court orders.
- II. The board may appoint legal counsel, health care advisors or other investigators to assist with any investigation and with adjudicative hearings.
- III. The form taken by an investigation is a matter within the discretion of the board. The board may conduct investigations on an ex parte basis.
- IV.(a) The board may administer oaths or affirmations, preserve testimony, and issue subpoenas for witnesses, documents and things, relative to investigations or adjudicative hearings, except that subpoenas for records issued pursuant to paragraph V may be issued at any time.
- (b) The board may serve a subpoena on any licensee by certified mail, but shall serve a subpoena on any other person in accordance with the procedures and the fee schedules established by the superior court.
- (c) A person licensed by the board shall not be entitled to a witness fee or mileage expenses for travel within the state related to his or her appearance at a hearing or investigatory proceeding.
- (d) In order to be valid any subpoenas issued by the board, except one issued to a licensee, shall be annotated "Fees guaranteed by the New Hampshire board of nursing."
- (e) A minimum of 48 hours notice shall be given for compliance with a subpoena issued under this paragraph.
- V. The board may at any time subpoena a licensee's health care records, employment records and nursing education academic records in the possession of its licensees, nursing education programs licensed by the board or hospitals, and other health care providers and facilities regulated in this state, except that it may not subpoena quality assurance records of health facilities licensed under RSA 151. Subpoenas shall be served by certified mail or personal delivery to the address currently on file with the board in the case of delivery to a licensee. No witness or other fee shall be required. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena issued under this paragraph.
- VI. Complaints of licensee misconduct shall be in writing and shall be treated as petitions for the commencement of a disciplinary hearing. The board shall determine whether a complaint alleges misconduct sufficient to support disciplinary proceedings. If the board determines that it does, the board shall forward a copy of the complaint to the licensee complained against within 5 business days of its determination. If the board determines that it does not, the board shall send the complainant a written notice of dismissal of the complaint. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee, the board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute.
- VII. At any time during an investigation of a complaint, and without issuing a subpoena, the board may mail a copy of a complaint to the licensee named in the complaint, and may require in a written request that the licensee and the licensee's employer provide detailed and good faith written responses to allegations identified by the board and also provide copies of all records concerning any client identified in the complaint. The licensee and others receiving inquiries from the board shall respond within a reasonable time period of not less than 15 days as the board may specify. This procedure may also be used in connection with matters the board has undertaken to investigate on its own motion.
- VIII. The board may hold adjudicative hearings concerning allegations of misconduct or other matters within the scope of this chapter. Such hearings shall be public proceedings. Any member of the board other than the public members, or any other qualified person appointed by the board, shall have authority to preside at such a hearing and to issue oaths or affirmations to witnesses.
- IX. The board shall give the respondent and the complainant, if any, at least 15 days' written notice of the date, time and place of a hearing, except as otherwise provided in this chapter. Such notice shall comply with RSA 541-A and include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or both. If a written complaint is involved, the notice shall provide the complainant with a reasonable opportunity to intervene as a party. Such notice shall be sent by certified mail return receipt requested to the complainant and to the respondent at the address provided by respondent currently on file at the board offices. Notice mailed in compliance with this section shall be deemed served.
- X. The board may at any time dispose of allegations in a complaint, investigation, or disciplinary hearing by settlement, default or consent order, by issuing an order of dismissal for failing to state a proper basis for disciplinary action or by summary judgment order based upon undisputed material facts. In disciplinary hearings, the board may hold pre-hearing conferences which shall be exempt from the provisions of RSA 91-A, but any final disciplinary action or decision which occurs without holding a public hearing shall be publicly released at the time it is served upon the parties.
- XI. Final disciplinary actions and other adjudicative decisions made by the board shall be reduced to writing and served upon the parties. Such decisions shall not be released to the public until they are served upon the parties.
- XII. Any person appearing at a board hearing or investigation may be represented by legal counsel, or other representative but

the board shall have no obligation or authority to appoint or provide such representation.

XIII. The board shall hear any complaint not resolved at or prior to a preliminary hearing.

XIV. In the case of sanctions for discipline in another jurisdiction, the decision of the other jurisdiction's disciplinary authority may not be collaterally attacked and the board may impose any of the sanctions set forth in this chapter, but shall provide notice and an opportunity to be heard if it intends to impose sanctions above those imposed by the other jurisdiction.

326-B:39 Rehearing; Appeals.

I. Any person who has been refused a license by the board or has been disciplined by the board shall have the right to petition for a rehearing within 30 days after the original decision.

II. Appeals from a decision on rehearing shall be by appeal pursuant to RSA 541.

III. No sanction shall be stayed by the board during an appeal.

326-B:40 Injunctive Relief. The attorney general, the board of nursing, any citizen, or the prosecuting attorney of any county or municipality where the act occurs may maintain an action to enjoin a person not currently licensed to do so from practicing, or purporting to practice, nursing or nursing-related activities. The action to enjoin shall not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available to the board.

326-B:41 Unlawful Acts. It shall be unlawful for any person or entity to:

I. Sell or fraudulently obtain or furnish any nursing diploma, license or record, or to aid and abet in such an act;

II. Practice as a licensee under this chapter when the license to do so has been revoked or suspended or when the license to do so has lapsed;

III. Use, in connection with the individual's name, any designation tending to imply licensure as a registered nurse, practical nurse or nursing assistant unless so licensed under this chapter; or

IV. Represent or imply that the person or entity is conducting a nursing education program or a program for the education of nursing assistants which has been approved by the board when the program has not been so approved.

V. Disclose, solicit or compile information regarding the contents of any licensing examinations relative to this chapter except as authorized by the board.

326-B:42 Persons Licensed Under Previous Laws. Any person, including a CGN, authorized to practice nursing by authority of this state as of the effective date of this section shall continue to be licensed under the provisions of this chapter and shall be eligible for license renewal pursuant to this chapter.

326-B:43 Exemptions. The provisions of this chapter shall not prohibit or limit:

I. The employment in federal government institutions and agencies of nurses who are members of federal agencies and are currently licensed in some state of the United States;

II. The practice of nursing by persons enrolled in nursing programs acceptable to the board when such practice is part of their program of study;

III. The furnishing of nursing assistance in an emergency;

IV. Nursing services by any certified unlicensed graduate nurse who has been engaged in this state in nursing the sick for hire without assuming in any way to be a registered nurse, as a bona fide occupation previous to July 1, 1959 and who was certified prior to January 1, 1975;

V. Nursing services by any one when done in accordance with the practice of the religious principles or tenets of any well-recognized church or denomination which relies upon prayer or spiritual means alone for healing;

VI. The practice of nursing in this state by any currently licensed nurse of another state engaged to accompany and care for a person passing through or temporarily residing in this state, during the period of one engagement not to exceed 2 months.

VII. The administration of medications, by any person employed, or under contract, to provide direct care to clients receiving community-based services pursuant to RSA 135-C or RSA 171-A, provided that persons delivering such care who administer medications shall have successfully completed a medication administration educational program conducted by a registered nurse and approved by the board under rules adopted pursuant to RSA 541-A. The commissioner of health and human services, in consultation with the board, shall adopt rules establishing criteria for the administration of medications, and for the process of approving a registered nurse to conduct the medication administration educational program.

326-B:44 Midwifery Not the Practice of Nursing. Midwives certified under RSA 326-D, and practicing midwifery as defined by RSA 326-D:2, V, shall not be construed as practicing nursing under this chapter.

326-B:45 Direct Care in Community-Based Services. The administration of medications, by non-licensees to individuals receiving community-based services pursuant to RSA 135-C or RSA 171-A shall not be construed as practicing nursing.

2 Nursing Assistant Fund. Amend RSA 6:12, I(bb), to read as follows:

(bb) Money received under RSA ~~[326-B:29]~~ **326-B:8**, which shall be credited to the board of nursing's nursing assistant fund.

3 Residential Care and Facility Licensing; Disciplinary Actions; Report to Board of Nursing Added.

151:6-b Report of Disciplinary Action. Every facility administrator, or designee, for any health care facility licensed under this chapter shall report to the board of medicine **or the board of nursing** any disciplinary or adverse action~~[-]~~ **taken against a licensee of the board. Such report shall be made** within 30 days after such action is taken~~[-including]~~. **Actions reported shall only involve misconduct sufficient to support disciplinary proceedings by the board and shall include all** situations in which allegations of misconduct are settled by voluntary resignation without adverse action~~[-against a person licensed by the board]~~.

4 Residential Care and Facility Licensing; Rules. Amend RSA 151:9, I(k) to read as follows:

(k) Procedures for reviewing documentation of the mandatory completion of a state approved program under RSA ~~[326-B:4-a]~~ **326-B** for assistants to nurses in facilities licensed under RSA 151:2, who may not assume the responsibility of the position of an assistant to nurses prior to completion of the appropriate course required by this chapter.

5 Privileged Communication. Amend RSA 316-A:27 to read as follows:

316-A:27 Privileged Communications. The confidential relations and communications between any person licensed under provisions of this chapter and such licensed person's patient are placed on the same basis as those provided by law between attorney and client, and, except as otherwise provided by law, no such doctor of chiropractic shall be required to disclose such privileged communications. Confidential relations and communications between a patient and any person working under the supervision of a doctor of chiropractic that are customary and necessary for diagnosis and treatment are privileged to the same extent as though those relations or communications were with such supervising doctor of chiropractic. This section shall not apply to disciplinary hearings or actions conducted under RSA 316-A:22, relative to the board of chiropractic examiners, RSA ~~[326-B:12]~~ **326-B**, relative to the board of nursing, RSA 151-A:11, relative to the board of examiners of nursing home administrators, or any other statutorily created medical occupational licensing board conducting disciplinary proceedings. This section shall not apply to hearings conducted pursuant to RSA 135-C:27-54.

6 Pharmacies; Definitions. Amend RSA 318:1, I-a to read as follows:

I-a. "Advanced registered nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA ~~[326-B:10]~~ **326-B:13**.

7 Pharmacies; Possessing Prescription Drugs. Amend RSA 318:42, VII (b) to read as follows:

(b) The drugs appear on the current formulary approved pursuant to RSA ~~[326-B:10, H]~~ **326-B**.

8 Controlled Drug Act; Definitions. Amend RSA 318-B:1, I-b to read as follows:

I-b. "Advanced registered nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA ~~[326-B:10]~~ **326-B:13**.

9 Occupational Therapists; Authorizations. Amend RSA 326-C:2, I to read as follows:

I. Consultation and evaluation by an occupational therapist may be performed without a referral. Initiation of occupational therapy services to individuals with medically related conditions shall be based on a referral from a physician or physician assistant licensed by the state board of medicine, an advanced registered nurse practitioner licensed under RSA ~~[326-B:10]~~ **326-B:13**, a chiropractor licensed under RSA 316-A, an optometrist licensed under RSA 327, or any other qualified health care professional who, within the scope of the professional's licensure, is authorized to refer for health care services.

10 Respiratory Care Practice Act; Definitions. Amend RSA 326-E:1, V to read as follows:

V. "Nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA ~~[326-B]~~ **326-B:13**.

11 Mental Health Practice; Definitions. Amend RSA 330-A:2, VIII to read as follows:

VIII. "Psychotherapist" means a psychologist, clinical social worker, pastoral psychotherapist, clinical mental health counselor, or marriage and family therapist licensed under this chapter who performs or purports to perform psychotherapy. This definition shall include psychiatrists licensed as physicians under RSA 329 and advanced registered nurse practitioners licensed under RSA ~~[326-B:10]~~ **326-B:13** as psychiatric nurse practitioners.

12 Mental Health Practice; Penalties. Amend RSA 330-A:23, I to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a psychologist, a pastoral psychotherapist, a clinical social worker, a clinical mental health counselor, or a marriage and family therapist, or use the word "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by the board or working as a candidate under the direct supervision of a person licensed by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA ~~[326-B:10]~~ **326-B:13** may refer to themselves as psychotherapists.

13 Mental Health Practice; Persons Exempted. Amend RSA 330-A:34, I (e) to read as follows:

(e) The psychotherapy activities and services of physicians licensed under RSA 329, and advanced registered nurse practitioners, licensed under RSA ~~[326-B:10]~~ **326-B:13**.

14 Insurance; Coverage for Mental or Nervous Conditions. Amend RSA 415:18-a, V (d) to read as follows:

(d) "Psychiatric/mental health advanced registered nurse practitioner" means an individual who is licensed as an advanced registered nurse practitioner in psychiatric mental health nursing under RSA ~~[326-B:10]~~ **326-B:13**, who is defined by and whose scope of practice is described under the rules adopted pursuant to RSA 326-B, and who is a licensed registered nurse, educationally prepared in nursing at a minimum of the master's level, and certified in the specialty by a recognized national certifying agency, such as the American Nurses Credentialing Center.

15 Effective Date. This act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill revises the law governing the occupational regulation of nurses by the board of nursing.