

State of New Hampshire HOUSE RECORD

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

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Concord N.H.

Friday, March 5, 2004

No. 18

Contains: Order Form for the 2003 and 2004 Permanent Journals, Reports and Amendments for March 11,
Hearings and Notices

HOUSE CALENDAR

A MESSAGE FROM THE SPEAKER

MEMBERS OF THE HOUSE:

The House will meet in session on **Thursday, March 11**, Wednesday March 17 and Thursday, March 18 (if necessary) at 10:00 a.m.

Please note there will be no legislative meetings on Tuesday, March 9, New Hampshire's Town Meeting Day.

Chairmen and Vice Chairmen will meet on **Wednesday, March 10**, at 9:00 a.m. in Room 201, LOB.

NOTICE

There will be a Republican Caucus on Thursday, **March 11** at 9:15 a.m. in Representatives Hall.
Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Thursday, **March 11** in Rooms 305-307 of the Legislative Office Building.
Rep. Peter H. Burling, Democratic Leader

NOTICE

Copies of the Final Disposition of Bills and Resolutions for the 2003 Session are now available from the Sergeant-at-Arms Office.

Karen O. Wadsworth, Clerk of the House

Shuttle Service

For the convenience of the members during the winter months I have again instituted a shuttle service from the Storrs Street parking garage to the State House complex.

The shuttle will operate **Tuesdays, Wednesdays, and Thursdays from 8:00 to 10:00 a.m. and again from 2:00 to 4:00 p.m. or until session is over.** The van will drop off and pick up on **North 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.

Gene G. Chandler, Speaker

No Child Left Behind Informational Forum

Education Secretary's Regional Representative, Michael Sentance

Rescheduled to Tuesday, March 16, 2004 11:00 a.m. Rooms 205-207, LOB

All members are invited to attend. Mr. Sentance will share information about the program and take questions.

Representatives Peter Batula and Stephen L'Heureux

THURSDAY, MARCH 11

CONSENT CALENDAR

COMMERCE

HB 1130, relative to certain insurance agents. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald H. Flanders for Commerce: This bill exempts insurance agents who are exclusive agents to one insurance company (i.e. do not own their own book and business) from the law regarding termination of agents. Since these insurance agents are subject to provisions of the contract they have with the insurer that they represent, it is inappropriate for the current law related to termination to include them. **Vote 12-0.**

HB 1133, relative to disclosures required prior to a condominium sale. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: The intent of this bill is to insure that the prospective buyers of condominiums have full knowledge of the rules, regulations and finances of the condominium association. The bill, as amended by the committee, requires that a disclosure be added to a purchase and sales agreement which provides written notice to the buyer of their right to obtain information as required in RSA 356-B (the condominium act). The bill further amends RSA 356-B: 58 by expanding the information to be made available to include condominium declarations, by-laws and monthly annual and special assessments within the past three years. **Vote 12-0.**

HB 1149, relative to the provision of credit reports to consumers. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This bill would require consumer reporting agencies to provide a consumer with one free consumer report per year. The federal Fair and Accurate Transaction Act which became effective on December 4, 2003, provides that a consumer is entitled to one free copy of his or her credit report per year. This being so, this bill is not necessary. **Vote 12-0.**

HB 1161, relative to solicitation and marketing of insurance products. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: The bill amends a provision in the state laws governing the sale of insurance by banks and credit unions, which requires them to sell insurance products in an area separate and distinct from their lending and deposit-taking activities. The bill brings state law into compliance with the Gramm-Leach-Bliley Act, which provides that the manner in which states regulate the sale of insurance products cannot be more adverse to depository institutions than it is to other persons providing the same products or services. Since the state does not place the same segregation requirements on insurance companies and insurance agencies that conduct insurance activities and accept deposits or make loans in the same area, the bill was necessary to address the issue of fairness and competitive equality. As amended, the bill continues to require depository institutions to keep insurance sale activities separate and distinct from areas where retail deposits are routinely accepted. Language was added to the bill requiring financial institutions to give written disclosure to a prospective borrower stating that the extension of credit is not contingent upon the purchase of the institution's insurance products. In addition, the bill will now require financial institutions to obtain the customer's express written acknowledgement that he/she received the disclosure. Since the Gramm-Leach Bliley Act does not apply to credit unions, the bill was amended to provide them with the same anti-discriminatory protections afforded to banks. Having addressed all concerns raised at the public hearing and in subcommittee work sessions, agreement was reached among members of the committee and representatives from the insurance industry, banking industry and credit unions. **Vote 12-0.**

HB 1163, establishing a commission to study methods of increasing the number of insurance carriers doing business in New

Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Kathleen N. Taylor for Commerce: Testimony at the public hearing suggested that the reason this legislation was introduced was due to the difficulties in obtaining certain insurance for example, for people working in the woods and for antique cars. To establish a committee that would focus on ways of getting more insurance companies into the state and thereby creating a more competitive environment, is very laudable but would not work alone. New Hampshire has more than enough insurance companies doing business in the state. The problem is that the logging business is a very high risk business and no matter how many companies are licensed, the rates would not necessarily drop. It was difficult knowing, without more information, why one of the sponsor's constituents had difficulty in obtaining insurance on an antique automobile. **Vote 12-0.**

HB 1180, relative to the creation of express trusts for pets. INEXPEDIENT TO LEGISLATE

Rep. Paul D. Spiess for Commerce: The sponsor's intent is to create a new chapter authorizing the creation of legal trusts for pets. During testimony it was learned that this issue is covered in HB 1224, which creates a uniform trust code. The sponsor agreed to defer consideration of this issue to the larger bill. **Vote 12-0.**

HB 1210, relative to self-service storage facility liens. OUGHT TO PASS

Rep. Paul D. Spiess for Commerce: Under current law, liens on "self storage facilities" including both motor vehicles and personal property, must be filed with the Division of Motor Vehicles, the Secretary of State, and the town clerk where the storage facility is located. This bill removes the requirement to file liens with the town clerk. Liens on motor vehicles would be filed with the DMV and liens on personal property would be filed with the Secretary of State. **Vote 13-0.**

HB 1233, relative to the accuracy of information used by consumer reporting agencies. INEXPEDIENT TO LEGISLATE

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation would have prohibited consumer reporting agencies from adding tradeline updates to the consumer's file if the creditor does not provide an exact match of a social security number. This would in effect stop full and accurate financial reporting. The new Federal Fair and Accurate Transaction Act (FACTA) became effective December 4, 2003 and addresses many issues regarding credit reporting agencies. It also requires the Federal Trade Commission to study the accuracy and completeness of information contained in a consumer report as well as methods to improve accuracy. A report of the study is due by December 4, 2004 and a final report on December 4, 2005. The committee felt that since the new law has only recently become effective, and that the very topic of accurate social security numbers will be studied further, we should await that initial report before considering legislation at the state level. The committee feels strongly that accuracy of social security numbers is vital in the gathering of information by credit reporting companies. Should the federal government not address the issue during the current ongoing study, we agree with the sponsor that we should revisit the issue at the state level. **Vote 12-0.**

HB 1240, prohibiting minors from sitting in the smoking sections of restaurants. INEXPEDIENT TO LEGISLATE

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation, although noble in its intent would be extremely difficult to enforce. Most children under the age of 18 are in the company of one or more adults when visiting restaurants. If the adult opts to sit in the smoking section it would be very difficult for the proprietor to act as a referee as to where the customer(s) will be seated. In the view of the committee, this is an "adult call" and shouldn't be left to the restaurant proprietor. **Vote 11-1.**

HB 1252-FN, requiring the posting of notice by uninsured liquor licensees. INEXPEDIENT TO LEGISLATE

Rep. Paul D. Spiess for Commerce: The intent of this bill is to require liquor licensees who do not carry "liquor liability insurance" to post a notice at their place of business that such coverage is not available. The committee doubts that such notification would materially affect consumer's decisions or accomplish any useful purpose. Responsible licensees will obtain the coverage to protect their own interests. Those who do not obtain such coverage probably won't remain in business for long. Several non-germane amendments were brought to the committee to make technical corrections to the liquor licensing statute. The committee felt that this was not the vehicle to address those issues. **Vote 11-2.**

HB 1267, requiring fast food restaurants to provide nutritional information to consumers. INEXPEDIENT TO LEGISLATE

Rep. Leo W. Fraser, Jr. for Commerce: The aim of this legislation is an effort to address a national problem-obesity. The bill as written would require all fast food restaurants to provide nutritional information to consumers. The sponsor had brought in an amendment that would require fast food restaurants to only post calories, but would also require all chain restaurants (10 or more) to publish calories, fat, saturated fat, and sodium on all regular menus. The committee felt that in most instances this information is available upon request, and is on the Internet. To post this information would place an undue burden on restaurants that would not be required of other businesses. **Vote 10-2.**

HB 1305, establishing a committee to study certain high interest loans. INEXPEDIENT TO LEGISLATE

Rep. Paul D. Spiess for Commerce: The purpose of this bill is to study "high rate" lending practices. Last year the legislature passed a bill regulating "payday loans" and "title loans". The state of New Hampshire does not have a usury law and does not regulate or cap interest rates. While we recognize that high risk/high rate lending has the potential for abuse, the new regulatory scheme went into effect in July of 2003 and it is premature to study this issue until our regulations are in effect long enough for the accumulation of data and the investigation of complaints. **Vote 12-0.**

HB 1319, relative to the percentage of ownership in physician hospital organizations. REFER FOR INTERIM STUDY

Rep. Paul D. Spiess for Commerce: The original intent of this bill was to limit ownership by physicians, nurses or any individual having the ability to refer patients, to not more than 15% of physician hospital organizations. The underlying issue is the

potential for a conflict of interest if physicians have an ownership interest in ancillary service providers such as physical therapy, radiology, or laboratory facilities, to whom they refer patients. Under a law passed in 1993 physicians are required to disclose to patients any ownership interests in organizations to which they refer business. Such disclosures are supposed to be monitored by the Department of Health and Human Services. It appears that this provision of the law has not been monitored or enforced. The issue before the committee is how to ensure compliance with the disclosure requirements and what agency should exercise supervision. The committee believes further study is necessary to arrive at a satisfactory conclusion. **Vote 12-0.**

HB 1320, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation is an effort to bring banking laws into the 21st century. It requires that all licensees abide by state and federal laws and regulations. It requires businesses to supervise employees and branch offices. It prohibits representations that the business is recommended by the New Hampshire Banking Department. It requires prepayment of fee before license is issued and allows for revocation of a license when there are grounds, despite withdrawal from the state of the licensee. There are now penalties for failure to surrender the license. Also there is now a show cause procedure prior to a hearing. It requires posting of the license. It also makes uniform the definition of mortgage bankers and brokers. **Vote 12-0.**

HB 1329, relative to the length of time consumer credit reporting agencies retain individual credit information. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: Current federal law sets standards to the retention of both positive and adverse credit information. Seven years is the current standard. The Fair Credit Reporting Act does address all that is contained in HB 1329 with one exception, bankruptcy. New Hampshire bankruptcy records retention law is currently 14 years. The federal law is now ten years. The bill has been amended to reduce the term to ten years. **Vote 12-0.**

HB 1330, relative to the investigation of disputed credit reporting items by consumer credit reporting agencies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This bill would require a consumer reporting agency to request from a creditor written documentation verifying information contained in a disputed credit item on a consumer report. The federal Fair and Accurate Transaction Act, effective December, 4, 2003, implemented new rules to provide notice to a consumer on whom the Credit Reporting Agency has reported or plans to report negative information. Notice to the consumer must be sent within 30 days. Disputes must be resolved within 30 days under our current New Hampshire law. The federal law says not more than 30 days. With information technology, investigations are generally completed within 5 days. The Federal Trade Commission has been directed to study the accuracy of consumer reports and report its initial funding by December 4, 2004 with a final report by December 4, 2005. Based on the foregoing, this legislation is not necessary. **Vote 12-0.**

HB 1374, relative to lightning protection systems. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald H. Flanders for Commerce: Although this bill appears to amend RSA 323:2 entirely, the only actual change to the law is to delete the reference to "underwriter laboratories" being required for approval of the installation of lightening protection equipment prior to the work being done. It allows any licensed installer to provide the service subject to the provisions of this chapter with equipment approved by the state which is not limited to only "underwriter laboratories" approved equipment but is approved by the state. **Vote 12-0.**

HB 1396, relative to implementing a bottle deposit program. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen B. Stepanek for Commerce: Between January 1967 and January 2000 33 different bottle bills were filed. Since 1967, our legislature has decided that New Hampshire did not need a bottle law. The sponsors of this bill were the only people speaking in favor of the bill, while a host of people spoke against it. The committee felt that the most compelling arguments against this bill were the fact that by putting a return deposit on bottles and cans we would be increasing the cost to the consumers while reducing the two most profitable waste streams of cities and towns (aluminum cans and P.E.T. plastic). Since these cans and bottles make up only a small percentage of the overall roadside waste, and since a majority of this small percentage are alcohol can and bottles (which would be discarded regardless of a deposit due to our very successful open container law) the committee voted for the 34th time to recommend ITL. **Vote 12-0.**

HB 1408-FN, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: At the present time, nonprofit organizations in New Hampshire must register with Charitable Trust Division of the Attorney General's Office and must file either an annual report or the IRS Form 990. This bill would have required nonprofits with revenues in excess of \$100,000 to also provide audited financial statements. The committee felt that this placed an unreasonable financial burden on small nonprofits and amended the bill to raise the threshold for requiring audited financial statements to nonprofits with annual revenues in excess of \$500,000. The bill also changes the three-year requirement of hospitals to report their community benefits to every five years. **Vote 12-0.**

HCR 24, urging the state to include individual development accounts in the Temporary Aid to Needy Families (TANF) program. **INEXPEDIENT TO LEGISLATE**

Rep. Matthew J. Quandt for Commerce: The resolution would urge the state to include individual development accounts in the Temporary Aid to Needy Families (TANF) program. The sponsor withdrew the bill to work on a more substantial piece of legislation for next session. **Vote 12-0.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1371-FN, prohibiting the sale or possession of pocket knives in safe school zones. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: The prime sponsor notified the committee that he was unable to attend the hearing and wanted to withdraw the bill. In addition all persons who signed the sign-up sheet were in opposition to this bill. **Vote 12-0.**

HR 21, reaffirming the death penalty. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill would urge the governor and attorney general to reaffirm the purpose and use of the death penalty in New Hampshire. No one appeared to speak in support. Regardless of anyone's individual beliefs concerning the death penalty, New Hampshire currently has a capital punishment statute and the committee unanimously felt it unnecessary to say that the law exists. **Vote 14-0.**

ENVIRONMENT AND AGRICULTURE

HB 1262, establishing a committee to study ways to encourage municipal recycling efforts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Emma L. Rous for Environment and Agriculture: This bill would establish a study committee to encourage municipal recycling efforts. The legislature has named recycling as its top priority for solid waste reduction, but the state's goal of a 40% recycling rate has stalled at 24%. Therefore, the committee seeks to study alternative and innovative means to raise recycling efforts in New Hampshire. **Vote 12-0.**

HB 1296, establishing a committee to study the transfer of authority for dairy product inspection to the department of agriculture, markets, and food and to study revising and updating RSA 184. **OUGHT TO PASS WITH AMENDMENT**

Rep. Derek Owen for Environment and Agriculture: This bill was amended, basically, to remove a few words – "Transfer" and "updating RSA 184." In order to make a more inclusive study the committee felt HB 1296, as amended, was still needed, even though dairy product inspection is working well. The study will help to clarify the process. **Vote 12-0.**

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter H. Allen for Environment and Agriculture: This bill is a housekeeping bill clarifying provisions in RSA 430 by minor technical changes. **Vote 12-0.**

SB 519, establishing a committee to study the establishment of a farm viability program. **OUGHT TO PASS**

Rep. Omer C. Ahern, Jr. for Environment and Agriculture: Agriculture in New Hampshire is at a critical crossroads. Development pressure and a rapidly changing farm economy are putting New Hampshire out of business, farm land at risk of being lost forever, and the loss of safe local food supplies. This bi-partisan legislation establishes a committee to study ways to build upon the New Hampshire tradition of land protection and pro-business policies to assist New Hampshire farmers, today and tomorrow, to study ways to maintain the viability of New Hampshire farm business. **Vote 12-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1306, relative to collective bargaining by state employees. **INEXPEDIENT TO LEGISLATE**

Rep. Joan H. Schulze for Executive Departments and Administration: The committee heard testimony that currently there are two groups that participate in state employees' collective bargaining. These are, state employees (SEA) and state troopers association. This bill, as presented, could lead to negotiating a contract with up to 33 different groups. Under current statute, a group can petition to negotiate separately. Furthermore, non-union workers would now be faced with having to organize in order to be represented at the negotiating table. The consensus of the committee was that the current system is working well. **Vote 13-1.**

HB 1418-FN, establishing a procedure for state employees to report suspected improper governmental activity. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: The intent of this bill is certainly noble to protect state employees who bring improper governmental action and to prevent the "gross waste of funds". However, the definitions of these items are vague at best. In addition, there were questions as to whether or not the attorney general's office would have the ability to fulfill the obligations under this bill. **Vote 15-0.**

HB 1419, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter E. Bergin for Executive Departments and Administration: Currently, only a licensed physician can prescribe drugs to be dispensed at a public health clinic. This bill will enable advanced registered nurse practitioners under written protocol at a public health clinic to prescribe from the formulary pursuant to RSA 326-B:10, II, which is approved by the department of

health and human services. In addition, the advanced registered nurse practitioner assumes supervisory responsibility for each registered nurse's activities and the specific names are mentioned. A written copy of the protocol showing the date it was approved by the department of health and human services will be required to be kept at the clinic at all times. **Vote 14-1.**

HB 1422, relative to qualifications for persons who negotiate on behalf of the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill, as amended, adds language to RSA 273 dictating that an individual negotiating on behalf of the state will not obtain anything of value for the private benefit of the negotiator or the negotiator's family. The amendment strikes language that would dictate that a negotiator be an attorney or state employee. By making this restriction, the committee felt that many good, qualified people could not negotiate for the state. **Vote 15-0.**

FINANCE

HB 369, relative to the Henniker and Hillsborough district courts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill as amended allows the Towns of Henniker and Hillsborough to negotiate with the State of New Hampshire through June 30, 2006 regarding the towns' level of participation in maintaining separate community courts. If the level of local participation rises to the point of reducing the state's expense to a level acceptable to the Department of Administrative Services, then individual courts will be allowed. If not, then court consolidation will take place. **Vote 18-0.**

HB 511, transferring authority over the New Hampshire hospital security force to the department of safety. **INEXPEDIENT TO LEGISLATE**

Rep. Robert L. Wheeler for Finance: The Commissioner of Health and Human Services has informed the committee that they are not ready to detail a budgetary transfer. He indicated that there was a reorganization bill in the Senate, so that ITL was appropriate for this bill, and the issue will be dealt with at a later time. **Vote 20-0.**

HB 651-FN, relative to the purchase of prior service credit by certain political subdivision employee members, and repealing certain provisions permitting additional contributions. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill deals with a problem that is created by the existence of voluntary contributions to a fund that is required to guarantee a return (currently 9%) in an economically depressed time. It is inappropriate for our retirement system to pay 9% on funds on deposit when it is not earning 9%. A solution is to eliminate voluntary contributions. However, we heard from people who are using voluntary contributions to make up for years of past service which they were ineligible to buy back. To resolve these issues the committee elected to 1) suspend voluntary contributions (but grandfather those currently held by the New Hampshire Retirement System) and 2) remove the 5-year time barrier to purchase past service. This seems to solve the problems and was unanimously favored by the committee. There is no fiscal impact to the general fund or the retirement system. **Vote 20-0.**

HB 1225-FN-A, making administrative changes to the historic agricultural structure matching grants program and making an appropriation to the barn preservation fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. Joseph E. Stone for Finance: HB 1225 makes administrative changes to the historic agriculture matching grants program. The appropriation to the barn preservation fund is removed. **Vote 20-0.**

HB 1266, relative to the long-term care ombudsman. **OUGHT TO PASS**

Rep. Fran Wendelboe for Finance: HB 1266 simply renames the Office of the Ombudsman to the Office of the Long Term Care Ombudsman. This name change was requested by the Department of Health and Human Services to raise awareness that the Ombudsman deals with long-term care, transfers language so the state law complies with the federal government and eliminates a requirement for two separate annual reports. There is no fiscal impact. **Vote 19-0.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 1426-FN, relative to testing for the human immunodeficiency virus. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janeen Dalrymple for Health, Human Services and Elderly Affairs: This bill will allow for HIV testing in a physicians office or other authorized testing, treatment and or diagnostic centers who are in accordance with all federal regulations; including those of confidentiality. The committee was very concerned about the rapid spread of HIV in this state and nation and the committee felt that a faster testing and results were very important and that is achieved with this bill. Test results under this bill are immediate whereas prior to this bill it could delay the test results by days. The committee felt that their concerns about confidentiality and testing process are covered by federal regulations. This bill also was entered because of a breakthrough of faster testing results now available. A secondary concern of the committee is a requirement in current administrative rules that prohibits the release of the results of a first HIV test until confirmatory test results become available. While this made sense in the past, the accuracy of the newer tests and the positive individuals as soon as possible makes this rule unnecessary and thus it should be repealed. As a committee and subcommittee we could find no reason for a cost to the state, as a matter of fact we see this as a long-term savings. **Vote 15-0.**

JUDICIARY

HB 1228, requiring legislative approval of changes in the uniform fine schedule. **OUGHT TO PASS WITH AMENDMENT**

Rep. Gregory M. Sorg for Judiciary: This bill would transfer authority to establish and amend a uniform schedule of court fines and administrative fees from the judicial to the legislative branch. The judicial branch favors this transfer because it no longer has the incentive to keep this schedule up to date that it had when a portion of the judicial branch was self-funded. Now that the judicial branch is funded solely by the legislature out of general state revenues, it makes sense that the legislature also have the authority to regulate the system of fines and administrative fees. The amendment clarifies that the existing fine schedule shall remain in force until such time as changed by the legislature. **Vote 12-1.**

HB 1302, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces. **OUGHT TO PASS WITH AMENDMENT**

Rep. Phyllis L. Woods for Judiciary: The committee was unanimous in its support of the concept of this bill which was to avoid any penalty or undue hardship on any servicemen and women who are called to active duty away from home who have a property rental lease. The subcommittee learned that this issue is covered in the federal law entitled the Soldiers' and Sailors' Civil Relief Act and incorporated reference to that law in this bill so we are not in conflict but merely codifying existing federal law. **Vote 14-0.**

HB 1321-FN, relative to claims before the state commission on human rights. **INEXPEDIENT TO LEGISLATE**

Rep. Robert H. Rowe for Judiciary: Currently the federal government is processing discrimination cases in housing. This bill would have allowed the State Human Rights Commission to adjudicate housing discrimination. Unfortunately, for our Human Rights Commissioner to be able to take over these claims we must have federal approval. The federal approval has not been received and the sponsor regretted that the bill be voted ITL at this time. **Vote 12-0.**

HB 1417, relative to examination of persons called as jurors in civil cases. **OUGHT TO PASS**

Rep. John Pratt for Judiciary: This bill is the result of a two year experiment allowing attorneys to examine prospective jurors in civil cases. A joint study committee oversaw the experiment and concluded that the experiment proved the worth of the program and recommended this legislation. **Vote 15-0.**

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 1335-L, relative to workers' compensation requirements for out-of-state employers doing business in New Hampshire. **OUGHT TO PASS WITH AMENDMENT**

Rep. Russell Bridle for Labor, Industrial and Rehabilitative Services: The bill as introduced would have required non-resident employers on job sites in New Hampshire to file a notice of compliance with the workers' compensation laws in their resident state with the town clerk where the jobs are located in New Hampshire. The bill was the result of certain problems perceived within the workers' compensation system. The committee amendment establishes a 13-member commission to study and identify any weaknesses in our current workers' compensation system and to consider methods of improving its efficacy and fairness. A report is due in November 2005. **Vote 15-2.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 1143, relative to legislators temporarily serving as county commissioners. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: This bill would allow a member of the House of Representatives to temporarily fill a vacancy in the office of county commissioner. A state representative presently acts as a legislative member of the county delegation. In that role, he/she votes on fiscal issues that deal with county government. As an acting temporary county commissioner, a legislator would be wearing two hats, one in a legislative capacity and the other in an executive capacity. The committee felt that an incompatibility of offices existed. To reinforce its position, the committee learned that a past chair of the Municipal and County Government Committee did, in fact, occupy both positions as legislator and acting county commissioner. The former member of the legislature felt that the offices were incompatible and as a result resigned from the legislature. **Vote 13-0.**

HB 1171, relative to official ballot voting on issuance of bonds or notes. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas J. Gillick for Municipal and County Government: Currently each municipality that adopts a charter determines how that municipality will run its local government. This bill would have required those municipalities to have a separate vote on each capital improvement project whether the charter allows it or not. The problem arose when a governing body aggregated three projects together for the sum of \$11,500,000, instead of listing the three projects separately. Since it is not constitutional to change any form of a charter without a vote of the people, the committee concluded that the matter properly resided in a change to the charter at the local level by specifying how capital improvements projects would be listed on the ballot. **Vote 15-0.**

HB 1172-L, relative to compensation of county convention members for county business. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: RSA 24:9-e currently allows for members of the county convention to receive not over \$25 per day plus mileage for attending their county convention meetings. This bill expands the circumstances when members may receive compensation by including any "official" county business attended to, discharged by or participated in county matters. The bill allows the county convention chair, as authorized by the county convention, to approve the

compensation to county convention members involved in the approved county business. The amendment replaces RSA 24:9-e which was last amended in 1965 and referenced compensation allowed to \$3 per day for attendance and \$.10 a mile for travel.

Vote 14-0.

HB 1211, relative to the expenditure of land use change tax revenues. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: This bill would allow towns to adopt a procedure for holding surplus land use change tax revenues in a non-lapsing fund for expenditure at annual meeting. The law now states that when land is taken out of current use, a land use change tax is imposed. This tax money is then placed in a land use change tax fund. Many towns and cities in the state have elected to place all or a part of these monies in a conservation fund to be used by the town's Conservation Commission. Any money not transferred to the conservation fund would then be available for use at the next annual meeting for any purpose not prohibited by the laws or by the constitution of this state. This bill would mandate that these surplus funds be held in a non-lapsing fund in the custody of the treasurer. This non-lapsing fund would not be required to address any particular purpose or method for the administering of these funds. The committee feels that if these surplus funds are not used by the legislative body at their annual meeting, then they should return to the general fund to help offset taxes. The bill also changes the procedure for adoption and rescision of the accounting of these funds. It removes some very necessary language as to how the question is posed to the voters to either adopt or rescind the procedure. **Vote 15-0.**

HB 1236-FN-L, relative to municipal use of impact fees. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas J. Gillick for Municipal and County Government: RSA 674:21 makes clear that "Impact Fees" can be and should be set up for and used for, and accounted for specific purposes, and that such funds should be segregated from general funds. This bill would repeal the restrictions on the use of impact fee money. The committee felt that this bill would so alter such provisions that this would essentially create another form of taxation. **Vote 12-0.**

HB 1272, relative to allowing towns to have an official ballot vote on the issuance of specific bonds or notes. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: Currently there are established practices to place or not place a bond article on the ballot. This bill would have allowed any town to put a bond question on the official ballot regardless of its form of government. Also the passage of the bond question was an automatic 3/5 votes instead of the current 2/3 vote without a vote of any municipality. The Committee felt that there were already three ways to bring about what the sponsor intended – adopt a charter with the provision, go through a charter change through the established procedure or adopt the SB2 form of government. Even though this bill would have been enabling, the committee concluded that this type of change should involve the decision making of the local community, not an edict from the State. **Vote 15-0.**

HB 1291-L, relative to elderly and handicapped priority low-income housing. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: The intent of this bill is to give priority placement to the elderly and handicapped in low-income housing. The committee agrees with the sponsor that this bill affects federal regulation. There are problems with housing for the elderly and the handicapped, which need to be addressed. The committee supports the sponsor's request to find this bill inexpedient to legislate so that the issue may be addressed by the sponsor in another way. **Vote 12-0.**

HB 1301, relative to extensions to the intent to cut. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert W. Brundige for Municipal and County Government: The procedures and dates regarding the Notice of Intent to Cut Wood or Timber are dealt with in this bill. Currently there is no penalty for not filing Intent to Cut prior to commencing a logging operation. The amendment make it a violation if the owner or logger does not obtain an original intent to cut or an approved supplemental Intent to Cut when the amount of timber that has been cut exceeds the original notice of intent to cut. The current law in RSA 79:11 requires that the social security number of the owner be included in the information of the Report of Wood or Timber Cut. The amendment eliminates this requirement. The report of cut filing dates has been changed from April 15 to May 15 and the date that assessing officials have to report the assessed yield taxes to the Department of Revenue Administration has been changed from May 15 to June 15. These date changes are more reflective of the needs of the logging community. After two subcommittee sessions with the stakeholders all agreed that this amendment was appropriate. **Vote 14-0.**

HB 1317-FN-L, requiring cities and towns to complete valuations of property and relative to the implementation of property tax hardship relief provisions. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: This bill first came to the committee with two parts and was lacking reference to a particular statute. The prime sponsor recognized the defects in the bill during testimony and submitted an amendment. The amendment made some changes to the first part of the bill that deals with property assessment and removed the second part of the original bill dealing with the implementation of property tax hardship relief. The committee certainly agrees with the sponsor that some form of penalty needs to be levied on municipalities that will not complete their required property assessment. The original bill proposed to restrict the distribution of the adequate education grant if a municipality failed to follow the requirements. The amendment requires the attorney general to prosecute "a municipal official" for a Class A misdemeanor if he or she fails to comply with the property assessment review. The committee was very involved in the assessment issues last year, during which a 4-year moratorium on assessment was established. Guidelines were set up to assist the municipalities in reaching their goals set out in statute and the New Hampshire Constitution Part II, Article 6. The

committee feels that the best method of approach to the issue is to give the municipalities and the Department of Revenue Administration this moratorium period to establish baseline data for each town or city. If after this period a municipality fails to meet the requirements that will be established, that community will be subject to an adopted penalty. **Vote 12-0.**

HB 1328, requiring the development of a plan for the elimination of county government by the year 2011. **INEXPEDIENT TO LEGISLATE**

Rep. Robert W. Brundige for Municipal and County Government: This bill requires various state agencies and the judiciary to develop a plan for the transfer of county functions to state government. The plans shall be submitted by Oct 1, 2006 for proposals on implementation by the legislature by 2011. This bill would start the process of eliminating county government. Much testimony was received outlining the benefits of maintaining county government citing the efficiency of the counties as they are presently operating and the benefits of local control and the professionalism of the county employees. The committee agreed the present county system is working well and should be allowed to continue. An amendment was offered also establishing a county study committee with an earlier reporting date. This amendment was also rejected by the committee. Testimony was received that approximately 15 bills to study or eliminate county government have been submitted to the Legislature in the last 30 years. An Interim Study of HB 681, regarding how county appropriations are calculated is already in process. **Vote 14-0.**

HB 1395, relative to representation by the county attorney in county matters. **INEXPEDIENT TO LEGISLATE**

Rep. Dudley D. Dumaine for Municipal and County Government: During the course of this hearing there was testimony regarding a change that occurred last session dealing with statutes relating to the duties of the County Attorney (RSA 7:34) and the duties of the County Commissioners (RSA 29-A:2) regarding the use of legal services at the county level. There was a difference of opinion within the Hillsborough County Delegation about the constitutionality of those changes and the manner in which those changes took place – through the trailer bill, HB 4. The committee did not hear any convincing testimony to support the concerns of some of the Hillsborough County Delegation and concluded that this legislation was unnecessary. The testimony showed that the Hillsborough County controversy has been successfully worked out by the majority of the Delegation. **Vote 14-0.**

HB 1405-L, relative to requiring municipalities to use official ballot voting procedures for bond issues. **INEXPEDIENT TO LEGISLATE**

Rep. Kenneth H. Gould for Municipal and County Government: This bill would require all municipalities and school districts to vote bond issue questions by the official ballot procedures in accordance with RSA 40:13, also known as SB2, even though such a municipality or school district had not adopted those procedures. Also a 3/5 vote, instead of the 2/3 vote, for all notes and bonds would automatically be in effect with no input from the municipalities or school districts. The committee also concluded that Part I, Article 39, which deals with changes in the form of government of any town or city, would be violated. **Vote 15-0.**

RESOURCES, RECREATION AND DEVELOPMENT

HB 1131, requiring the department of environmental services to study the cost effectiveness of programs to control exotic aquatic weeds and to examine alternatives. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard T. Cooney for Resources, Recreation and Development: This bill, as amended, establishes a statutory study committee to study the spread, control, and elimination of exotic aquatic weeds and species. This problem has been growing at any alarming rate despite several initiatives made by this legislature in recent years. The boat registration fee was increased by \$3 to help fund this program and the Department of Environmental Services (DES) has recently been awarded \$1 Million from the Federal Government to help this program. This study committee will serve to oversee the department in the use of these funds. It will also serve as a legislative focal point for constituent concerns in this area. **Vote 12-0.**

HB 1136, relative to homeowner exemptions from certain environmental permitting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Ruth Z. Bleyler for Resources, Recreation and Development: This bill as amended allows a property owner to delineate wetlands on their primary residence providing rules adopted by the Department of Environmental Services (DES) are followed. The bill outlines qualifications for wetlands scientists and allows practical field experiences to replace certain education requirements for certification. **Vote 14-0.**

HB 1138, establishing a Nash Stream forest citizens committee. **OUGHT TO PASS WITH AMENDMENT**

Rep. David M. Lawton for Resources, Recreation and Development: This bill will establish a Nash Stream forest citizens committee which will provide oversight and advisory opinions regarding the 39,601 acre Nash Stream forest conservation easement. The proposed 13-member committee will continue the work of the Nash Stream citizen advisory committee with the majority of the members of the new committee being residents of communities in the Great North Woods. The committee amendment resolves an oversight in the Connecticut Lakes Headwaters Tract Natural Areas acquisition of 2003. It authorizes the executive director of the Fish and Game Department to manage the leasing of the three existing seasonal camp lots within the 25,000 acre natural area. **Vote 14-0.**

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kevin L. Camm for Resources, Recreation and Development: Presently there is not a definition of a wetland in statute.

This bill as amended, defines a wetland. The definition will provide uniformity on the issue throughout the state. This definition conforms with the US Army Corps of Engineers 1987 manual and current DES wetland rules. **Vote 14-0.**

SB 496, relative to the definition of snow traveling vehicle. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harry C. Merrow for Resources, Recreation and Development: This bill as amended, defines snow traveling vehicle and by definition, limits the size of vehicles allowed on public snowmobile trails. Only vehicles that are no more than 54 inches in width and no more than 1200 pounds will be allowed. **Vote 14-0.**

SCIENCE, TECHNOLOGY AND ENERGY

HB 1221, establishing a committee to study repealing universal service telephone charges. **OUGHT TO PASS WITH AMENDMENT**

Rep. Lawrence C. Ross for Science, Technology and Energy: Less than half of the monies collected by telephone providers through the Universal Service Funding (USF) are returned to the state of New Hampshire for program purposes such as telecommunication services for schools and libraries, high cost rural areas, low income customers, and rural health care providers. This bill urges the Telecommunications Oversight Committee to study the reason for the net loss of USF funds and to identify viable ways of remedying the situation. **Vote 11-0.**

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. **OUGHT TO PASS WITH AMENDMENT**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill would establish a public interest payphone fund. Money for this fund would come from abandoned telephone deposits returned from telephone companies operating in the state, and deposited in this fund. The Public Utilities Commission (PUC) could then make payment of fair compensation from the fund to providers of payphones that have been designated by the commission as public interest payphones, where such providers are required to maintain the payphones. **Vote 9-2.**

HB 1390, relative to MTBE. **REFER FOR INTERIM STUDY**

Rep. Robert E. Introne for Science, Technology and Energy: This bill seeks to phase out MtBE as a gasoline additive in New Hampshire. The Environmental Protection Agency (EPA) required New Hampshire to use MtBE as a fuel additive as part of the Clean Air Act in early 1990. The NH Department of Environmental Services (NHDES) currently has a request before the EPA to opt-out of this requirement and a favorable decision is expected by mid-year. The federal government is also considering "New Hampshire specific" opt-out rules. A parallel SB 397 enhances the position of this bill by establishing standards and guidelines for air emissions of certain consumer products. The committee intends to incorporate the eventual banning of MtBE, included in this bill, into SB 397. **Vote 13-0.**

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

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. **INEXPEDIENT TO LEGISLATE**

Rep. Lawrence J. Guay for State-Federal Relations and Veterans Affairs: The committee felt that a legislative study committee to study the federal income tax and to investigate the Sixteenth Amendment to the U.S. Constitution can not properly obtain an objective that would be in the state of New Hampshire's best interest. Also private records of New Hampshire citizens could be made public in certain situations and the committee felt that a study of these issues is unnecessary. **Vote 11-0.**

HB 1245, nullifying the Sixteenth amendment to the United States Constitution. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy E. Easson for State-Federal Relations and Veterans Affairs: The committee believes that a House Resolution or House Concurrent Resolution would be a more appropriate vehicle for this legislation. **Vote 11-0.**

HB 1246, nullifying the USA Patriot Act. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy E. Easson for State-Federal Relations and Veterans Affairs: This bill calls for the nullification of the "USA Patriot Act". The committee believes the legislature does not have this power. Also, a House Resolution or House Concurrent Resolution would be a more appropriate vehicle for this legislation. **Vote 12-0.**

HB 1372, defining certain terms relating to military service. **OUGHT TO PASS WITH AMENDMENT**

Rep. Ken Hawkins for State-Federal Relations and Veterans Affairs: This bill defines the term "veteran" and who qualifies to be a "veteran." It also includes the document names that may be used to establish an individuals discharge status. Only persons discharged under the honorable discharge or a service connected disability will qualify for veteran status. **Vote 11-0.**

HCR 20, affirming civil rights and liberties and opposing federal measures that infringe on such rights and liberties. **INEXPEDIENT TO LEGISLATE**

Rep. Cynthia P. Sweeney for State-Federal Relations and Veterans Affairs: While the committee feels that this bill raises important questions regarding the Patriot Act, we agree that this is not the proper vehicle for voicing those concerns. **Vote 11-0.**

HCR 21, urging the reduction of the federal gasoline and diesel fuel excise tax. **INEXPEDIENT TO LEGISLATE**

Rep. Peter M. Sullivan for State-Federal Relations and Veterans Affairs: While the sponsor's concerns about construction delay caused by federal environmental regulations are understandable, the course of action proposed by this resolution would not

solve the problem. The state of New Hampshire would still be subject to EPA jurisdiction under the proposed plans and existing limitations on the use of gas tax revenues could endanger proposed plans to return passenger rail service to southern New Hampshire. In addition, the Commissioner of Transportation testified that the department opposes this resolution. **Vote 11-0.**

TRANSPORTATION

HB 1128, relative to motor vehicle dealer registrations. **INEXPEDIENT TO LEGISLATE**

Rep. Brenda L. Ferland for Transportation: This bill would modify the square footage needed to apply for an application for a retail vehicle dealership. Current law provides that the building must be at least 1,200 contiguous square feet for storing and displaying of vehicles. An automobile is a big investment and many people buy used ones. This bill would have eliminated one more form of consumer protection from purchasing a "lemon". The state issues dealer plates and many people assume dealer plates have been sanctioned by the Division of Motor Vehicles and dealers are above board. There are few regulations in the used car business. Current law helps to let you know a dealer is serious to make a sufficient business investment in a showroom and have some means of providing service and not run out at the first sign of fraud. Current law does not prohibit small dealerships from setting up as long as they are following state and local laws. The many attempts to eliminate the 1200 contiguous square feet is met with opposition from the Department of Motor Vehicles. **Vote 12-0.**

HB 1276-FN, establishing Bronze Star and Silver Star number plates. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert J. Letourneau for Transportation: The original intent of this bill was to establish a special plate for veterans who have won Bronze and Silver Star medals. The committee is not opposed to that idea, but would like to utilize the current veteran license plate. The amendment would allow the committee to study the possibility of using stickers on the current veterans plates without the need to create a new plate issuance. The amendment allows for veterans of WW II who fought for the allies that are New Hampshire residents to qualify with proper discharge for veteran plates. **Vote 12-0.**

THURSDAY, MARCH 11 REGULAR CALENDAR

COMMERCE

HB 1224, establishing the Uniform Trust Code in New Hampshire. **OUGHT TO PASS WITH AMENDMENT**

Rep. Tara G. Reardon for Commerce: This bill is modeled after The Uniform Trust Code and provides New Hampshire with a comprehensive land consistent framework of trust laws. The bill is a result of an intense yearlong study by representatives of the legal community, banking industry; the Attorney General's Office-Charitable Trust Division and the Probate Court. The statutory framework will reduce legal fees and questions of interpretation, and makes New Hampshire an appealing domicile for trusts to be located. **Vote 12-0.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1289-FN-L, relative to drug-free senior housing zones. **INEXPEDIENT TO LEGISLATE**

Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: Those who appeared before the committee in support were frightened because individuals came in and out of the housing units at all hours of the night. The Federal agency requires that the elderly, and the young disabled live in the same units. The committee felt this was a local problem and should be taken care of by the housing authority. They could hire their own security so that the people could feel secure in their own home. We feel that the housing authority should address this issue. One method is for the town to adopt by-laws establishing, as a drug-free zone, any area inclusive of public housing authority property and within 1,000 feet of such public housing authority property as allowed under RSA 31:41-e passed in the 1991 session and effective Jan. 1, 1992. This bill is not necessary. **Vote 13-3.**

JUDICIARY

HB 1134, relative to appointment of the chief justice of the supreme court. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. James E. Wheeler for the **Majority** of Judiciary: This bill is a change to a statute passed by this legislature made in the aftermath of the impeachment proceedings of 2000. The committee believes that the governor and council should appoint the chief justice of the Supreme Court. The current law provides that the most senior justice shall automatically become the chief for a five-year term. This bill leaves intact the five-year term, but returns to the governor and council the power to appoint the chief. We are of the opinion that the chief position is such an important managerial position that it should not be left to seniority as the sole qualification. As a matter of public policy, we think the governor and council is best suited to determine the most suitable justice for the position of Chief Justice. We therefore think this bill as amended ought to pass. **Vote 8-7.**

Rep. Alf E. Jacobson for the **Minority** of Judiciary: Two years ago the General Court approved a change in the appointment of the Chief Justice of the Supreme Court to a succession system beginning with the senior justice in terms of time served. The

present chief justice has now served less than two months. The Governor and Council have objected to the current law and have gone to court to seek to set aside current law as unconstitutional. It would seem reasonable that the General Court should wait until a decision comes from the Supreme Court on the question of constitutionality.

HB 1142, relative to tort liability to third persons for oil spills. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Robert H. Rowe for the **Majority** of Judiciary: This bill amends section 10 of New Hampshire RSA 146-A, a statute that is designed to expedite the clean up of oil spills that pollute the ground, ground water, streams and lakes of New Hampshire and encourage preventive measures. The statute refers to two forms of damages; section 3 requires the person, irrespective of fault, that caused the spill to bear the clean-up costs of removing the oil or contaminated earth; section 10 of the statute requires that a person who negligently or intentionally causes an oil spill that damages the property of another to pay damages in the amount of 1 ½ of the actual consequential damages. Example of damages to the private property owner could be the cost of the temporary loss of the use of the property, lost crops, having to relocate from the property, having to dig a new well, purchase bottled water or the loss of income from a temporary closure of a business. For the purpose of encouraging settlement and to insure the damaged property owner is made whole, the legislature authorized enhanced damages amount of 1 ½ actual damages. The legislature reasoned that enhanced damages would allow the injured property owner to be made whole as well as allowing the recovery of attorney's fees and costs. The bill before the committee would reduce the damages from 1 ½ damages to actual damages. While New Hampshire does not have a policy of punitive damages there are specific statutes that allow enhanced damages such as in the Consumer Protection Law and for the cutting of timber on another owners land. To date, the current law seems to be successful in protecting the environment and private property from oil spill damage as there are fewer incidents of oil spills. **Vote 9-7.**

Rep. Tony F. Soltani for the **Minority** of Judiciary: This bill was originally reported ought to pass by the Judiciary Committee and subsequently recommitted. It is important that nothing in the text of the bill has been changed, nor have any new facts come to light since the original passage of this bill. The committee simply took another vote on the same unamended bill. This bill sought to bring uniformity to New Hampshire laws which explicitly prohibit punitive damages. The existing law provides for a 150 percent windfall for victims of pollution without any heightened state of mind. The defendant need not act purposely, knowingly, or even recklessly to be one and one-half times liable to the victim. This is an aberration within our law. The proponents claim that this windfall is necessary in order to facilitate quick settlements and to ensure compliance with the law. These arguments are faulty since there are severe penalties payable to the state for such violations and New Hampshire public policy does not provide windfalls to victims of torts as a method of deterrence. Similarly we have not adopted a "loser pays" system. This latest logic would then be applicable to all strict liability and negligence torts. Under this theory victims of all torts should enjoy a 150 percent windfall for their damages to include auto accidents, slips and falls, dog bites, products liability, and of course, medical and legal malpractice actions. Victims of intentional torts, by this logic, should receive at least 200-300 percent windfall. This class would include victims of assaults, batteries, intentional infliction of emotional distress and sexual harassment. This reasoning is flawed and would devastate our commerce and economy while enriching a few at the expense of the public. It should also be noted that a motion to reconsider this vote failed in committee with a vote of 9-9.

HB 1177-FN, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Phyllis L. Woods for the **Majority** of Judiciary: The committee heard many hours of testimony on this bill which requires the Division of Vital Records Administration to compile and maintain induced termination of pregnancy statistics and stipulates that only a physician licensed to practice medicine may perform abortions. New Hampshire is one of only three states that does not currently compile statistical information on induced termination of pregnancy. The majority of the committee agreed that it was desirable that we gather this data as long as we could assure the anonymity and absolute confidentiality of the information. Although protections are already in place to assure confidentiality of sensitive information compiled by the Division, an amendment was drafted to address the committee's concerns which put into place additional safeguards to protect the identity of the woman, the doctor, and the facility from being disclosed. These included a separate database which will be kept on a stand alone personal computer, which is not connected to any network, and maintained by only one employee selected by the director, and the use of code numbers for facilities and medical providers. A form was developed by the Division of Vital Records Administration based on the US Standard Report of Induced Termination of Pregnancy Forms, which is compiled from forms used by other states. The forms will be used to collect data, as in forty-seven other states, that will be useful in formulating public information programs for women identified to be at high risk for unintended pregnancy and to evaluate the effectiveness of family planning programs and methods of contraception. CDC's Center for Reproductive Health has recommended that this data could be used additionally to calculate pregnancy rates, in conjunction with births and fetal deaths, and to monitor trends in the number, rate, and ratio of abortion, type of procedures used, and gestational age at time of abortion. This information is crucial in planning effective programs to help women prevent unintended pregnancies in and addressing other health concerns. In *Planned Parenthood v. Casey*, the US Supreme Court agreed that, "The collection of information with respect to actual patients is a vital element of medical research..." The second provision of this bill added a

section to our current laws relating to the practice of medicine and licensing of physicians and surgeons. It says simply that no one shall perform an abortion unless they are licensed to practice medicine. The committee was surprised to hear during the public hearing on this bill that nurses are doing abortions in New Hampshire. This is not within their scope of practice and is not allowed by law. The majority of the committee believes that if the Board of Nursing wants to legally do abortions in New Hampshire that they should propose enabling legislation that will address this issue. The Vice President of the Executive Board of the NH Medical Society testified before the committee that their position is the same as the American Medical Association; abortion is a surgical procedure that should be done by physicians only. This is the law in forty-five other states which regulate this practice. The majority of the committee believes that the women of New Hampshire deserve the same protection and that their health and safety should not be put at risk by having someone other than a doctor doing abortions, operating, or performing surgery on them for the sake of convenience or expediency. **Vote 11-7.**

Rep. Bette R. Lasky for the **Minority** of Judiciary: This bill as originally presented was to require the Department of Health and Human Services to compile and maintain induced termination of pregnancy statistics. The minority of the Judiciary Committee was amenable to the collection of limited health statistics regarding abortion, but urged collection be done in an aggregate format to ensure that no individualized patient or provider information could be released to the public at large. We have strong objections to the final bill as amended with the invasive and comprehensive nature of the personal health information to be collected. The reporting form endorsed by the majority seeks information far beyond what is typically collected in other states for the compilation of such statistics. Further, and of utmost importance, we urged greater efforts be made to protect the anonymity of the health care professionals who legally perform abortions in our state. Ultimately, we conclude that necessary concerns for patient privacy and the safety of providers are not sufficiently addressed in this bill as amended. In addition, the minority does not believe that the scope of health care professional practice regarding abortion care belongs in the Judiciary Committee. Though the bill now restricts the role of advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) in providing abortion care, there was no evidence presented of patient safety concerns or lack of competency on the part of providers currently offering these services in New Hampshire. In fact, a written statement was submitted by the NH Board of Nursing affirming that appropriately trained ARNPs are “well within their scope of practice to perform these procedures.” In addition, a review of records showed no negative complaints or negative outcomes brought before the Board. Testimony at the hearing from health care organizations performing abortions here in New Hampshire clarified that ARNPs and PAs currently providing abortion care are working under the supervision of physicians. Given that the sponsors of this added restriction never proposed to limit ARNP and PA practice for other similarly invasive gynecological procedures currently performed in the state, we can only reasonably conclude that the motive behind this restriction is not the welfare and safety of patients, but the further erosion of access to otherwise qualified abortion care providers. Furthermore, this decision to include the amendment limiting their scope of practice without a new hearing solely on this matter is, in the minority opinion, too specific a matter for the scope and knowledge of the Judiciary Committee. Passage of this bill as amended is not worthy of the usual comprehensive and quality work of this committee and, worse still, compromises the safety and privacy of patients and abortion providers.

HB 1295, relative to the right-to-know law. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Wheeler for Judiciary: After the public hearing the committee did not appear to be in support of the bill as presented. However, the chairman brought to our attention a problem that he thought could be addressed on this bill. We subsequently had a public hearing on an amendment that replaced the bill with a prohibition on sealing settlement records in suits brought against a governmental agency. The committee believes that the bill, as amended, fixes a very important problem in the “Right to Know” law. Currently, towns or cities have a confidentiality provision in settlement agreements and the people that pay the bill (the taxpayer) can never discover the cost to the taxpayer. We believe as a matter of public policy that the public has a right to know, when their money is being spent, directly or indirectly, whether by their insurance company or not and the circumstances relative to that public taxpayer expenditure. We therefore think this bill as amended ought to pass.

Vote 15-0.

HB 1309, relative to noise pollution from shooting ranges. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. James E. Wheeler for the **Majority** of Judiciary: Safe shooting ranges within the state are essential to providing places for the training of law enforcement personnel, firearms safety programs for youths, competitive shooting, hunter safety training, self defense training for citizens – all in a safe affordable shooting environment. Further, whereas Part I, Article 2-a of our New Hampshire Constitution states that “all persons have the right to keep and bear arms in defense of themselves, their families, their property and the state” does it not make common sense that suitable training facilities should be available in guaranteeing the furtherance of that constitutional right? The minority will argue that this is a local control issue but because the state has a compelling interest in serving ALL citizens and since the legislature has repeatedly rejected the home rule concept, the argument of “local control” is really null and void. There is no doubt that shooting ranges serve a vital public interest. The committee heard testimony that several shooting ranges in the state have been taken to court, costing them tens of thousands of dollars, almost forcing them out of existence. This bill, as amended, will strengthen and clarify our states existing range protection law. The amendment makes clear that rules cannot be retroactively changed on the shooting range after they have

begun operation or when the shooting range preexisted the regulation. This bill as amended does nothing to interfere with a localities ability to regulate a new shooting range. This bill will protect public safety by ensuring that all citizens still have a safe place to train. **Vote 12-6.**

Rep. Bette R. Lasky for the **Minority** of Judiciary: This bill as amended seeks to exempt shooting ranges and their owners and operators, now in operation, from being subject to civil liability or criminal prosecution in any matter relating to any nuisance including noise or noise pollution. Further, it “grandfathers” existing ranges from compliance with any state or local administrative rule, statute or ordinance. It also allows owners of a shooting range to bypass local land use boards and controls and proceed directly to Superior Court to enforce these immunities. No other parties are granted this advantage. The majority has attempted to characterize this as a “pro-gun” or “anti-gun” bill. That is not so. The minority believes in the value of shooting ranges both as a means of recreation and as a useful tool to train and educate people about gun use. What the minority does object to is that this bill attempts to solve a problem that does not exist. There was evidence of one range in Hollis that is involved in an ongoing law suit, but there is scant real evidence that existing ranges and their neighbors are not now peacefully coexisting. The minority believes the law now protects law abiding shooting ranges from nuisance complaints as is proper. However, this bill as amended upsets the balance between the rights of shooting ranges and homeowners and that these rights are better preserved through local control.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 1278-FN-LOCAL, relative to the applicable minimum wage for hourly employees. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Paul Harrington for the **Majority** of Labor, Industrial and Rehabilitative Services: The committee heard conflicting testimony concerning an increase in the minimum wage. There was compelling evidence that the federally mandated minimum, which applies now in New Hampshire, falls far short of what many define to be a “livable wage”. In addition, the fact that recipients of the minimum wage are often recipients of financial support from a number of state welfare programs implies that taxpayers are, in effect, supporting businesses which pay minimum wage. On the other hand, many researchers, including the Federal Reserve Board, have found that an increase in the minimum wage increases unemployment and/or may result in a loss of benefits to low wage employees. In fact, if anything, there seems to be an inverse relationship between raising the minimum wage and poverty due to the effect of unemployment. Beneficiaries of an increase in the minimum wage are often teenagers from wealthy families who are not in poverty to begin with. The Employment Policy Institute estimates that only a small percentage of minimum wage recipients, 13%, were single parents with kids or single earners in a couple with kids. A state earned income tax credit is a preferable means of helping those in need, but since New Hampshire has no income tax, this is not possible. A general increase in the minimum wage at a time when the state is at the beginning of an economic recovery which some describe as jobless seems ill advised. Some argue that an increase in the minimum wage in 1990 contributed to the economic downturn which followed. **Vote 10-9.**

Rep. Edgar Mears for the **Minority** of Labor, Industrial and Rehabilitative Services: The minority believes it is time for New Hampshire to reach the minimum wage levels of the rest of the New England states; Connecticut pays \$7.10, Massachusetts pays \$6.75, Vermont pays \$6.75 and Maine pays \$6.25 and Rhode Island pay \$6.15. No opposition from the greater business community was presented at either of the two public hearings. Public testimony focused on the need to raise the wage so that people who put in their full day of work get a fair day’s pay for their work. The bill came out of sub-committee without a recommendation and the minority was unable to offer the amendments to the full committee. The minority recommends ought to pass with the floor amendment to raise the New Hampshire minimum wage to \$6.00 per hour and to study the issues relative to minimum wage. This amendment simply brings the New Hampshire minimum wage closer to the rest of the New England region

MUNICIPAL AND COUNTY GOVERNMENT

HB 1181, relative to certain deliberative session amendment procedures in official ballot voting. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill would limit amendments of proposed budgets or proposed bonds, whether the municipality has voted to implement the municipal budget act or not, to no more then 10% of the proposed amount in an official ballot form of government (SB2). Currently if a municipality has opted to be a municipal budget town the 10% rule already applies. The intent of the bill was to limit the increase/decrease of amendments made during the deliberative session. The committee feels strongly that the deliberative session is where the voters in a SB2 town can and do amend the budget. Voters need to attend the deliberative session to make their wishes known. The majority of the committee agreed that there are times at a deliberative session when new information is provided that may require amendments to budget or bond articles of more than 10%. **Vote 9-2.**

HB 1256, relative to a buddy system for firefighters. **INEXPEDIENT TO LEGISLATE**

Rep. Dudley D. Dumaine for Municipal and County Government: The original bill would have encouraged municipalities to adopt the “buddy system” of 2 firefighters in a burning building – 2 firefighters outside the burning building for all their fire

departments. The testimony given emphasized that this system was already being taught at the Fire Standards and Training Academy. There was concern that this legislation could be interpreted as being an unfunded mandate. The majority concluded that government should never legislate the life and death decisions that can only be made by those qualified firefighters who respond and place their lives on the line for those of us who may be the victim of a fire. All fire fighters must be allowed to do their jobs without having to determine first if a statute is being violated because of his or her actions in an emergency situation.

Vote 10-3.

HB 1375, relative to powers of conservation commissions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.**

Rep. David L. Buhlman for the **Majority** of Municipal and County Government: The local legislative body in a municipality currently can determine where and to what percentage of the land use change tax is accounted for, either in the conservation fund or the general fund. This bill would allow for certain “qualified organizations” which are defined in section 170(h)(3) of the Internal Revenue Code and are commonly established as private land trusts. The key difference between this procedure and the way conservation commissions now acquire land is that the commissions could make donations to the private land trust without keeping any interest in, or control over, the land acquired with public money “even though benefits to private parties may result” which the committee felt may violate our Constitution. The majority of the committee felt that this revision to current law would not be in the best interest of the municipalities because it is vital that municipalities retain an interest in any land purchased with public funds. There was also concern that linking state laws to the IRS Code could result in unintended consequences because the code is complex and the state has no control over revisions made by Congress. **Vote 9-6.**

Rep. Nancy K. Johnson for the **Minority** of Municipal and County Government: This bill is important and should be referred to Interim Study. There remains a question that troubled some on the committee about the relationship between municipal expenditures and nonprofit organizations that the minority believes can be resolved. Many of our communities rely upon the expertise of land trusts to help with the conservation of town land. In some instances having land trusts hold easements on land is a practical necessity – for example when a property is located in two towns. Attorneys advising towns disagree on the interpretation of current laws and constitutional issues, leaving towns vulnerable to lawsuits. This bill, if refined, will help to eliminate ambiguities and weaknesses in the statutes and would assure that municipalities follow constitutional procedures when approving funds for such projects. The minority believes this issue should be studied further.

HB 1398-FN-L, relative to relief and maintenance provided to certain non-residents. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David L. Buhlman for the **Majority** of Municipal and County Government: The practice of asking for reimbursement from one municipality by another municipality when the costs are associated with providing general welfare assistance to New Hampshire’s needy is currently informally practiced by the welfare directors association’s standing “gentlemen’s agreement” that consists of communication and cooperation among the municipalities. Based on the testimony this agreement has been working well, except in a few cases. HB 1398 proposed to codify this agreement and to clarify the definition of “residency”. The majority of the committee felt that this definition could result in a violation of the New Hampshire Constitution in Part 1, Article 28-a. This definition could open the practice up to requiring the municipality of most recent residency to cover the first month’s costs of a person that may not have ever requested assistance from that municipality. **Vote 7-5.**

Rep. Nancy K. Johnson for the **Minority** of Municipal and County Government: This bill was the result of a two-year study of the committee’s work. Currently under RSA 165:1 municipalities have the legal obligation to provide general assistance to residents. This bill simply defines residency for the purpose of welfare assistance. The bill does not affect the obligation of a municipality to relieve and maintain non-residents but does clarify that the assisting municipality may recover from the municipality of most recent residency. In addition, the bill clarifies how the residency is determined. According to testimony, practice of recovery from municipality of residency is standard practice. The minority does not believe this is a 28-a issue .

PUBLIC WORKS AND HIGHWAYS

HB 2004-FN-L, relative to the state 10-year transportation improvement program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Chris S. Malloy for the **Majority** of Public Works and Highways: The committee, after hearing two weeks of testimony from the Department of Transportation, regional planning committees, members of town governing boards, mayors and police chiefs, submits this plan as the best plan given our funding circumstances. This bill gives first priority to bridges and roads that need it most. The committee recognizes the need to increase funding for the Ten-Year Plan if we want to continue the same level of construction we have had in the past. Included in this legislation is a study committee to address the issue of funding for the future. The regional planning agencies have been working with local officials since early 2002, developing the details for this legislation. The Department of Transportation received the plan next, and refined it for the Governor’s Advisory Commission on Intermodal Transportation (GACIT). GACIT members held twenty-one hearings around the state, presenting the plan to the public for input. In December, GACIT presented its report to the Governor. The Governor presented this report to the House in mid-January. Our committee used the GACIT report as a template and added some important projects from the Governor’s plan. All of the plans had similar projects; the largest difference was the bottom line. This process is important and

it involves input from local officials. The committee felt that it was important to keep the plan as close as possible to the former Ten-Year Plan for project inclusion. We are well aware that the funding is less than the project costs. In the last two-year cycle, only three of the planning agencies submitted new plans because they were aware of the funding shortfall. The committee feels that it is better to ask the planning agencies to refrain from adding new projects, as they did last year, rather than removing already listed projects. All of the planning agencies testifying agreed with this policy. The Department of Transportation testified that within four years, the Ten-Year Plan presented here would be in balance – projects to funding. This bill also amends RSA 237:2, authorizing bonding authority for the turnpikes. This is necessary to keep pace with additional costs due to time. Some of these projects have been in process for years and many will not even be completed for years to come. This authority only authorizes the issuance of bonds for projects within the Ten-Year Plan. No monies will be expended solely by RSA 237:2 because it is necessary to have a project in the Ten-Year Plan for funding. RSA 237:2 was last amended in 1998, and now, with this amendment, the bonding for the turnpikes will be able to be completed as necessary in the future. Some work will be done by the study committee established under this legislation, trying to combine RSA 237:2, RSA 228:94 and RSA 240 process in the future of the Ten-Year Plan (RSA 228:99 and RSA 240, the Ten-Year Plan). **Vote 16-1..**

Rep. William E. Leber for the **Minority** of Public Works and Highways: The biggest problem with this Ten-Year Transportation Plan is that it is not ten years. It is not realistic to expect the projects to be completed in ten years yet the projects have dates of completion of 2014 or earlier. The reality is it will be 2016 or 2018, or later for many projects in this plan to be completed. The standing joke of the Ten-Year plan is that it is 18 or 20-Year plan. Frustration by communities and our constituents when the project is not completed when scheduled is getting greater each year. We do a disservice to our citizens by adopting an exaggerated plan that we know has no chance of completion with the current, or projected funding situation. The federal aid level is a moving target and our state funds are not adequate to meet the projects in this plan. The Turnpike Fund is in trouble and cannot support many of the turnpike projects. The Highway Fund is also running lean. The committee has an opportunity to prioritize the project and present a realistic Ten-Year plan and provide a list of projects to be funded if additional funds (federal and state) become available. An honest plan will show our citizens that many projects will not make the grade without turnpike toll and road toll (gas tax) increases. Which one do you want? The project? Or an increase in tolls? Therefore, I recommend the Ten-Year plan be sent back to the committee to bring forward a realistic and honest transportation plan, for once.

SCIENCE, TECHNOLOGY AND ENERGY

HB 1293, relative to emission control equipment for certain vehicles. **OUGHT TO PASS WITH AMENDMENT**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill modifies the exemptions from the emission control equipment requirements for motor vehicles 20 years or older and provides a temporary waiver for OBD(On Board Diagnostic) II tests of 60 days if necessary to allow for repair. The Department of Safety in conjunction with the Department of Environmental Services is expanding the current emission control portion of the annual motor vehicle inspections to include OBD testing as required by the federal Environmental Protection Agency on all vehicles manufactured after 1996. New Hampshire is one of the last states to comply with these regulations. The Department of Motor Vehicles (DMV) will provide OBD II test equipment to all inspection stations and establish a network so these test results can be computerized by DMV. All equipment will be leased by DMV and an additional cost of between \$5 or \$10 will be passed on to the consumer at inspection time. Current data from other states indicate that these tests do not cause any unreasonable additional expenses on the consumer. The DMV and DES will be required to consult with the Air Advisory Committee, the Science, Technology and Energy Committee and the Senate Environmental Committee to modify the program in the future. **Vote 11-0.**

HB 1421-FN, relative to solid waste incineration. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John H. Thomas for the **Majority** of Science, Technology and Energy: This bill was introduced by the Hopkinton members of the Merrimack county delegation based on their concerns with the fuel change for the wood-to -energy plant located in town. The Bio-Energy Company obtained a Title V operating permit from the NH Department of Environmental Services (NH DES) which allows the company to use construction and demolition wood based products as their fuel mix. This bill as submitted would have had unintended consequences of prohibiting all incineration and commercial fossil fuel combustion in the state. The committee held two full day public hearings and ten work sessions soliciting information and hard scientific data from state agencies. We requested and received an independent lead health based deposition study that was reviewed and approved by the NHDES. The committee reviewed a substantial amount of documentation provided by concerned Hopkinton residents and their newly formed REACH committee. We asked for and received a review by the NH Department of Health & Human Services (NHH&HS) of all assumptions and findings of various data provided to the committee. Eight draft amendments were prepared and reviewed with the final draft held as a basis for new legislation to be brought forward in January that will address all multiple concerns involving industry regulation and health based standards. The majority of the committee determined that the scope of any new regulations implemented by the legislature should address statewide environmental and health concerns rather than one specific town. There are several factors that are of concern based on our findings that need more comprehensive study, some of those being, toxic element deposition, best available control technology

philosophy compared to health based philosophy, fiscal impacts, five other wood fired power plants coming into this arena in the very near future, RSA 28A issues, and many others that will have state-wide impacts. The majority is convinced that the health and safety issues are not going to be adversely affected by the new fuel mix. We have been assured by the NHDH&HS that the determinates used by DES in its issuance of the Title V permit are well below standards set by the EPA and the Center for Disease Control and Prevention. **Vote 10-4.**

Rep. Naida L. Kaen for the **Minority** of Science, Technology and Energy: The minority of the committee supports continued study of the health impacts of the incineration of construction and demolition waste, which is shipped in both from in-state and out-of-state sources. However, immediate action through this well-crafted compromise amendment is an important interim step to safeguard residents of Hopkinton before further legislation emerges from Interim Study.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HCR 22, urging Congress to withdraw the United States from the United Nations. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Timothy E. Easson for the **Majority** of State-Federal Relations and Veterans Affairs: Recently, the United Nations has lost credibility. The United Nation has many members that are hostile to the United States and seek to prevent us from protecting our national interests, while demanding significant financial and military resources from the United States. Their recent unwillingness to act in Operation Iraqi Freedom is the most recent glaring evidence of their desire to exert power over the United States, without respect to national sovereignty. The majority of the committee supports this resolution so that the problems with the United Nations can be scrutinized and corrected. **Vote 8-6.**

Rep. Peter M. Sullivan for the **Minority** of State-Federal Relations and Veterans Affairs: The minority believes in an energetic leadership role for the United States in the international arena. To effectively provide such leadership the United States must be vigorously engaged in the world community. The challenges facing our nation in the years ahead –terrorism, public health, nuclear proliferation, human rights, and the promotion of democracy- can not be met by a policy of isolationism and unilateralism. By working through institutions such as the UN and NATO, the United States can more effectively move towards achieving our security goals and demonstrating America’s best values to the world community.

HOUSE DEADLINES

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 retained bills and supplemental House bills.
Thursday, March 18, 2004	CROSSOVER. Last day to act on all remaining retained bills and supplemental House bills.
Thursday, April 29, 2004	Last day to report Senate bills.
Thursday, May 6, 2004	Last day to act on Senate bills.
Thursday, May 13, 2004	Last day to form committees of conference.
Wednesday, May 19, 2004	Last day to sign-off committee of conference reports.
Wednesday, May 26, 2004	Last day to act on committee of conference reports.

LAID ON TABLE

- 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. (Pending question is ought to pass)
- HB 359**, establishing a procedure for apportioning state senate and representative districts. (Pending question is inexpedient to legislate.)
- HB 760-FN-A**, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor. (Pending question is on the adoption of the majority committee report of inexpedient to legislate.)

HOUSE BILL AMENDED BY THE SENATE

HB 516-L, relative to the standard of review requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth. (House Concurred 2/19/04)

COMMITTEE MEETINGS

MONDAY, MARCH 8

CHILDREN AND FAMILY LAW, Room 206, LOB

2:00 p.m. Subcommittee work session on ***HB 1393***, relative to the appeal of the lower court’s decision in a child protection case.

COMMISSION TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT (HB 1390, Chapter 114:2, Laws of 2000), Room 205, LOB

10:00 a.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

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

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

10:00 a.m. ***SB 375***, relative to the regulation of physician assistants.

10:30 a.m. ***SB 493***, repealing examination standards for certified public accountants.

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

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

1:00 p.m. Regular meeting.

HERITAGE COLLECTIONS COMMITTEE (RSA 227-C:18), Room 208, LOB

9:00 a.m. Regular meeting.

JUVENILE JUSTICES SERVICES ADVISORY (RSA 621-A:9), YDC, 1056 River Road, Manchester

9:00 a.m. Regular meeting.

PUBLIC HIGHER EDUCATION STUDY COMMITTEE (RSA 187-A:28-a), NH Community Technical College, Manchester

10:00 a.m. Regular meeting.

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.

WEDNESDAY, MARCH 10

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

10:00 a.m. Rescheduled regular meeting.

CHILDREN AND FAMILY LAW, Room 206, LOB

9:30 a.m. ***SB 416***, relative to membership of the advisory committee on child care.

9:45 a.m. ***SB 520***, relative to modification of child support obligation.

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

9:00 a.m. Subcommittee work session on ***SB 511-FN***, relative to the penalties for rioting.

10:00 a.m. ***SB 521-FN***, increasing the penalty for identity fraud.

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.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

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

11:00 a.m. **Rescheduled** public hearing on ***SB 380***, establishing a statewide incident command system.

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

11:00 a.m. ***HB 1428-FN***, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

11:30 a.m. Executive Session on pending legislation

FINANCE – (DIVISION I), Room 209, LOB

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

FINANCE – (DIVISION III), Room 210-211, LOB

2:00 p.m. Work session on ***HB 1428-FN***, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

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. Rescheduled executive session on pending legislation.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

2:00 p.m. Continued public hearing on ***SB 350***, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.
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.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:00 p.m. ***SB 381***, relative to the transfer of certain capital appropriations within the department of safety.
1:30 p.m. ***SB 332-FN***, relative to tolls for disabled veterans.
2:15 p.m. ***SB 401-FN***, relative to funeral processions to the state veterans cemetery using the New Hampshire turnpike system.
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

10:30 a.m. ***HB 1427***, continuing the New Hampshire National Guard Educational Assistance Act.

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

TRANSPORTATION, Room 203, LOB

10:00 a.m. ***SB 379***, relative to safety inspection and certification of certain equipment of vehicles.
10:45 a.m. ***SB 530***, relative to the duties of public safety responders and the expeditious clearance of a roadway.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, MARCH 12

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.

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

9:30 a.m. Regular meeting.

TUESDAY, MARCH 16

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. ***SB 360***, requiring written notification concerning certain offenders against children.
11:00 a.m. ***SB 325-FN-L***, relative to penalties for a false report to a law enforcement officer.
11:30 a.m. ***SB 364***, increasing the penalties for littering.
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

10:30 a.m. ***SB 153***, adopting the nurse licensure compact.
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

- 1:00 p.m. Presentation by the Commissioner of the Department of Health and Human Services.
- 2:00 p.m. Executive session on pending legislation.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 1:00 p.m. Executive session on pending legislation.

FRIDAY, MARCH 19

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

- 1:00 p.m. Regular meeting.

TASK FORCE ON FAMILY LAW (HB 447, Chapter 250:1, Laws of 2002), Rooms 206-208, LOB

- 2:00 p.m. Regular meeting.

MONDAY, MARCH 22

CHILDREN AND FAMILY LAW, Room 206, LOB

- 9:30 a.m. Subcommittee work session on *SB 415-FN*, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

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

- 10:00 a.m. Subcommittee meeting.

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

- 9:00 a.m. Regular meeting.

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Rooms 201-203, LOB

- 3:00 p.m. Public comment hearing on proposed rules of the Guardian Ad Litem Board relating to certification requirements (GAL Chapter 300).

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

- 9:00 a.m. Regular meeting.

TUESDAY, MARCH 23

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. *SB 372*, relative to the definition of necessary shelter for dogs.
- 11:00 a.m. *SB 417*, relative to vicious dog assaults.
- 11:30 a.m. *SB 339-FN*, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EDUCATION, Room 207, LOB

- 10:00 a.m. *SB 351-FN*, relative to concurrent enrollment at regional vocational education centers.
- 11:00 a.m. *SB 418*, relative to voting procedures in the Hanover school district.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EDUCATION OF CHILDREN WITH DISABILITIES ADVISORY (RSA 186-C:3-b), Room 207 LOB

- 4:00 p.m. Regular meeting.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 1:00 p.m. Ad hoc committee on using pesticides and herbicides in residential neighborhoods.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 10:30 a.m. **SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system.
 - 11:00 a.m. **SB 445**, relative to the regulation of dietitians by the board of licensed dietitians.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WEDNESDAY, MARCH 24

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 9:30 a.m. **SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.
 - 10:00 a.m. **SB 469**, relative to licensing of boiler inspectors.
 - 10:30 a.m. **SB 403**, relative to the board of medicine.
 - 11:00 a.m. **Rescheduled** public hearing on **SB 497-FN**, relative to renewal of electrician’s licenses.
 - 11:30 a.m. **SB 499**, making a change to the electrician licensing exemption.
- 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. Audit: management letter for the State of New Hampshire for the year ended June 30, 2003.

THURSDAY, MARCH 25

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 9:30 a.m. **SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts.
 - 10:15 a.m. **SB 330-FN**, relative to creditable service of retirement system members reemployed after qualifying military service.
 - 11:00 a.m. **SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, MARCH 26

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

- 9:30 a.m. Regular meeting.

COMMISSION TO STUDY THE RIGHT-TO-KNOW LAW (HB 606, Chapter 287:3, Laws of 2003), Room 101, LOB

- 10:00 a.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 103, LOB

- 9:30 a.m. Subcommittee on issues related to criminal justice information system.

MONDAY, MARCH 29

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

- 10:00 a.m. Subcommittee on medical errors/resident training work hours.

WEDNESDAY, MARCH 31

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 10:00 a.m. **SB 470-FN**, relative to funding for the physician effectiveness program.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, APRIL 2

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

9:00 a.m. Continued 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.

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

2:00 p.m. Regular meeting.

MONDAY, APRIL 5

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

2:00 p.m. Regular meeting.

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

1:00 p.m. Regular meeting.

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.

TUESDAY, APRIL 6

FISH AND GAME, Room 307, LOB

10:00 a.m. **SB 494**, relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs.

10:20 a.m. **SB 487**, relative to lead sinkers.

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

FRIDAY, APRIL 9

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.

MONDAY, APRIL 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.

COMMISSION TO STUDY ISSUES RELATIVE TO GROUNDWATER WITHDRAWALS (SB 155, Chapter 305:1, Laws of 2003), Rooms 201-203, LOB

10:00 a.m. Regular meeting.

FRIDAY, APRIL 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.

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.

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

2:00 p.m. Regular meeting.

FRIDAY, APRIL 23

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), NH Department of Revenue, Community Services Division

Training Room

9:30 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.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Belknap County Delegation will meet on **March 16th** at 7:00 p.m. at the County Complex to review the changes in the Commissioners' budget and to vote on the budget for 2004 and to take up any other business that may come before the delegation.

Rep. Gordon E. Bartlett, Chairman
Belknap County Delegation

COUNTY DELEGATION NOTICE

Merrimack County Executive Committee will meet on the following days to review and approve the 2004 Merrimack County Departments Budgets. The meetings will be held at the McDonnell Building, Lower Level, 4 Court Street, Concord.

Monday, **March 8** at 9:00 a.m. County Attorney, Medical Referee, Pre-Trial/Diversion, Sheriff and Dispatch,

Friday, **March 12** at 9:00 a.m. (Rescheduled from February 20.) Human Services, Juvenile Diversion, Grant Agencies, County Conservation District, Visitation Center, UNH Cooperative Extension and JAIBG Grant.

Rep. Roy D. Maxfield, Chairman
Merrimack County Executive Committee

REVISED FISCAL NOTES

The following HBs have revised fiscal notes: HBs 85, 243, 444, 511, 612, 618, 622, 640, 645, 651, 656, 698, 712, 713, 727, 729, 730, 781, 803, 1153, 1188, 1202, 1207, 1213, 1254, 1248, 1251, 1290, 1308, 1311, 1325, 1339, 1344, 1345, 1352, 1353, 1365, 1378, 1387, 1388, 1399, 1401, 1411, 1416, 1418, 1421, 1423, 1426 and 2004. SBs 205, 401, 463, 498, 500 and 503.

Karen O. Wadsworth, Clerk of the House

Pursuant to RSA 326-B:12, the Joint Health Council will meet at the NH Board of Nursing, Room 17, 78 Regional Drive, Building 2, Concord, on Monday, **March 8** at 6:00 p.m.

Karen O. Wadsworth, Clerk of the House

The American Red Cross cordially invites all legislative members and staff to the Third Annual State House Complex Blood Drive. The blood drive will take place on Thursday, **March 11th** from 9:00 a.m. to 3:00 p.m. The American Red Cross state of the art self-contained coach will be parked out in front of the State House for this event.

Appointments are strongly encouraged. To schedule an appointment, please call State House Health Services, 271-2757. In the past this BLOOD DRIVE has had overwhelming support – please help make this year the best EVER.

Barbara Leahy, R.N., State House Nurse

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.

Clair A. Snyder, 46 Colonial Village, Somersworth, New Hampshire 03878-1558.

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:

NH Lottery's Comprehensive Annual Financial Report for YE June 30, 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

The 14th Annual Legislative Ski Event will be at Gunstock in Gilford on Sunday, **March 7th** and Monday, **March 8th**. The event will feature a reception on Sunday evening and a Legislative Ski Race on Monday morning, followed by an awards luncheon. Free downhill skiing, cross-country skiing, snowshoeing and snowtubing, will be available both days, and there will be free mountain and trail tours and a tubing party on Monday morning. Please contact Kim at Ski NH (1-800-887-5464 Ext. 0) to sign-up for Legislative Ski Event activities.

There will be a special room rate at The Inns at Mill Falls in Meredith of \$39 plus tax, double occupancy, per night, on Sunday, March 7th and Monday, March 8th. **Please make your room reservation directly with The Inns at Mill Falls (1-800-255-0600) and be sure to identify yourself as being with the "Ski NH Legislative Ski Event" when you call to receive the special rate.**

Ski New Hampshire looks forward to hosting legislators again and to raising funds for the NH Automobile Dealers Association's KEEP KIDS SAFE Program.

Rep. David W. Hess

On Monday, **March 8**, the Legislative Caucus for Young Children the United Way of America and the NH Children's Alliance will cosponsor a workshop featuring Dr. Joan Lombardi, Director, The Children's Project, Washington, DC. Dr. Lombardi was the first Associate Commissioner of the Child Care Bureau in the Federal Department of Health and Human Services and is one of the Nation's foremost authorities on federal and state legislation and programs serving families and children. She also has extensive knowledge of the US Military System of Child Care and Family Assistance, said to be among the best in the world. Dr. Lombardi is the author of "*Time Care: Redesigning Child Care to Promote Education, Support Families and Build Communities*". The meeting will be held in Rooms 210-211, LOB from 9:00 a.m. until 2:00 p.m. A box lunch will be provided. Members of the House and Senate are invited. RSVP to 224-2595.

Rep. Mary Stuart Gile

The American Red Cross in New Hampshire cordially invites all legislators and staff to its annual Breakfast on Thursday, **March 11**, 8:00-10:00 a.m. in the State House cafeteria. Please, come have good food and learn more about the important work done by the Red Cross chapters throughout New Hampshire.

Rep. Elizabeth S. Hager

On **March 11**, (*changed from March 4*), the New Hampshire Order of Women Legislators will host a lunch at the Upham

Walker House for legislators to meet New Hampshire Poet Laureate, Marie Harris. The poet Percy B. Shelley said that all poets are unelected legislators. Marie has entitled her presentation, "Poet Laureate Goes to the Dump". Mark your calendars. This will be fun.

Rep. Sandra Harris

The Healthcare Decisions Coalition will meet on Friday, **March 12** at 10:00 a.m. in Room 207, LOB. This coalition was formed as an extension of the end-of-life care ad hoc committee. Its primary agenda is to formulate a bill that will be introduced in 2005, standardizing legal procedures for medical decision making.

Rep. Hilda W. Sokol

All members are invited to Bobby Stephen's 26th Annual St. Patrick's Day Bash to benefit Jobs for NH Graduates on Wednesday, **March 17**, 2004 at the Executive Court Banquet Facility in Manchester. The Event begins at 5:00 p.m. The cost is \$30 per person and includes dinner and entertainment. For more information contact Bobby Stephen at 271-2341.

Gene G. Chandler, Speaker

The Demers Group cordially invites all House members and staff to attend the 2nd Annual New Hampshire Capital St. Patrick's Day Breakfast & Roast on Wednesday, **March 17** from 7:30 to 9:00 a.m. at the Grappone Conference Center-Marriott Courtyard, 70 Constitutional Avenue, Concord. Once again, invited special guest roasters will include Governor Craig Benson and the Senate and House leadership with WMUR-TV political reporter Scott Spradling as emcee.

Rep. Michael D. Whalley

All legislators and staff are invited to attend the New Hampshire Automobile Dealers Association's (NHADA) Annual Crossover Day Reception at the NHADA office at 507 South Street on **March 17th**, at 3:00 p.m., or immediately following the legislative sessions. This is a wonderful opportunity to unwind and enjoy the company of fellow legislators and staff in a fun social gathering.

Rep. Michael D. Whalley

The New Hampshire School Food Service Association will sponsor their annual State House Breakfast to celebrate National School Food Service Breakfast Week on **March 18th** from 8:00 to 10:30 a.m. in the State House Cafeteria. Come enjoy a healthy breakfast before the day's session.

Rep. Russell D. Bridle

The Merrimack County Republican Committee will host its annual Lincoln Day Dinner on Thursday, **March 18th** at the Grappone Center (Courtyard Marriott) in Concord. The reception begins at 5:30 p.m. and dinner at 6:15 p.m. The honored guest and featured speaker is Senator Judd Gregg. Tickets are \$50 per person and may be purchased from any member of the Merrimack County delegation.

Rep. David W. Hess

The Manchester Republican Committee announces its Annual President Abraham Lincoln Dinner with special guest US Senator Judd Gregg on Friday, **March 19th** at 6:00 p.m. at Fratello's Italiano Ristorante, 155 Dow Street, Manchester. RSVP to Shirley Frank at 627-4518.

Rep. William A. Beaton

In celebration of the YMCA Youth in Government Program and Legislative Awareness Day, all legislators are cordially invited to join the New Hampshire State Alliance of YMCAs at St. Paul’s Church Conference Center across the street from the State House on Thursday, **March 25th** at noon for an informal luncheon reception. Sandwiches, hot and cold drinks, and dessert will be provided.

Rep. Larry A. Emerton

The Department of Transportation will hold the following meeting:

March 9 – NHDOT Rooms 112-113, 7 Hazen Drive, Concord, 6:30 p.m. Advisory Committee Meeting, State Trails plan meeting.

March 10 - Atkinson Town Hall, 21 Academy Avenue, Atkinson, 7:00 p.m. Public officials meeting, Salem-Atkinson, along NH 111 beginning at Ermer Road in Salem, continuing east to the Atkinson/Hampstead town line. The work involves upgrading and replacing beam guardrail.

March 11 – Merrimack Town Hall, 8 Baboosic Lake Road, Merrimack, 7:00 p.m. Public officials/public informational meeting, Merrimack-Bedford, along US Route 3 from Bedford Road north 1.7 miles to the Merrimack/Bedford town line and from the southern entrance to Technology Drive north 1.2 miles to 1000 feet north to Sunset Drive, removal of existing concrete slab, provide a 4’ shoulder, improve drainage and pave.

March 16 – Warren Town Hall, 19 Water Street, Warren, 7:00 p.m. Public officials/public informational meeting, Warren, pavement rehabilitation, drainage improvements, new sidewalk and guardrail replacement along NH Route 25 beginning 500’ north of East Side Road, continuing north 2.5 miles to NH Route 118.

March 23 – Londonderry High School, 295 Mammoth Road, Londonderry, 7:00 p.m. Public hearing (Commission), Londonderry, reconstruction of NH Route 28.

March 23 – Durham Town Hall, Council Chambers, 15 Newmarket Road, Durham, 7:00 p.m. Public informational meeting, Durham-Newmarket, construction of a 4 foot bike shoulders and miscellaneous safety improvements on NH Route 108 from Oyster River Bridge in Durham to Sanborn Avenue in Newmarket.

March 24 – Newmarket Town Hall Auditorium, 186 South Main Street, Newmarket, 7:00 p.m. Public informational meeting, Durham-Newmarket, construction of a 4 foot bike shoulders and miscellaneous safety improvements on NH Route 108 from Oyster River Bridge in Durham to Sanborn Avenue in Newmarket.

March 24 – NHDOT, Room 114, 7 Hazen Drive, Concord 2:00 p.m. Special committee meeting, Salem-Manchester, reconstruction and widening in Salem, Windham, Derry and the City of Manchester.

March 29 – Bartlett Town Hall, Town Hall Road, Bartlett, 7:00 p.m. Public officials/public informational meeting, Bartlett, US Route 302/NH 10, bridge replacements over Saco River and NH railroad.

March 31 – Newington Town Hall, 205 Nimble Hill Road, Newington, 6:30 p.m. Advisory Task Force meeting, working meeting, Newington-Dover, Spaulding Turnpike/Little Bay Bridge improvements from Gosling Road to Dover Toll (3.5 miles).

April 6 – City Chamber Conference Room, Town Hall Road, Dover, 7:00 p.m. Public officials/public informational meeting, Dover-Somersworth, NH 108, add left turn lane at Long Hill Road.

April 8 – Highlander Inn, 2 Highlander Way, Manchester, 7:00 p.m. Public hearing (special committee), Bedford-Manchester-Londonderry-Litchfield-Merrimack mitigation hearing.

April 20 – Barrington Public Safety Building, Route 9, Barrington, 7:00 p.m. Public officials/public informational meeting, Lee-Barrington, along NH 125, beginning at US 4 and proceeding north approximately 4.5 miles to NH 9 intersection. Work consists of a 1’ pavement overlay with drainage improvements.

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 **March** 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
3-8-04	9:30 & 10:45 SH/SC	Candia Moore School	4/40
3-8-04	12:00 9:00	St Thomas Aquinas – Derry	4/30

3-9-04		BSA Troop 76 – Henniker	13-15 yrs/10
3-9-04	11:00	Crescent Lake School – Wolfeboro	4/40
3-9-04	12:30	Penacook Elementary School	4/50
3-10-04	9:30	Walker School – Concord/ Reschedule	4/25
3-10-04	11:00	Crescent Lake School – Wolfeboro	4/40
3-11-04	8:15 & 9:45	Merrimack Valley High School - Penacook	HS/50
3-11-04	11:00	Maplewood Elementary – Somersworth	4/46
3-11-04	12:30	Maplewood Elementary – Somersworth	3/40
3-12-04	9:30 & 11:00 SH/HM	Webster Elementary - Manchester	4/115
3-15-04	9:30 & 10:45 SH/SC	Candia Moore School	4/40
3-15-04	10:45	Mt. Ascutney School-Vermont	2/8
3-15-04	12:00 & 1:30 SH/HM	Bristol Elementary School	4/60
3-16-04	10:00	Nashua Christian	4/22
3-16-04	10:00	Victory Baptist School - Londonderry	4/8
3-16-04	11:00	East Kingston Elementary	4/28
3-17-04	9:00	Beaver Meadow School-Concord	4/24
3-17-04	10:45	Charlestown Primary School	4/46
3-17-04	12:30	Simonds Elementary – Warner	4/36
3-18-04	9:30 & 11:00 SH/HM	Sunset Heights School - Nashua	6/78
3-19-04	9:30, 11:00 & 12:30 SH/HM/SC	Jaffrey Grade School	4/78
3-22-04	10:00 & 11:15 SH/SC	Seabrook Elementary	4/50
3-22-04	12:30	Beaver Meadow School – Concord	4/23
3-23-04	9:00	Beaver Meadow School – Concord	4&5/22
3-23-04	9:30 & 11:00 SH/HM	Presentation of Mary – Hudson	4/63
3-23-04	12:30	Beaver Meadow School – Concord	4/24
3-24-04	9:30 & 11:00 SH/HM	Barnstead Elementary	4/72
3-25-04	9:30 & 11:00 SH/HM	Symonds Elementary – Keene	4/62
3-26-04	10: 00 & 11:15 SH/SC	Seabrook Elementary	4/50
3-26-04	10:00	Hillsboro Christian School	1-7/23
3-26-04	12:30	Sanbornton Central School	4/36
3-29-04	9:30 & 11:00 SH/HM	John Fuller School- North Conway	4/40
3-29-04	10:00 & 11:15 SH/SC	Windham Center School	4/50
		Rescheduled from December 11	
3-30-04	10:00 & 11:30 SH/HM	Thornton’s Ferry - Merrimack	4/50
3-30-04	12:30	Allenstown Elementary School	4/30
3-31-04	10:00 & 11:30 SH/HM	Thornton’s Ferry - Merrimack	4/50
3-31-04	12:30	Allenstown Elementary School	4/30

NOTICE

The House Clerk's Office is now accepting orders for both the 2003 and 2004 hardcover Permanent House Journals. The 2003 Journal is being readied for the printer. Work on the 2004 Journal will begin once the session has been adjourned.

Upon request, members of the Legislature for the year in question, and all state agencies are entitled to one Journal at no charge. There will be a charge for additional copies ordered by legislators and agencies, as well as any others who would like a copy. We estimate this cost to be approximately \$50 each, plus any applicable mailing expenses. Those who order paid copies will be notified *and billed* when the Journals are ready for distribution. **DO NOT** send any money now.

Also, the House Clerk's Office has a small number of extra copies of the 2001 and 2002 Permanent House Journals. These copies may be obtained on a first-come, first-served basis from the House Clerk's Office. The cost for these copies will be \$40 each, plus any applicable mailing charges.

**Office of the House Clerk
Room 317, State House
107 North Main Street
Concord, NH 03301**

*****Please Print*****

CITY/STATE/ZIP _____

2004 _____ COPY(IES)

SIGNED _____

THURSDAY, MARCH 11
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2004-0368h

Amendment to HB 369
Proposed by the Committee on Finance - C

Amend the bill by replacing section 3 with the following:

3 Henniker-Hillsborough District Court. RSA 502-A:1, XV is repealed and reenacted to read as follows:

XV. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Henniker shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.

④ Henniker-Hillsborough District Court RSA 502-A:1, XXIII is repealed and reenacted to read as follows:

XXIII. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New

Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

5 Contingency. If the department of administrative services and the towns in the Henniker and Hillsborough districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall take effect July 1, 2006. If the department of administrative services and the towns in the Henniker and Hillsborough districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall not take effect.

6 Effective Date.

I. Sections 3 and 4 of this act shall take effect as provided in section 5 of this act.

II. The remainder of this act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill prevents the consolidation of the Henniker district court and Hillsborough district court, if certain conditions are met regarding court facilities.

2004-0401h

Amendment to HB 651-FN
Proposed by the Committee on Finance - C

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

AN ACT relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

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

3 Retirement System; Group I; Credit for Out-of-State Service; Membership and Application Times. Amend RSA 100-A:4-b, I(a) and (b) to read as follows:

(a) The member has terminated employment and active membership in the out-of-state system and~~[within 18 months thereafter,]~~ has become a group I member of the New Hampshire retirement system; and

(b) The member applies for out-of-state credit, on a form designated by the board~~[within 5 years after becoming a member of the New Hampshire retirement system or before July 1, 1995, whichever is later];~~ and

4 Retirement System; Group II; Credit for Out-of-State Service; Membership and Application Times. Amend RSA 100-A:4-c, I(a) and (b) to read as follows:

(a) The member has terminated regular full-time employment and active membership in the out-of-state system and~~[within 18 months thereafter,]~~ has become a member of the New Hampshire retirement system; and

(b) The member applies for out-of-state credit, on a form designated by the board~~[within 5 years after becoming a member of the New Hampshire retirement system, or before July 1, 1995, whichever is later];~~ and

5 Political Subdivision Membership; Modifications; Petition for Credit. Amend RSA 100-A:22 to read as follows:

100-A:22 Modifications. Membership in the retirement system shall be optional for officers and employees of the employer who are in the service of the employer on the date when participation becomes effective, and any such officer or employee who elects to join the retirement system within one year thereafter shall be credited with prior service covering such periods of prior service rendered to such employer for which the employer is willing to make accrued liability contributions. If the employer is unable or unwilling to make such contributions, a member in service may petition the board of trustees ~~[within 5 years from the date when the employer's participation becomes effective]~~ for periods of prior service rendered to such employer. Upon payment by the member of the amount determined in accordance with RSA 100-A:3, VI(b) and with the approval of the board, the member shall receive credit for such prior service. Thereafter, service for such employer on account of which contributions are made by the employer and member shall also be considered as creditable service. Membership shall be compulsory for all employees entering the service of such employer after the date participation becomes effective. Municipalities may, by action of their city council or board of selectmen, exempt their chief administrative officer, as an unclassified employee, from compulsory membership provided herein. The chief fiscal officer of the employer, and the heads of its departments, shall submit to the board of trustees such information and shall cause to be performed with respect to the employees of such employer, who are members of the retirement system, such duties as shall be prescribed by the trustees in order to carry out the provisions of this chapter.

AMENDED ANALYSIS

This bill:

I. Allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement plan.

II. Repeals the provisions for making additional contributions for the benefit of a member's retirement allowance.

III. Removes time frames for applications to purchase service credit.

2004-0239h

Amendment to HB 1130
Proposed by the Committee on Commerce - C

Amend the bill by replacing section 1 with the following:

IV. This section shall not apply to business owned by the insurer and not the agent; provided, that the insurer offers to continue such policies through another of its agents.

AMENDED ANALYSIS

This bill exempts insurance agents who do not own their book of business from the law regarding termination of agents.
2004-0458h

Amendment to HB 1131

Proposed by the Committee on Resources, Recreation and Development - C

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

AN ACT establishing a committee to study exotic aquatic weeds and species.

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

1 New Section; Committee to Study Exotic Aquatic Weeds and Species. Amend RSA 487 by inserting after section 29 the following new section:

487:30 Exotic Aquatic Weeds and Species Committee.

I. There is established a committee to study exotic aquatic weeds and species in the state of New Hampshire.

II.(a) The members of the committee shall be as follows:

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

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

(b) Members of the committee shall serve terms which are coterminous to their terms on the general court and shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the spread of exotic aquatic weeds and exotic aquatic species in the waters of New Hampshire. The study shall include education, management, and potential means to eliminate the spread of these weeds and species.

IV. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1 of each year.

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

AMENDED ANALYSIS

This bill establishes a statutory committee to study exotic aquatic weeds and species in the state of New Hampshire.
2004-0404h

Amendment to HB 1133

Proposed by the Committee on Commerce - C

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

1 New Section; Notification Required Prior to Condominium Sale. Amend RSA 477 by inserting after section 4-e the following new section:

477:4-f Notification Required Prior to Condominium Sale. Prior to or during the preparation of an offer for the purchase and sale of any condominium unit, the seller shall provide written notice to the buyer that the buyer has the right to obtain the information in RSA 356-B:58, I from the condominium unit owners' association. Such information shall include a copy of the condominium declaration and by-laws, a statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years. The buyer shall acknowledge receipt of the notice required under this section by signing a copy thereof.

2 New Subparagraphs; Condominium Act; Resale by Purchaser; Right to Condominium Instruments and Statement of Fees. Amend RSA 356-B:58, I by inserting after subparagraph (g) the following new subparagraphs:

(h) A copy of the condominium declaration and by-laws.

(i) A statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years.

3 Notice of Disclosure Requirements. On or before December 1, 2004, the unit owners' association shall inform all unit owners of the requirements of RSA 477:4-f.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 2005.

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

2004-0299h

Amendment to HB 1134

Proposed by the Majority of the Committee on Judiciary - R

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

1 Supreme Court; Appointment of Chief Justice. RSA 490:1 is repealed and reenacted to read as follows:

490:1 Justices. The supreme court shall consist of 5 justices appointed and commissioned as prescribed by the constitution. On the effective date of this section, the administrative position of chief justice shall be nominated and appointed by the governor and council, in accordance with part II, article 46 of the New Hampshire constitution, to a 5-year term.

2 Contingency. Section 1 of this act shall take effect upon the completion of the 5-year term of the current supreme court chief justice, as such term was prescribed in RSA 490:1 on the date he or she assumed the position of chief justice, or upon his or her termination as chief justice, whichever occurs first.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

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

2004-0628h

Amendment to HB 1136

Proposed by the Committee on Resources, Recreation and Development - C

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

AN ACT relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.

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

1 Homeowner Exemption. Amend RSA 310-A:77 to read as follows:

310-A:77 Application. Any person, except as specifically exempted in this subdivision, who practices or offers to practice soil science or wetland science ~~[for the general public]~~ in this state shall be subject to the provisions of this subdivision.

2 New Paragraph; Homeowner Exemption. Amend RSA 310-A:79 by inserting after paragraph IV the following new paragraph:

V. A homeowner from preparing a plan to provide vehicular and utility access to the homeowner's primary residence; provided that he or she complies with rules adopted by the department of environmental services and standards adopted by the board.

3 Soil Scientist; Qualifications. RSA 310-A:84, II-a and II-b is repealed and reenacted to read as follows:

II-a. To be eligible for certification as a wetland scientist, a person shall meet high ethical and professional standards, have successfully passed an examination designed to determine the person's proficiency and qualifications, including references to wetland characteristics in the New England region, be engaged in the practice of wetland science, and shall have one of the following qualifications:

(a) Be a graduate of an accredited college curriculum leading to a baccalaureate or an associate degree, where the applicant has successfully completed a minimum of 24 semester hours in any of the following environmental sciences: botany, soil science, hydrology, wetland science, biology, forestry, wildlife, ecology, water resources, plant science, agronomy, geology, or earth science, and have one or more years experience in the practice of wetland science.

(b) Have a minimum of 12 combined credit or non-credit semester hours in any of the environmental sciences under subparagraph (a), and have 3 or more years experience in the practice of wetland science.

II-b.(a) Experience in the practice of wetland science shall be of a quality and character that indicates to the board that the applicant is competent to practice as a wetland scientist. Experience shall be defined as one or more of the following:

(1) Teaching wetland science courses or performing research in wetland science at an accredited college, university, or institution offering an approved wetland science or wetland ecology curriculum.

(2) Actual field experience gained in an acceptable apprenticeship program.

(3) Actual field mapping experience, defined as the delineation of wetland boundaries and the preparation of wetland maps in accordance with standards for the identification of wetlands adopted by the department of environmental services or the United States Army Corps of Engineers or its successor.

(b) For the purposes of this paragraph, educational training shall not be considered as experience; summer employment shall be considered experience.

(c) For the purposes of this paragraph, each advanced degree in a related field may be counted as one year of experience, however, a minimum of one year of actual field experience shall be required for all candidates.

4 Excavation and Dredging; Permit Exemptions. Amend RSA 482-A:3, V(a) to read as follows:

(a) Persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notice of intent with the department and the department of resources and economic development, shall have satisfied the permitting requirements of this section for minimum impact activities only as defined by rules adopted by the commissioner. ***Minimum impact notifications issued by the department shall be valid for 2-years.***

5 New Paragraph; Rulemaking. Amend RSA 482-A:11 by inserting after paragraph VIII the following new paragraph:

IX. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the circumstances under which the commissioner may grant a waiver of rules adopted pursuant to this chapter. Such rules shall list the specific criteria to be used by the commissioner in determining whether a waiver will be granted.

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

AMENDED ANALYSIS

This bill exempts homeowners from certain environmental permitting, and establishes detailed qualifications to be certified as soil scientists.

This bill also requires the department of environmental services to recognize an exemption from the dredge and fill permitting requirements for a 2-year period.

2004-0345h

Amendment to HB 1138

Proposed by the Committee on Resources, Recreation and Development - C

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

AN ACT establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

Amend RSA 12-A:9-c, I(j)-(k) as inserted by section 1 of the bill by replacing it with the following:

(j) The commissioner of the department of resources and economic development, or a citizen appointed by the commissioner as designee.

(k) The executive director of the fish and game department, or a citizen appointed by the executive director as designee.

(l) One person who is a member of the Nash Stream Campowners Association, appointed by the commissioner of the department of resources and economic development.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 New Section; Connecticut Lakes Headwaters Tract Natural Areas Camp Leases. Amend RSA 212 by inserting after section 10 the following new section:

212:10-a Connecticut Lakes Headwaters Tract Natural Areas Camp Leases. The executive director of the fish and game department shall make contracts for the leasing of seasonal camp lots within the Connecticut Lakes headwaters tract natural areas, which were in existence at the time of the state's acquisition of the tract, for periods not exceeding 5 years. All such contracts extending for a period of more than 5 years or for an annual consideration of more than \$5,000 shall be approved by the governor and council prior to being effective. All money collected from the leasing of seasonal camp lots within the Connecticut Lakes headwaters tract natural areas shall be credited to the fish and game fund established under RSA 206:33.

AMENDED ANALYSIS

This bill establishes a Nash Stream forest citizens committee. This bill also requires Connecticut Lakes headwaters tract natural areas camp leases.

2004-0595h

Amendment to HB 1148

Proposed by the Committee on Resources, Recreation and Development - C

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

AN ACT defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

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

2 New Subdivision; Wetlands. Amend RSA 674 by inserting after section 54 the following new subdivision:
Wetlands

674:55 Wetlands. Regulations and ordinances adopted pursuant to this chapter that are related to wetlands, shall identify the wetlands based upon the definition of wetlands in RSA 482-A:2, X and the technical criteria for delineating wetlands prescribed in rules adopted under RSA 482-A.

3 Effective Date. This act shall take effect June 1, 2005.

AMENDED ANALYSIS

This bill defines "wetlands" for purposes of RSA 482-A, fill and dredge in wetlands, and for local use planning and zoning.

2004-0477h

Amendment to HB 1161

Proposed by the Committee on Commerce - C

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

1 Sales of Insurance by Financial Institutions; Separation of Activities. Amend RSA 406-C:7, I to read as follows:

I. A financial institution shall, to the extent practicable, keep the area where the bank conducts transactions involving insurance products or annuities physically segregated from areas where retail deposits are routinely accepted from the general public ~~[or credit transactions are conducted]~~, identify the areas where insurance product or annuity sales activities occur, and clearly delineate and distinguish those areas from the areas where the bank's retail deposit-taking activities or credit transactions occur~~[- provided that this section shall not apply to the sale of credit life insurance, credit accident and health insurance, mortgage life insurance and mortgage disability insurance, credit involuntary unemployment insurance, and private mortgage insurance issued under a certificate of a bank policy].~~

2] Prohibition on Tying of Banking and Insurance Products. Amend RSA 406-C:10, II to read as follows:

II. A financial institution that solicits, sells, advertises, or offers insurance, and any person who solicits, sells, advertises, or offers insurance on behalf of a financial institution or on the premises of a financial institution shall obtain written acknowledgment of the receipt of the disclosure from the customer at the time the customer receives the disclosure. If the solicitation is conducted by telephone, the person or financial institution shall obtain an oral acknowledgment of receipt of the disclosure, maintain sufficient documentation to show that the acknowledgment was given by the customer, and make reasonable efforts to obtain a written acknowledgment from the customer. If a customer affirmatively consents to receiving the disclosures electronically and if the disclosures are provided in a format that the customer may retain or obtain later, the person or financial institution, may provide the disclosure and obtain acknowledgment of the receipt of the disclosure from the customer using electronic media.

III. The completion of a loan transaction or other transactions involving the extension of credit shall not be delayed or impeded by an officer or employee of a financial institution for the purpose of influencing a customer's selection or purchase of insurance.

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

2004-0520h

Amendment to HB 1172-LOCAL

Proposed by the Committee on Municipal and County Government - C

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

1] County Conventions; Compensation For County Business. RSA 24:9-e is repealed and reenacted to read as follows:

24:9-e Compensation for County Conventions. Members of each county convention may receive from the county treasury a sum not to exceed \$25 per day for actual attendance at meetings of their respective conventions and an allowance for travel expenses to and from the place of meeting at a rate per mile not in excess of the rate allowed by the United States Internal Revenue Service to be set by a vote of the respective county convention. In addition, the county convention chair may approve compensation for members attending to, discharging, or participating in other official county business, as authorized by vote of the county convention. The members are not entitled to receive any compensation or mileage for attending such meetings when county meetings are held at the state house in Concord on a legislative day.

2] Repeal. RSA 24:9-ee, relative to compensation for county conventions, is repealed.

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

2004-0560h

Amendment to HB 1177-FN

Proposed by the Majority of the Committee on Judiciary - R

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

AN ACT requiring the division of vital records administration, department of state to compile and maintain induced termination of pregnancy statistics and to maintain a certain database.

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

1] New Subdivision; Induced Termination of Pregnancy Statistics; Annual Report Required. Amend RSA 5-C by inserting after section 26 the following new subdivision:

Induced Termination of Pregnancy Statistics

5-C:27 Induced Termination of Pregnancy; Annual Report.

I. In this subdivision:

(a) "Facility" or "medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

(b) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and which does not result in a live birth. This definition excludes management of prolonged retention of products of conception following fetal death.

(c) "Non-surgical induction" means the administration of a medication or medications to induce a termination of pregnancy.

(d) "Physician" means any person licensed to practice medicine under RSA 329.

(e) "Procedure" means the process by which an induced termination of pregnancy occurs.

II. A report of each induced termination of pregnancy shall be made to the division on the form entitled "Report of Induced Termination of Pregnancy" developed by the division in February, 2004. The director shall make such form available to facilities and medical facilities licensed under RSA 151. The form shall not be changed without legislative approval.

III. The reports shall be completed by the licensed facility and transmitted to the division within 5 days after the date of the procedure.

IV. The division shall prepare a comprehensive annual statistical report based upon the data gathered under this

section. The information contained in the report may be released by county or city; provided, that the release of any information shall not lead to any disclosures described in paragraph V.

V.(a) Notwithstanding RSA 126:28 and except as otherwise provided in this section, information obtained by the division under this subdivision may be used only for statistical purposes and such information shall not be released in a manner which would lead to or permit the identification of the person for whom the procedure was performed. Any releases of the information obtained shall not disclose or permit the identification of any person filing a report, the facility at which the procedure was performed, or the identity of any person licensed to practice medicine and surgery who submits a report to the division under this section, except as follows:

(1) Information from reports provided, including information identifying such persons and facilities, may be disclosed to the state board of medicine upon request of the board for disciplinary action conducted by the board and may be disclosed to the attorney general upon a showing that a reasonable cause exists to believe that a violation of this section has occurred. Any information disclosed to the state board of medicine or the attorney general pursuant to this subdivision shall be used solely for the purposes of a disciplinary action or criminal proceeding.

(2) Information from reports shall be provided to the federal Centers for Disease Control and Prevention for the purposes of national statistical summaries provided these summaries occur at the state level only and do not lead to any other disclosures as stated in this section.

(b) A violation of this section is a class A misdemeanor.

5-C:28 Database Required on Induced Termination of Pregnancies. The director shall select an individual who shall be an employee of the division and who shall maintain a database of the code numbers and respective names of the facilities and medical providers that provide induced termination of pregnancies procedures. This database shall be kept on a stand alone personal computer which is not connected to any network. Such database shall be maintained only by the employee selected by the director.

2] New Section; Abortions. Amend RSA 329 by inserting after section 1-b the following new section:

329:1-c Abortions. No person shall perform or induce an abortion unless such person is licensed under this chapter.

3] Effective Date.

I. Section 2 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill requires the division of vital records administration, department of state to keep an annual statistical report of each induced termination of pregnancy performed and to make such report available to the public. This bill also requires the director of the division to select a current employee of such division to maintain a database relative to induced termination of pregnancies.

2004-0591h

Amendment to HB 1177-FN

Proposed by the Minority of the Committee on Judiciary - R

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

1] New Subdivision; Termination of Pregnancy Statistics. Amend RSA 126 by inserting after section 34 the following new subdivision:

Termination of Pregnancy Statistics

126:35 Definitions. In this subdivision:

I. "Aggregate summary" means a compilation of the information received by the department on terminations of pregnancy in each category, with the exception of information for which the amount is so small that the confidentiality of any person, provider or facility to which the information relates may be compromised.

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

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

IV. "Health care facility" means any public or private hospital, clinic, infirmary or other health service licensed under RSA 151:2, I(a) or I(d).

V. "Health care provider" means any individual licensed to provide medical care under the laws of the state of New Hampshire.

VI. "Induced termination of pregnancy" means the use of any medical or surgical means to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus.

VII. "Spontaneous termination of pregnancy" means the occurrence of an unintended termination of pregnancy that is not reported to the department as a fetal death.

126:36 Termination of Pregnancy Statistics.

I. The department shall collect annual statistics on spontaneous and induced abortions occurring in the state. In January of each year, the department shall send to each health care provider and health care facility a form to obtain these statistics. The forms shall incorporate the latest anti-copying technology, such as water marks which are clearly displayed if the

form is copied, in order to insure that only legitimate providers and facilities can file the form.

II. The information obtained by the department shall be collected, reproduced, released, and disclosed in a manner that insures the anonymity of the patient and the health care provider. The commissioner shall adopt rules, pursuant to RSA 541-A, to achieve this objective. The department may share information with federal public health officials for the purpose of securing federal funding or of conducting public health research. However, the department shall not relinquish control of the information. Any agreement entered into by the department with any other state agency or with federal public health officials to share information shall prohibit the use, reproduction, release, or disclosure of the information in a manner that violates this section.

III. The department shall publish annually an aggregate demographic summary of the information obtained pursuant to this section, except that the department shall not reproduce, release, or disclose any information that reveals the identity of any patient or health care provider. The department shall establish a methodology to provide a statistically verifiable basis for determination of the correct amount of information that may be released, in order to insure that the confidentiality of any person, provider, or facility is not compromised.

IV. Each health care provider and health care facility shall report to the department the number of diagnosed spontaneous terminations of pregnancy and the number of induced terminations of pregnancy performed during the preceding calendar year. The department may assign a confidential number to every health care facility licensed under RSA 151:2, I(a) or I(d). That number shall be placed on the form by the department before it is sent to the health care facility. The health care facility or health care provider shall make a good faith effort to obtain all of the information included on the form described in paragraph V.

V. The form provided by the department shall be as follows:

Termination of Pregnancy Reporting Form for Calendar Year _____

Identification Number for Health Care Facility licensed under RSA 151:2, I(a) or I(d): _____

Number of Spontaneous Terminations _____ Number of Induced Terminations _____

Number of Patients Who Reside In: Number of Patients Who Reside In:

Belknap County _____ Belknap County _____
Carroll County _____ Carroll County _____
Cheshire County _____ Cheshire County _____
Coos County _____ Coos County _____
Grafton County _____ Grafton County _____
Hillsborough County _____ Hillsborough County _____
Merrimack County _____ Merrimack County _____
Rockingham County _____ Rockingham County _____
Strafford County _____ Strafford County _____
Sullivan County _____ Sullivan County _____

State other than New Hampshire State other than New Hampshire
(please List by State) _____ (please List by State) _____

Number of Patients Self Identified As: Number of Patients Self Identified As:

Caucasian _____ Caucasian _____
African American _____ African American _____
Hispanic _____ Hispanic _____
Asian _____ Asian _____
Other _____ Other _____

Number of Patients Who Are: Number of Patients Who Are:

Under 15 _____ Under 15 _____
15-17 _____ 15-17 _____
18-24 _____ 18-24 _____
25-34 _____ 25-34 _____
35-44 _____ 35-44 _____
45 or older _____ 45 or older _____

Gestational Age of Fetus: Gestational Age of Fetus:

8 weeks or less _____ 8 weeks or less _____
9-13 weeks _____ 9-13 weeks _____
14-18 weeks _____ 14-18 weeks _____
19-26 weeks _____ 19-26 weeks _____
27 weeks or more _____

126:37 Penalty.

I. Any health care provider or health care facility that knowingly omits information required under this subdivision or

makes a false representation of the information required under this subdivision shall be subject to a civil penalty not to exceed \$1,000.

II. Any person who violates the confidentiality required under this subdivision shall be guilty of a class A misdemeanor.

2 Effective Date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill requires the department of health and human services to collect annual statistics on spontaneous and induced abortions occurring in this state.

2004-0455h

Amendment to HB 1221

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

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

AN ACT urging the oversight committee on telecommunications to study aspects of federal universal service funding.

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

1 Findings. The purpose of the federal universal service fund is to provide, on a national basis, affordable telecommunication services to schools and libraries, to high cost rural areas, to people of low income, and to rural health care providers. The general court finds that less than half of the money provided to this fund by New Hampshire residents and businesses, through their service providers, is returned to the state for program purposes. This amounts to an annual net outflow from the state of approximately \$18,000,000. Of particular concern is that less than 10 percent of the monies contributed from New Hampshire and allocated within the federal fund to support schools and libraries ends up returning to the state to help New Hampshire's schools and libraries.

2 Oversight Committee on Telecommunications Study. The oversight committee on telecommunications, established in RSA 374:22-h, is hereby urged to study the reasons for the net loss of money from the state, as described in section 1 of this act, and to identify viable ways of remedying the situation, whether by:

I. Decreasing payments to the fund, if possible.

II. Advocating for revised program grant criteria that would be more favorable to applicants from New Hampshire.

III. Implementing a coordinated, statewide effort to increase the number of successful applications to the fund by eligible New Hampshire parties.

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

AMENDED ANALYSIS

This bill urges the oversight committee on telecommunications to study aspects of federal universal service funding.

2004-0381h

Amendment to HB 1224

Proposed by the Committee on Commerce - R

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

1 New Chapter; Uniform Trust Code. Amend RSA by inserting after chapter 564-A the following new chapter:

CHAPTER 564-B

UNIFORM TRUST CODE

Article 1

General Provisions and Definitions

564-B:1-101 Short Title. This chapter may be cited as the Uniform Trust Code.

564-B:1-102 Scope. This chapter applies to express trusts, charitable or noncharitable, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

564-B:1-103 Definitions. In this chapter:

(1) "Action," with respect to an act of a trustee, includes a failure to act.

(2) "Beneficiary" means a person that:

(A) has a present or future beneficial interest in a trust, vested or contingent; or

(B) in a capacity other than that of trustee, holds a power of appointment over trust property.

(3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in RSA 564-B:405(a).

(4) "Conservator" means a person appointed by the court to administer the estate of an individual pursuant to RSA 464-A:13.

(5) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(6)(a) "Guardian of the estate" means a person appointed by a court to administer the estate of a minor, including a person described in RSA 463:19, or a person appointed by a court to serve as guardian of the estate of an incapacitated person, including a person described in described in RSA 464-A:26, I.

(b) "Guardian of the person" means a person appointed by a court to make decisions regarding the support, care and

education of a minor, including as described in RSA 463:12, or a guardian of the person of an incapacitated individual appointed by a court, including a person appointed by the court to carry out the responsibilities described in RSA 464-A:25. The term does not include a guardian ad litem.

(7) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(8) "Jurisdiction," with respect to a geographic area, includes a state or country.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government (including a governmental subdivision, agency, or instrumentality), public corporation, or any other legal or commercial entity.

(10) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(11) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(12) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(A) is a distributee or permissible distributee of trust income or principal;

(B) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subparagraph (A) terminated on that date; or

(C) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(15) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(16) "Sign" means, with present intent to authenticate or adopt a record,

(i) to execute or adopt a tangible symbol; or

(ii) to attach to or logically associate with the record an electronic sound, symbol, or process.

(17) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(19) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

(20) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(21) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

564-B:1-104 Knowledge.

(a) Subject to subsection (b), a person has knowledge of a fact if the person:

(1) has actual knowledge of it;

(2) has received a notice or notification of it; or

(3) from all the facts and circumstances known to the person at the time in question, has reason to know it.

(b) An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.

564-B:1-105 Default And Mandatory Rules.

(a) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(b) The terms of a trust prevail over any provision of this chapter except:

(1) the requirements for creating a trust;

(2) the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(3) the requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a

purpose that is lawful, not contrary to public policy, and possible to achieve;

(4) the power of the court to modify or terminate a trust under RSA 564-B:4-410 through RSA 564-B:4-416;

(5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in article 5;

(6) the power of the court under RSA 564-B:7-702 to require, dispense with, or modify or terminate a bond;

(7) the power of the court under RSA 564-B:7-708(b) to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;

(8) the duty under RSA 564-B:8-813(b)(2) and (3) to notify qualified beneficiaries of an irrevocable trust who have attained 21 years of age of the existence of the trust, of the identity of the trustee, and of their right to request trustee's reports;

(9) the duty under RSA 564-B:8-813(a) to respond to the request of a beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;

(10) the effect of an exculpatory term under RSA 564-B:10-1008;

(11) the rights under RSA 564-B:10-1010 through RSA 564-B:10-1013 of a person other than a trustee or beneficiary;

(12) statutory periods of limitation for commencing a judicial proceeding;

(13) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and

(14) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in RSA 564-B:2-203 and RSA 564-B:2-204.

564-B:1-106 Common Law of Trusts; Principles of Equity. The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or another statute of this state.

564-B:1-107 Governing Law. The meaning and effect of the terms of a trust are determined by:

(1) the law of the jurisdiction designated in the terms unless the designation of that jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue; or

(2) in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

564-B:1-108 Principal Place Of Administration.

(a) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:

(1) a trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or

(2) all or part of the administration occurs in the designated jurisdiction.

(b) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries.

(c) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by subsection (b), may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.

(d) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60 days before initiating the transfer. The notice of proposed transfer must include:

(1) the name of the jurisdiction to which the principal place of administration is to be transferred;

(2) the address and telephone number at the new location at which the trustee can be contacted;

(3) an explanation of the reasons for the proposed transfer;

(4) the date on which the proposed transfer is anticipated to occur; and

(5) the date, not less than 60 days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

(e) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if the qualified beneficiary or, if more than one, a majority of qualified beneficiaries, notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

564-B:1-109 Methods And Waiver Of Notice.

(a) Notice to a person under this chapter or the sending of a document to a person under this chapter must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, commercial delivery service, courier service, and delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

(b) Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

(c) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

(d) Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

564-B:1-110 Others Treated As Qualified Beneficiaries.

(a) Whenever notice to qualified beneficiaries of a trust is required under this chapter, the trustee must also give notice to any other beneficiary who has sent the trustee a request for notice.

(b) A charitable organization expressly designated to receive distributions under the terms of a charitable trust or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in RSA 564-B:4-408 or RSA 564-B:4-409 has the rights of a qualified beneficiary under this chapter.

(c) The director of charitable trusts has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state.

564-B:1-111 Nonjudicial Settlement Agreements.

(a) For purposes of this section, "interested persons" means persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by a court.

(b) Except as otherwise provided in subsection (c), interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

(c) A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by a court under this chapter or other applicable law.

(d) Matters that may be resolved by a nonjudicial settlement agreement include:

(1) the interpretation or construction of the terms of the trust;

(2) the approval of a trustee's report or accounting;

(3) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

(4) the resignation or appointment of a trustee and the determination of a trustee's compensation;

(5) transfer of a trust's principal place of administration; and

(6) liability of a trustee for an action relating to the trust.

(e) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in article 3 was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

564-B:1-112 Rules Of Construction. The rules of construction that apply in this state to the interpretation of and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

Article 2

Judicial Proceedings

564-B:2-201 Role Of Court In Administration Of Trust.

(a) The court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person or as provided by law.

(b) A trust, other than a trust created by a will, is not subject to continuing judicial supervision unless ordered by the court.

(c) A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including a request for instructions and an action to declare rights.

564-B:2-202 Jurisdiction Over Trustee And Beneficiary.

(a) By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration to this state, the trustee submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

(b) With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the courts of this state regarding any matter involving the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

(c) This section does not preclude other methods of obtaining jurisdiction over a trustee, beneficiary, or other person receiving property from the trust.

564-B:2-203 Subject-Matter Jurisdiction.

(a) Except as provided in subsection (b) of this section, the probate court shall have exclusive jurisdiction of the interpretation, construction, modification and termination of a trust and over the appointment, removal, surcharge and administration of a trust as defined in RSA 564-A:1, I.

(b) The probate court has concurrent jurisdiction with the superior court of proceedings involving charitable uses and trusts other than express trusts, as described in RSA 564-A:1, I.

(c) Nothing in this section is intended to be inconsistent with RSA 547. To the extent that inconsistencies exist, RSA 547 controls.

564-B:2-204 Venue.

(a) Except as otherwise provided in subsection (b), venue for a judicial proceeding involving a trust is in the county of this state in which the trust's principal place of administration is or will be located. In the case of a testamentary trust where the estate is not yet closed, venue also may be in the county in which the decedent's estate is being administered.

(b) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in a county of this state in which a beneficiary resides, in a county in which any trust property is located, and if the trust is created by will, in the county in which the decedent's estate was or is being administered.

Article 3

Representation

564-B:3-301 Representation; Basic Effect.

(a) Notice to a person who may represent and bind another person under this article has the same effect as if notice were given directly to the other person.

(b) The consent of a person who may represent and bind another person under this article is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(c) Except as otherwise provided in RSA 564-B:4-411 and RSA 564-B:6-602, a person who under this article may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

564-B:3-302 Representation By Holder Of General Testamentary Power Of Appointment. To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

564-B:3-303 Representation By Fiduciaries And Parents. To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

(1) a conservator may represent and bind the estate that the conservator controls;

(2) a guardian of the estate may represent and bind the estate that the guardian of the estate controls;

(3) a guardian of the person may represent and bind the ward if a guardian of the ward's estate has not been appointed;

(4) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

(5) a trustee may represent and bind the beneficiaries of the trust except as to matters relating to the administration or distribution of the trust;

(6) a personal representative of a decedent's estate may represent and bind persons interested in the estate except as to matters relating to the administration or distribution of the estate; and

(7) a parent may represent and bind the parent's minor or unborn child if neither a guardian of the estate or guardian of the person for the child has been appointed.

564-B:3-304 Representation By Person Having Substantially Identical Interest. Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented. Nothing in this section shall expand or limit the virtual representation of sui juris beneficiaries for purposes of RSA 564-A:3-c.

564-B:3-305 Appointment Of Representative.

(a) If the court determines that an interest is not represented under this article, or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown. A representative may be appointed to represent several persons or interests.

(b) A representative may act on behalf of the individual represented with respect to any matter arising under this chapter, whether or not a judicial proceeding concerning the trust is pending.

(c) In making decisions, a representative may consider general benefit accruing to the living members of the individual's family.

Article 4

Creation, Validity, Modification, And Termination Of Trust

564-B:4-401 Methods Of Creating Trust. A trust may be created by:

(1) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;

(2) declaration by the owner of property that the owner holds identifiable property as trustee; or

(3) exercise of a power of appointment in favor of a trustee.

564-B:4-402 Requirements For Creation.

(a) A trust is created only if:

- (1) the settlor has capacity to create a trust;
- (2) the settlor indicates an intention to create the trust;
- (3) the trust has a definite beneficiary or is:
 - (A) a charitable trust;
 - (B) a trust for the care of an animal, as provided in RSA 564-B:4-408; or
 - (C) a trust for a noncharitable purpose, as provided in RSA-B:4-409;
- (4) the trustee has duties to perform; and
- (5) the same person is not the sole trustee and sole beneficiary.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

564-B:4-403 Trusts Created In Other Jurisdictions. A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

- (1) the settlor was domiciled, had a place of abode, or was a national;
- (2) a trustee was domiciled or had a place of business; or
- (3) any trust property was located.

564-B:4-404 Trust Purposes. A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve. A trust and its terms must be for the benefit of its beneficiaries.

564-B:4-405 Charitable Purposes; Enforcement.

(a) A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

(b) If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection must be consistent with the settlor's intention to the extent it can be ascertained.

(c) The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust. In any such proceeding the director of charitable trusts shall be joined as a necessary party.

564-B:4-406 Creation Of Trust Induced By Fraud, Duress, Or Undue Influence. A trust is void to the extent its creation was induced by fraud, duress, or undue influence.

564-B:4-407 Evidence Of Oral Trust. Except as required by a statute other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence.

564-B:4-408 Trust For Care Of Animal.

(a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.

(b) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.

(c) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

564-B:4-409 Noncharitable Trust Without Ascertainable Beneficiary. Except as otherwise provided in RSA 564-B:4-408 or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than 21 years.

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

564-B:4-410 Modification Or Termination Of Trust; Proceedings For Approval Or Disapproval.

(a) In addition to the methods of termination prescribed by RSA 564-B:4-411 through RSA 564-B:4-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) A proceeding to approve or disapprove a proposed modification or termination under RSA 564-B:4-411 through RSA 564-B:4-416, or trust combination or division under RSA 564-B:4-417, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under RSA 564-B:4-411 may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under RSA 564-B:4-413, and in such proceeding, the director of charitable trusts shall be joined as a necessary party.

564-B:4-411 Modification Or Termination Of Noncharitable Irrevocable Trust By Consent.

(a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the guardian of the estate of the settlor, or, if none, the guardian of the person of the settlor, with the approval of the court supervising the guardianship if an agent is not so authorized.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the beneficiaries.

(e) If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

(1) if all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a beneficiary who does not consent will be adequately protected.

564-B:4-412 Modification Or Termination Because Of Unanticipated Circumstances Or Inability To Administer Trust Effectively.

(a) Upon petition by the settlor, the trustee or trustees, the director of charitable trusts or an interested party, the court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

(b) The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or wasteful or impair the trust's administration.

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

564-B:4-413 Cy Pres.

(a) Except as otherwise provided in subsection (b), if a particular charitable purpose becomes impossible, impracticable, illegal, obsolete ineffective or prejudicial to the public interest to achieve:

(1) the trust does not fail, in whole or in part;

(2) the trust property does not revert to the settlor or the settlor's successors in interest; and

(3) upon petition by the settlor, the trustee or trustees, the director of charitable trusts or an interested party, the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, to a charitable purpose which is useful to the community and which fulfills as nearly as possible the general charitable intent of the settlor.

(b) A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under subsection (a) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

(1) the trust property is to revert to the settlor and the settlor is still living; or

(2) fewer than 21 years have elapsed since the date of the trust's creation.

564-B:4-414 Modification Or Termination Of Uneconomic Trust.

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than \$100,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

(b) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

(d) This section does not apply to an easement for conservation or preservation.

564-B:4-415 Reformation To Correct Mistakes. The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor’s intention if it is proved by clear and convincing evidence that both the settlor’s intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

564-B:4-416 Modification To Achieve Settlor’s Tax Objectives. To achieve the settlor’s tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor’s probable intention. The court may provide that the modification has retroactive effect.

564-B:4-417 Combination And Division Of Trusts After notice to the qualified beneficiaries, a trustee may combine 2 or more trusts into a single trust or divide a trust into 2 or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

Article 5

Creditor’s Claims; Spendthrift And Discretionary Trusts

564-B:5-501 Rights Of Beneficiary’s Creditor Or Assignee. To the extent a beneficiary’s interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary’s interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances.

564-B:5-502 Spendthrift Provision.

(a) A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary’s interest.

(b) A term of a trust providing that the interest of a beneficiary is held subject to a “spendthrift trust,” or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary’s interest.

(c) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this article, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

564-B:5-503 Exceptions To Spendthrift Provision.

(a) In this section, “child” includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) Even if a trust contains a spendthrift provision, the following may obtain from a court an order attaching present or future distributions to or for the benefit of a beneficiary:

- (1) a beneficiary’s child for whom there is a judgment or court order against the beneficiary for support;
- (2) a beneficiary’s spouse or former spouse who has a judgment or court order against the beneficiary for alimony but only for and to the extent that such judgment or court order expressly specifies the alimony amount attributable to the most basic food, shelter and medical needs of the spouse or former spouse; or
- (3) a judgment creditor who has provided services for the protection of a beneficiary’s interest in the trust.

(c) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

(d) Nothing in this section or RSA 564-B:5-502 shall be construed to prevent the application of RSA 545-A, the Uniform Fraudulent Transfer Act, or a similar law of another state having jurisdiction over a transfer of property.

564-B:5-504 Discretionary Trusts; Effect Of Standard.

(a) In this section, “child” includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) Except as otherwise provided in subsection (c), whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee’s discretion, even if:

- (1) the discretion is expressed in the form of a standard of distribution; or
- (2) the trustee has abused the discretion.

(c) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:

- (1) a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support of the beneficiary’s child or for alimony for the beneficiary’s spouse, or former spouse; and
- (2) the court shall direct the trustee to pay to the child, spouse, or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

(d) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

564-B:5-505 Creditor's Claim Against Settlor.

(a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution. This subparagraph shall not apply to an irrevocable "special needs trust" established for a disabled person as described in 42 U.S.C. 1396p(d)(4) or similar federal law governing the transfer to such a trust.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, and expenses.

(b) For purposes of this section:

(1) during the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

(2) upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in Section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, or Section 2503(b) of the Internal Revenue Code of 1986, in each case as in effect on the effective date of this chapter, or as later amended.

564-B:5-506 Overdue Distribution. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

564-B:5-507 Personal Obligations Of Trustee. Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

Article 6

Revocable Trusts

564-B:6-601 Capacity Of Settlor Of Revocable Trust. The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

564-B:6-602 Revocation Or Amendment Of Revocable Trust.

(a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before the effective date of this chapter.

(b) If a revocable trust is created or funded by more than one settlor:

(1) to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; and

(2) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution; and

(3) upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

(c) The settlor may revoke or amend a revocable trust:

(1) by substantial compliance with a method provided in the terms of the trust; or

(2) by any other method manifesting clear and convincing evidence of the settlor's intent if the terms of the trust do not provide a method or do not expressly prohibit methods other than methods provided in the terms of the trust.

(d) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(e) A settlor's powers with respect to revocation, amendment, or distribution of trust property may not be exercised by an agent under a power of attorney. Any such revocation or amendment by an agent under a power of attorney shall be effective only if made in a signed record and shall be effective only when sent to the trustee.

(f) A conservator of the settlor or a guardian of the estate of the settlor, or, if no guardian of the estate has been appointed, a guardian of the person of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship.

(g) A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

564-B:6-603 Settlor's Powers; Powers Of Withdrawal.

(a) While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(b) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

564-B:6-604 Limitation On Action Contesting Validity Of Revocable Trust; Distribution Of Trust Property.

(a) A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:

(1) Three years after the settlor's death; or

(2) 180 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless:

(1) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

(c) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

Article 7

Office Of Trustee

564-B:7-701 Accepting Or Declining Trusteeship.

(a) Except as otherwise provided in subsection (c), a person designated as trustee accepts the trusteeship:

(1) by substantially complying with a method of acceptance provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

(c) A person designated as trustee, without accepting the trusteeship, may:

(1) act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(2) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

564-B:7-702 Trustee's Bond.

(a) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(b) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(c) The following entities need not give bond, even if required by the terms of the trust:

(1) Any trust company, bank, or savings association incorporated under the laws of this state, or any national bank or federally chartered savings association duly authorized and located within this state; and

(2) Any trust company, bank, or savings association incorporated under the laws of any other state, or any national bank or federally chartered savings association having its principal place of business in any other state, if such entity is permitted to exercise fiduciary powers in this state pursuant to RSA 390:13, II.

564-B:7-703 Cotrustees.

(a) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

(b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

(c) A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

(d) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(e) A trustee may not delegate to a cotrustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

(f) Except as otherwise provided in subsection (g), a trustee who does not join in an action of another trustee is not liable for the action.

(g) Each trustee shall exercise reasonable care to:

(1) prevent a cotrustee from committing a serious breach of trust; and

(2) compel a cotrustee to redress a serious breach of trust.

(h) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any

cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

564-B:7-704 Vacancy In Trusteeship; Appointment Of Successor.

(a) A vacancy in a trusteeship occurs if:

- (1) a person designated as trustee rejects the trusteeship;
- (2) a person designated as trustee cannot be identified or does not exist;
- (3) a trustee resigns;
- (4) a trustee is disqualified or removed;
- (5) a trustee dies; or
- (6) a guardian of the estate or guardian of the person or conservator is appointed for an individual serving as

trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

(c) A vacancy in a trusteeship of a noncharitable trust that is required to be filled must be filled in the following order of priority:

- (1) by a person designated in the terms of the trust to act as successor trustee;
- (2) by a person appointed by unanimous agreement of the qualified beneficiaries; or
- (3) by a person appointed by the court.

(d) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:

- (1) by a person designated in the terms of the trust to act as successor trustee;
- (2) by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the director of charitable trusts concurs in the selection; or
- (3) by a person appointed by the court.

(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

564-B:7-705 Resignation Of Trustee.

(a) A trustee may resign:

- (1) upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or
- (2) with the approval of the court.

(b) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(c) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

564-B:7-706 Removal Of Trustee.

(a) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.

(b) In addition to the power to remove a trustee pursuant to RSA 564:9, the court may remove a trustee if:

- (1) the trustee has committed a serious breach of trust;
- (2) lack of cooperation among cotrustees substantially impairs the administration of the trust;
- (3) because of unfitness, unwillingness, persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or

(4) there has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

(c) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under RSA 564-B:10-1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries.

564-B:7-707 Delivery Of Property By Former Trustee

(a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(b) A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to it.

564-B:7-708 Compensation Of Trustee.

(a) If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.

(b) If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified,

but the court may allow more or less compensation if:

- (1) the duties of the trustee are substantially different from those contemplated when the trust was created; or
- (2) the compensation specified by the terms of the trust would be unreasonably low or high.

564-B:7-709 Reimbursement Of Expenses.

(a) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

- (1) expenses that were properly incurred in the administration of the trust; and
- (2) to the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in

the administration of the trust.

(b) An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to

secure reimbursement with reasonable interest.

564-B:7-710 Coordination With RSA 564. Nothing in this article is intended to modify or limit the provisions of RSA 564 as they apply to testamentary trusts. To the extent the provisions of this article conflict with the provisions of RSA 564 as they apply to testamentary trusts, the provisions of RSA 564 shall control.

Article 8

Duties And Powers Of Trustee

564-B:8-801 Duty To Administer, Invest And Manage Trust. Upon acceptance of a trusteeship, the trustee shall administer, invest and manage the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, and in accordance with this chapter.

564-B:8-802 Duty Of Loyalty.

(a) A trustee shall administer, invest and manage the trust solely in the interests of the beneficiaries.

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in RSA 564-B:10-1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

- (1) the transaction was authorized by the terms of the trust;
- (2) the transaction was approved by the court;
- (3) the beneficiary did not commence a judicial proceeding within the time allowed by RSA 564-B:10-1005;
- (4) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in

compliance with RSA 564-B:10-1009; or

- (5) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

(c) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

- (1) the trustee's spouse;
- (2) the trustee's descendants, siblings, parents, or their spouses;
- (3) an agent or attorney of the trustee; or
- (4) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in

the trustee, has an interest that might affect the trustee's best judgment.

(d) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

(e) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(f) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of article 9. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee at least annually shall notify the persons entitled under RSA 564-A:8-813 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.

(g) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

(h) This section does not preclude the following transactions, if fair to the beneficiaries:

- (1) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;
 - (2) payment of reasonable compensation to the trustee;
 - (3) a transaction between a trust and another trust, decedent's estate, guardianship or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;
 - (4) a deposit of trust money in a regulated financial-service institution operated by the trustee; or
 - (5) an advance by the trustee of money for the protection of the trust.
- (i) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

564-B:8-803 Impartiality. If a trust has 2 or more beneficiaries, the trustee shall act impartially in administering, investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.

564-B:8-804 Prudent Administration. A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

564-B:8-805 Costs Of Administration. In administering a trust and in investing and managing trust assets, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

564-B:8-806 Trustee's Skills. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, shall use those special skills or expertise.

- 564-B:8-807 Delegation By Trustee.
- (a) A trustee may delegate duties, powers and investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:
- (1) selecting an agent;
 - (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
 - (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.
- (b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.
- (c) A trustee who complies with subsection (a) is not liable to the beneficiaries or to the trust for an action of the agent to whom the function was delegated.
- (d) By accepting a delegation of powers or duties from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

- 564-B:8-808 Powers To Direct.
- (a) While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.
- (b) If the terms of a trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.
- (c) The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.
- (d) A person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty.

- 564-B:8-809 Control And Protection Of Trust Property. A trustee shall take reasonable steps to take control of and protect the trust property.
- 564-B:8-810 Recordkeeping And Identification Of Trust Property.
- (a) A trustee shall keep adequate records of the administration of the trust.
 - (b) A trustee shall keep trust property separate from the trustee's own property.
 - (c) Except as otherwise provided in subsection (d), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.
 - (d) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of 2 or more separate trusts.

- 564-B:8-811 Enforcement And Defense Of Claims. A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.
- 564-B:8-812 Collecting Trust Property. A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee.

564-B:8-813 Duty To Inform And Report.

(a) A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust.

(b) A trustee:

(1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;

(2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

(3) within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (c); and

(4) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

(c) A trustee shall send to the distributees or permissible distributees of trust income or principal, and to other qualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, guardian of the estate or guardian of the person may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

(d) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A qualified beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

564-B:8-814 Discretionary Powers; Tax Savings.

(a) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(b) Subject to subsection (d), and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

(1) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended; and

(2) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

(c) A power whose exercise is limited or prohibited by subsection (b) may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

(d) Subsection (b) does not apply to:

(1) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, as in effect on [the effective date of this chapter, or as later amended, was previously allowed;

(2) any trust during any period that the trust may be revoked or amended by its settlor; or

(3) a trust if contributions to the trust qualify for the annual exclusion under Section 2503(c) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended.

564-B:8-815 General Powers Of Trustee.

(a) A trustee, without authorization by the court, may exercise:

(1) powers conferred by the terms of the trust; and

(2) except as limited by the terms of the trust:

(A) all powers over the trust property which an unmarried competent owner has over individually owned property;

(B) any other powers appropriate to achieve the proper administration, investment, management, and distribution of the trust property; and

(C) any other powers conferred by this chapter.

(b) The exercise of a power is subject to the fiduciary duties prescribed by this article.

564-B:8-816 Specific Powers Of Trustee.

(a) Without limiting the authority conferred by RSA 564-B:8-815, a trustee may:

- (1) collect trust property and accept or reject additions to the trust property from a settlor or any other person and trust property may be accepted from a settlor and retained even though it includes an asset in which the trustee is personally interested;
- (2) acquire or sell property, for cash or on credit, at public or private sale, including acquiring an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest;
- (3) exchange, partition, or otherwise change the character of trust property;
- (4) deposit trust money in an account in a regulated financial-service institution;
- (5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;
- (6) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
- (7) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:
 - (A) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;
 - (B) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;
 - (C) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and
 - (D) deposit the securities with a depository or other regulated financial-service institution;
- (8) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;
- (9) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
- (10) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
- (11) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- (12) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
- (13) with respect to possible liability for violation of environmental law:
 - (A) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;
 - (B) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;
 - (C) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;
 - (D) compromise claims against the trust which may be asserted for an alleged violation of environmental law;
 - (E) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law; and
 - (F) comply with the environmental provisions of RSA 564-A:3-a;
- (14) pay or contest any claim, settle a claim by or against the trust; and release, in whole or in part, a claim belonging to the trust;
- (15) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;
- (16) exercise elections with respect to federal, state, and local taxes;
- (17) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;
- (18) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee

considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(19) pledge trust property to guarantee loans made by others to the beneficiary;

(20) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(A) paying it to the beneficiary's conservator or to the guardian of the beneficiary's estate;

(B) paying it to the beneficiary's custodian under the Uniform Transfers to Minors Act or custodial trustee under the Uniform Custodial Trust Act, and, for that purpose, creating a custodianship or custodial trust;

(C) if the trustee does not know of a conservator, guardian of the estate of the beneficiary, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(D) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(23) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(25) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;

(26) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

(27) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's administrative duties and to act without independent investigation upon their recommendations.

(b) An executor or other fiduciary administering a will has all powers conferred by this section unless limited in the will.

564-B:8-817 Distribution Upon Termination.

(a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(b) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(c) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:

(1) it was induced by improper conduct of the trustee; or

(2) beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach.

Article 9

Uniform Prudent Investor Act

564-B:9-901 Prudent Investor Rule.

(a) Except as otherwise provided in subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

564-B:9-902 Standard Of Care; Portfolio Strategy; Risk And Return Objectives.

(a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation

but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) general economic conditions;
- (2) the possible effect of inflation or deflation;
- (3) the expected tax consequences of investment decisions or strategies;
- (4) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) the expected total return from income and the appreciation of capital;
- (6) other resources of the beneficiaries;
- (7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

564-B:9-903 Diversification. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

564-B:9-904 Duties At Inception Of Trusteeship. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this chapter.

564-B:9-905 Reviewing Compliance. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

564-B:9-906 Language Invoking Standard Of Article. The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this article: "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

Article 10

Liability Of Trustees And Rights of Persons Dealing With Trustee

564-B:10-1001 Remedies For Breach Of Trust

- (a) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.
- (b) To remedy a breach of trust that has occurred or may occur, the court may:
 - (1) compel the trustee to perform the trustee's duties;
 - (2) enjoin the trustee from committing a breach of trust;
 - (3) compel the trustee to redress a breach of trust by paying money, restoring property, or other means;
 - (4) order a trustee to account;
 - (5) appoint a special fiduciary to take possession of the trust property and administer the trust;
 - (6) suspend the trustee;
 - (7) remove the trustee as provided in RSA 564-B:7-706;
 - (8) reduce or deny compensation to the trustee;
 - (9) subject to RSA 564-B:10-1012, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds; or
 - (10) order any other appropriate relief, including relief under RSA 547:3-b.

564-B:10-1002 Damages For Breach Of Trust.

- (a) A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:
 - (1) the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
 - (2) the profit the trustee made by reason of the breach.
- (b) Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees, to the extent permitted by RSA 507:7-f.

However, a trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the

beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

564-B:10-1003 Damages in Absence of Breach.

(a) A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust. This section does not preclude the payment of reasonable trustee compensation.

(b) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

564-B:10-1004 Attorney's Fees And Costs. In a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

564-B:10-1005 Limitation Of Action Against Trustee.

(a) A beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

(b) A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

(c) If subsection (a) does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within 3 years after the first to occur of:

- (1) the removal, resignation, or death of the trustee;
- (2) the termination of the beneficiary's interest in the trust; or
- (3) the termination of the trust.

564-B:10-1006 Reliance On Trust Instrument. A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

564-B:10-1007 Event Affecting Administration Or Distribution. If the happening of an event, including marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

564-B:10-1008 Exculpation Of Trustee.

(a) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:

(1) relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or

(2) was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

(b) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.

564-B:10-1009 Beneficiary's Consent, Release, Or Ratification. A trustee is not liable to a beneficiary for breach of trust if the beneficiary, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

- (1) the consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or
- (2) at the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

564-B:10-1010 Limitation On Personal Liability Of Trustee.

(a) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

(b) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

(c) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

564-B:10-1011 Interest As General Partner.

(a) Except as otherwise provided in subsection (c) or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into

by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract. The requirement of disclosure in the contract will be satisfied if the trustee signs the contract, or signs another writing which is contemporaneously delivered to the other parties to the contract, in a manner that clearly evidences that the trustee executed the contract in a fiduciary capacity.

(b) Except as otherwise provided in subsection (c), a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(c) The immunity provided by this section for a trustee who holds an interest as a general partner does not apply if a general partnership interest in the partnership is held personally by the person serving as trustee.

(d) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

564-B:10-1012 Protection Of Person Dealing With Trustee.

(a) A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

(b) A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.

(c) A person who in good faith delivers assets to a trustee need not ensure their proper application.

(d) A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

(e) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

564-B:10-1013 Certification Of Trust.

(a) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

- (1) that the trust exists and the date the trust instrument was executed;
- (2) the identity of the settlor;
- (3) the identity and address of the currently acting trustee;
- (4) the powers of the trustee;
- (5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;

(6) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee;

(7) the trust's taxpayer identification number; and

(8) the manner of taking title to trust property.

(b) A certification of trust may be signed or otherwise authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust need not contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

(f) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(g) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

Article 11

Miscellaneous Provisions

564-B:11-1101 Uniformity Of Application And Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

564-B:11-1102 Electronic Records And Signatures. The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

564-B:11-1103 Severability Clause. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

564-B:11-1104 Application To Existing Relationships.

(a) Except as otherwise provided in this chapter, on the effective date of this chapter:

(1) this chapter applies to all trusts created before, on, or after its effective date;

(2) this chapter applies to all judicial proceedings concerning trusts commenced on or after its effective date;

(3) this chapter applies to judicial proceedings concerning trusts commenced before its effective date unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter does not apply and the superseded law applies;

(4) any rule of construction or presumption provided in this chapter applies to trust instruments executed before the effective date of the chapter unless there is a clear indication of a contrary intent in the terms of the trust; and

(5) an act done before the effective date of the chapter is not affected by this chapter.

(b) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before the effective date of the chapter, that statute continues to apply to the right even if it has been repealed or superseded.

2 Charitable Trusts; References Added. Amend RSA 7:19-b, VI(b) to read as follows:

(b) This section shall not supplant or restrict the general powers of the probate courts with respect to charitable trusts pursuant to RSA 498, RSA 547:3 through 547:3-h, ***RSA 564-B:2-203, article 4 of RSA 564-B***, or at common law. Nor do the standards set forth in paragraph II of this section supplant or restrict the standards that may lawfully be applied in connection with the doctrines of cy pres, deviation, and termination as applicable by the probate courts of this state in such proceedings.

3 Standard of Conduct; Reference Added. Amend RSA 292-B:6 to read as follows:

292-B:6 Standard of Conduct. In the administration of the powers to appropriate appreciation, to accumulate income or add income to principal, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise general standards of prudent investment as defined under ~~[RSA 564-A]~~ ***article 9 of RSA 564-B*** under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions. Provided, however, the appropriation of appreciation in any year in an amount greater than 7 percent of the fair market value of the assets of the institution's endowment funds (calculated on the basis of market values determined at least quarterly and averaged over a period of 3 or more years) shall create a rebuttable presumption of imprudence on the part of the governing board.

4 Banks Authorized to Invest Trust Funds in Affiliated Investments; Reference Added. Amend RSA 384:65, III(a) to read as follows:

(a) Invest in the securities of an investment company or investment trust, to which such fiduciary or its affiliate provides services in a capacity other than as trustee, such as advisor, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing agent, administrator, or custodian, and such investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standard pursuant to ~~[RSA 564-A:3-b]~~ ***article 9 of RSA 564-B***.

5 Charitable Gift Annuities Exemption; Definitions; Reference Added. Amend RSA 403-E:1, V(e) to read as follows:

(e) Invests contributions made in exchange for charitable gift annuities solely in conformance with ~~[RSA 564-A:3-b]~~ ***article 9 of RSA 564-B***, general standards of prudent investment.

6 General Powers and Duties of a Guardian of the Estate of a Minor. Amend RSA 463:19, II to read as follows:

II. Except as limited by statute or order of the court, the guardian of the estate shall have the power to perform, without court authorization, every act which persons of prudence, discretion[,] and intelligence[,] and exercising judgment and care as in the management of their own affairs[,] would perform ***for the purposes of the guardianship***, including but not limited to, the powers specified in ~~[the Uniform Trustee's Powers Act pursuant to RSA 564-A:3]~~ ***RSA 564-B:8-816***. The guardian of the estate, with court authorization, shall have the power to create and fund a trust, to terminate at some time after the termination of the guardianship, for the benefit of the minor into which all or part of such minor's estate may be transferred. Except in the case of a special needs trust as defined in ~~[RSA 564:23, II]~~ ***RSA 564-B:5-505***, the trust shall not continue beyond the twenty-fifth

birthday of the minor.

7 General Powers and Duties of Guardian of the Estate; Reference Change. Amend RSA 464-A:26, II to read as follows:

II. Except as limited by statute or order of the court, the guardian of the estate shall have the power to perform, without court authorization, every act which persons of prudence, discretion and intelligence and exercising judgment and care as in the management of their own affairs would perform for the purposes of the guardianship, including, but not limited to, the powers specified in ~~[the uniform trustees' powers act pursuant to RSA 564-A:3]~~ **RSA 564-B:8-816.**

8 Courts; Equity Powers and Proceedings; Limitation. Amend RSA 498:9 to read as follows:

498:9 Limitation. The provisions of RSA 498:8 shall not apply to property exempt from attachment or to trust ~~[funds covered under the provisions of RSA 564:23, I]~~ **assets or a beneficiary's or settlor's interest in a trust to the extent protected by article 5 of RSA 564-B from the claim, attachment or reach of a creditor or assignee.**

9 Repeal. The following are repealed:

- I. RSA 564:15-a, relative to the termination of small trusts.
- II. RSA 564:18, relative to investments by trustees of estates.
- III. RSA 564:23, relative to creditors and assignees of beneficiaries of trusts.
- IV. RSA 564-A:1, III, relative to the "prudent man" definition.
- V. RSA 564-A:2, relative to the powers of a trustee conferred by the trust instrument or by law.
- VI. RSA 564-A:3, I, relative to trustee powers.
- VII. RSA 564-A:3, II, relative to trustee powers.
- VIII. RSA 564-A:3, III, relative to trustee powers.
- IX. RSA 564-A:3-b, relative to general standards of prudent investment.
- X. RSA 564-A:4, relative to a trustee's ability to delegate.
- XI. RSA 564-A:5, II, relative to power of court to permit transactions involving conflict of interest.
- XII. RSA 564-A:6, relative to powers and liability of cotrustees.
- XIII. RSA 564-A:7, I, relative to protection of third persons dealing with trustees.

10 Effective Date. This act shall take effect October 1, 2004.

2004-0184h

Amendment to HB 1225-FN-A
Proposed by the Committee on Finance - C

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

AN ACT making administrative changes to the historic agricultural structure matching grants program.

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

AMENDED ANALYSIS

This bill makes certain administrative changes to the historic agricultural structure matching grants program.

2004-0605h

Amendment to HB 1228
Proposed by the Committee on Judiciary - C

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

AN ACT relative to changes to the uniform fine schedule.

Amend the bill by replacing section 1 with the following:

1 Legislative Approval Required; Changes to Uniform Fine Schedule. Amend RSA 502-A:19-b, V to read as follows:

V. The uniform fine schedule and administrative processing fee referred to in paragraphs I and II ~~[shall be]~~, developed and promulgated by the New Hampshire supreme court after approval by the legislative fiscal committee, **shall, on and after January 1, 2005, be changed only by statute.**

AMENDED ANALYSIS

This bill requires that any changes to the uniform fine schedule be made by statute.

2004-0492h

Amendment to HB 1230-FN
Proposed by the Committee on Science, Technology and Energy - C

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

1 New Subparagraph; General Revenue Exceptions; Public Interest Payphone Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys deposited in the public interest payphone fund established in RSA 374:22-q.

2 New Subdivision; Public Interest Payphones. Amend RSA 374 by inserting after section 22-p the following new subdivision:

Public Interest Payphones

374:22-q Public Interest Payphones.

I. There is hereby established a public interest payphone fund into which shall only be deposited monies received

pursuant to RSA 471-C:8, IV and this paragraph. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund. Monies in the fund shall be nonlapsing and continually appropriated to the commission to be used only to fund the maintenance of public interest payphones. At the end of each biennium, any monies in excess of \$30,000 shall be transferred to the general fund.

II. "Public interest payphone" means a payphone or payphone site which the commission has determined to be necessary in the interest of public health, safety, or welfare, where there would otherwise not be a payphone, in accordance with 47 U.S.C. section 276(b)(2). The owner or person in control of the payphone site may object in writing to the commission to the designation of the public interest payphone. The commission shall not designate a payphone or payphone site as a public interest payphone if such objection is received by the commission prior to designation; if the objection is received after designation, the commission shall remove the designation immediately upon receipt of the objection. The commission shall make payment of fair compensation from the fund to providers of payphones that have been designated by the commission as public interest payphones, where such providers are required by the commission to maintain the payphones. No other state or state associated funds shall be used to maintain public interest payphones other than those contained in the fund, without further authorization from the legislature.

III. Any public utility or non-utility pay telephone services provider that operates any plant or equipment or any part of same for the conveyance of telephone or telegraph messages that elects to remove the last pay telephone at a site shall provide prior written notice to the commission, to the owner of the property where the payphone is located, and to the public of the intended removal of the payphone. The provider shall notify the commission and the owner at least 60 days prior to removal. Posting notice on the payphone at least 30 days prior to removal shall constitute adequate public notice. The notice shall include notification that any person may file a petition with the commission to designate the payphone as a public interest payphone. Once a payphone or payphone site has been designated as a public interest payphone, the payphone may not be removed unless the commission removes the public interest payphone designation. The commission shall adopt rules, pursuant to RSA 541-A, to implement this subdivision.

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

6 Repeal. RSA 374:22-p, VI and VII, relative to public interest payphones, is repealed.

2004-0425h

Amendment to HB 1262

Proposed by the Committee on Environment and Agriculture - C

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

AN ACT establishing a commission to study ways to encourage municipal recycling efforts.

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

1 Commission Established. There is established a commission to study ways to encourage municipal recycling efforts.

2 Membership and Compensation.

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

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

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

(c) The commissioner of the department of environmental services, or designee.

(d) A member appointed by New Hampshire the Beautiful, Inc.

(e) A member appointed by the Northeast Resource Recovery Association.

(f) Two public members, appointed by the speaker of the house of representatives.

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

3 Duties. The commission shall study:

I. Ways to enhance municipal recycling efforts.

II. Other systems for recycling currently used in the United States and Canada.

III. An environmental fee on recyclable household waste.

IV. The creation of a grant program and a fund to be used to help towns implement and expand recycling programs.

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

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

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

AMENDED ANALYSIS

This bill establishes a commission to study ways to encourage municipal recycling efforts.

2004-0433h

Amendment to HB 1276-FN
Proposed by the Committee on Transportation - C

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

AN ACT relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

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

1 Special Number Plates for Veterans; Eligibility. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans. The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only upon application, proof of honorable discharge from the armed services as deemed appropriate by the director, and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. *The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II.* Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

2 Committee to Study Establishing Special Number Plates for Veterans Who Were Awarded the Bronze Star or the Silver Star.

I. There is established a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

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

- (a) Three members of the house, appointed by the speaker of the house of representatives.
- (b) Three members of the senate, appointed by the president of the senate.

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

IV. The committee shall study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

VI. Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

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

AMENDED ANALYSIS

This bill makes certain veterans of World War II eligible for special number plates for veterans and establishes a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.
2004-0545h

Amendment to HB 1278-FN-LOCAL

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

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

AN ACT relative to the applicable minimum wage for hourly employees and establishing a committee to study certain issues relative to the minimum wage.

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

1 Minimum Hourly Rate. Amend the introductory paragraph of RSA 279:21 to read as follows:

279:21 Minimum Hourly Rate. Unless otherwise provided by statute, no person, firm, or corporation shall employ any employee at an hourly rate lower than that set forth in the federal minimum wage law, as amended, or as follows, whichever is higher:

Date	Hourly Rate
~~[April 1, 1991 to September 30, 1996~~	~~\$4.25~~
~~October 1, 1996 to August 31, 1997~~	~~\$4.75]~~
On and after September 1, 1997	\$5.15
On and after July 1, 2004	\$6.00

Tipped employees of a restaurant, hotel, motel, inn or cabin, who customarily and regularly receive more than \$20 a month in tips directly from the customers will receive a base rate from the employer of not less than \$2.38 per hour. With any change to the minimum wage after the effective date of this section, the employer is responsible to pay employees \$2.38 per hour or 45

percent of the applicable minimum wage whichever is higher. If an employee shows to the satisfaction of the commissioner that the actual amount of wages received at the end of each pay period did not equal the minimum wage for all hours worked, the employer shall pay the employee the difference to guarantee the applicable minimum wage. The limitations imposed hereby shall be subject to the following exceptions:

2 Committee Established.

I. There is established a committee to study issues relative to the minimum wage.

II.(a) The members of the committee shall be as follows:

- (1) Three members of the house of representatives, appointed by the speaker of the house.
- (2) Three members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study:

- (a) Economic ramifications across the region of minimum wage increases.
- (b) Impact of the minimum wage rate in New Hampshire on federal and state subsidy programs like the temporary assistance to needy families program (TANF), food stamps, and other similar programs.
- (c) Ramifications of a minimum wage increase on business profits tax revenues.
- (d) Other methods to create incentives for businesses to compensate workers at a living wage.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

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

AMENDED ANALYSIS

This bill raises the minimum wage for hourly employees.

This bill also establishes a committee to study certain issues relative to the minimum wage.

2004-0452h

Amendment to HB 1293

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

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

1 Emission Control Equipment. Amend RSA 266:59-b, I to read as follows:

I.(a) Every motor vehicle driven on the ways of this state which is subject to inspection ~~[after December 31, 1998]~~ under this chapter shall be equipped with all of the emission control equipment which was part of that motor vehicle as originally equipped, and ***such equipment shall*** be properly connected to prevent excessive emissions. Motor vehicle inspections conducted in accordance with this chapter shall ~~[visually]~~ ***include a visual*** check for the presence and proper connection of the following equipment on vehicles so equipped:

- (1) Catalytic converter.
- (2) Gas cap.
- (3) ~~[Properly fitting fuel inlet restrictor]~~ ***Evaporative purge canister.***
- (4) Positive crankcase ventilation (PCV) valve and properly configured hoses.
- (5) Properly connected air injection pump/pulse air systems.

(b) The commissioner of the department of safety, in accordance with applicable federal laws and regulations, and in consultation with the commissioner of environmental services, may adopt rules under RSA 541-A to exempt vehicles from those requirements of this section which would require replacement of parts for which replacements cannot be reasonably obtained.

(c) The commissioner of the department of safety, subject to conditions approved in advance by the federal Environmental Protection Agency (***EPA***), and after public hearing and consultation with the commissioner of the department of environmental services and the air pollution advisory committee, and notification of the house science, technology, and energy committee and the senate environment committee, and with the approval of the air pollution advisory committee, may modify the vehicle emission control inspection program ~~[in any of the following manners]~~ ***by substituting the exhaust gas recirculation system for one or more of the items in subparagraphs I(a)(4) and I(a)(5),*** provided that the total effect of ~~[all]~~ such ~~[changes]~~ ***change*** is determined to produce a net environmental improvement[~~:-~~]

- (1) ~~Substituting one or more of the following items for one or more of the items in subparagraphs I(a) (3), (4), or~~

~~(5):~~

~~(A) Exhaust gas recirculation system.~~

~~(B) Evaporative purge canister.~~

- (2) ~~Exempting additional model years in addition to those exempted by paragraph IV].~~

2] Emission Control Equipment. Amend RSA 266:59-b, III to read as follows:

III. For ***all model year 1996 and newer gasoline-powered and model year 1997 and newer diesel-powered*** motor vehicles equipped with on-board diagnostic [~~sensors~~] ***systems*** meeting the federal [~~Environmental Protection Agency (EPA)~~] ***EPA*** OBD II standards, [~~after the EPA has implemented OBD II emission test requirements,~~] the commissioner, after public hearing and consultation with the commissioner of the department of environmental services and the air pollution advisory committee, and notification of the house science, technology, and energy committee and the senate environment committee, and with the approval of the air pollution advisory committee, shall adopt rules under RSA 541-A, which require every motor vehicle driven on the ways of this state which is subject to [~~state safety~~] inspection ***under this chapter***, after a date specified by the commissioner, to be tested for OBD II indications of failures ***as a component of the inspection***. To the extent allowed by EPA OBD II policy, OBD II data may be substituted for visual and functional tests required by [~~paragraphs I and II~~] ***paragraph I***.

3] Emission Control Equipment. Amend RSA 266:59-b, IV to read as follows:

IV. This section shall not apply to vehicles [~~manufactured prior to the 1975 model year.~~] ***20 or more model years old which shall be determined by subtracting the model year of the vehicle from the calendar year in which the inspection occurs.***

V. If a vehicle fails the EPA OBD II test and it passes all other inspection requirements under this chapter, then it shall be issued a temporary waiver that permits its operation for 60 days from the date of issuance, in order to make required repairs. A vehicle shall be eligible for only one such waiver during its inspection cycle.

4] Repeal. RSA 266:59-b, II, relative to oxygen sensor testing, is repealed.

5] Effective Date.

I. Section 3 of this act shall take effect 60 days after its passage.

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

2004-0463h

Amendment to HB 1295

Proposed by the Committee on Judiciary - R

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

AN ACT relative to certain court records.

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

1] New Subdivision; Actions Against Governmental Units. Amend RSA 507 by inserting after section 16 the following new subdivision:

Actions Against Governmental Units

507:17 Actions Against Governmental Units; Definition; Court Records.

I. "Governmental unit" means the state and any political subdivision within the state including any county, city, town, precinct, school district, charter school, school administrative unit, or departments or agencies thereof.

II. In any action against a governmental unit where the governmental unit has agreed to a settlement of such action, the complete terms of the settlement and the decree of the court judgment shall be available as a matter of public record pursuant to RSA 91-A.

III. The court may redact the names of minor children or any other person the court determines to be entitled to privacy.

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

AMENDED ANALYSIS

This bill declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A.

2004-0254h

Amendment to HB 1296

Proposed by the Committee on Environment and Agriculture - C

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

AN ACT establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

Amend the bill by replacing section 1 with the following:

1] Committee Established. There is established a committee to the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

Amend the bill by replacing section 3 with the following:

3] Duties. The committee shall study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

AMENDED ANALYSIS

This bill establishes a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

2004-0481h

Amendment to HB 1301

Proposed by the Committee on Municipal and County Government - C

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

1 Notice of Intent to Cut. Amend RSA 79:10, I(f) to read as follows:

(f) ***Starting an operation before the original notice of intent to cut or supplemental intent to cut has been filed with the city or town and signed by the appropriate municipal officials shall constitute a violation by the owner or any other person doing the cutting, or both.***

(g) A copy of all intents received by the commissioner of revenue administration shall be forwarded to the division of forests and lands of the department of resources and economic development.

2 Report. Amend RSA 79:11 to read as follows:

79:11 Report.

I. Every owner who has filed a notice of intent to cut as provided in RSA 79:10 shall make under the penalties of perjury and file with the assessing officials a report of all wood and timber cut within 60 days after completion of an operation. The report shall be upon a form provided by the commissioner of revenue administration, with 2 copies to be sent to him. The report shall state if no growing wood and timber was cut on an operation for which a notice of intent to cut was filed. The assessing officials may require that a report of cut be filed immediately upon the completion or termination of the cutting referred to in a notice of intent to cut. Reports of cut shall contain the name, residence~~[-and social security number]~~ of the owner, volume of wood and timber cut by species or species group and primary products, and such other information as may be necessary to enable the assessing officials to locate, identify, verify and determine the full amount and true stumpage value of all wood and timber cut on the operation for which the report is filed. In addition, the person who did the cutting or the person responsible for the cutting must sign and verify the volumes of wood and timber reported to have been cut by the owner. The commissioner of revenue administration shall send one copy of the report of cut to the division of forests and lands of the department of resources and economic development. A report of wood and timber severed covering operations still in progress through March 31 of any year shall be filed not later than ~~[April]~~ **May** 15 of said year for all wood and timber severed during the tax year up to and including March 31.

II. Notwithstanding the provisions of paragraph I, any owner who has commenced cutting operations under a valid notice of intent to cut prior to April 1, which notice has been extended to June 30 under provisions contained in RSA 79:10, II, shall be required to file the report of cut as required in paragraph I of this section within 60 days of the completion of the operation or by ~~[July]~~ **August** 15, whichever occurs first.

3 Doomage. Amend RSA 79:12 to read as follows:

79:12 Doomage. If an owner neglects or fails to file a report of cut pursuant to RSA 79:11, unless the time is extended by the assessing officials because of accident, mistake or misfortune to a date not later than the following ~~[May]~~ **June** 1, or willfully makes any false statement in a notice of intent to cut, or a report of cut, or willfully files a report of cut that does not contain a true and correct statement of the amount of wood or timber cut, or has willfully omitted to give any information required by a report of cut, the assessing officials shall ascertain, in such way as they may be able, and as nearly as practicable, the volume and stumpage value of the wood and timber for which such owner is taxable, and shall assess to such owner, by way of doomage 2 times as much as such wood and timber would have been taxed had such report been seasonably filed and truly reported. Such doomage shall be collected by the tax collector in the usual manner and paid over to the town treasurer for use of the town.

4 Certification of Yield Taxes Assessed. Amend RSA 79:19 to read as follows:

79:19 Certification of Yield Taxes Assessed.

I. The assessing officials of every town and city shall annually on or before ~~[May]~~ **June** 15 certify to the commissioner the normal yield taxes assessed for the tax year ending the preceding March 31. Such certification shall be filed in duplicate upon a form prescribed and provided by the commissioner and shall contain such information as the commissioner shall require. Any assessing official who fails to file the certification as provided herein shall, upon complaint, be guilty of a violation.

II. Notwithstanding the provisions of paragraph I, certification for yield taxes assessed on owners whose notice of intent to cut has been extended to June 30 under provisions contained in RSA 79:10, II, shall be filed on or before ~~[August]~~ **September** 15.

5 Effective Date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill establishes a new violation for beginning a timber cutting operation before the appropriate notices are filed.

This bill also makes various date changes to the timber cutting statutes.

2004-0456h

Amendment to HB 1302

Proposed by the Committee on Judiciary - C

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

1 New Section; Termination by Members of the Armed Services. Amend RSA 540 by inserting after section 11 the

following new section:

540:11-a Termination by Members of the Armed Services.

- I. A lessee may terminate his or her lease, or a tenant may terminate a rental agreement when the lessee or tenant is:
 - (a) A member of the armed services reserve who is called to active duty.
 - (b) A member of the national guard who is called to active duty.
 - (c) A member of the armed services on active duty who is reassigned to a location out of the state.

II. The lessee or tenant shall terminate the lease or rental agreement by a written notice in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C, section 534.

2 Effective Date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill allows a member of the armed services reserve or national guard, who is called to active duty, or a member of the military on active duty who is transferred to another state, to terminate a real estate lease or rental agreement in accordance with the terms of federal law.

2004-0646h

Amendment to HB 1309

Proposed by the Majority of the Committee on Judiciary - R

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

1 Purpose. The general court recognizes that maintaining safe shooting ranges within the state is essential to provide places for the training of law enforcement, safety programs for youth, competitive shooting, hunter's safety training, self defense training for private citizens, and safe affordable shooting environments. The general court encourages shooting range owners and operators to exhibit reasonableness in applying the provisions of this exemption.

2 Shooting Ranges. RSA 159-B is repealed and reenacted to read as follows:

CHAPTER 159-B

SHOOTING RANGES

159-B:1 Exemption. Notwithstanding the provisions of RSA 644:2, III(a) or any other law to the contrary, no person who owns, operates, or uses a shooting range in this state shall be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution, provided that the owners of the range are in compliance with any applicable noise control ordinances in existence at the time the range was established, was constructed, or began operations.

159-B:2 Injunctions. The owners, operators, or users of shooting ranges shall not be subject to any action for nuisance and no court shall enjoin the use or operation of a range on the basis of noise or noise pollution, provided that the owners of the range are in compliance with any noise control ordinance that was in existence at the time the range was established, was constructed, or began operations.

159-B:3 Expansion. Subsequent physical expansion of the shooting range or change in the types of firearms in use at the range shall not establish a new date of commencement of operations for the portion or portions in existence prior to the expansion for the purposes of this chapter.

159-B:4 Retroactivity Prohibited. No administrative rule, statute, or ordinance adopted, enacted, or proposed by the state of New Hampshire or its political subdivisions shall be applied retroactively to prohibit or limit the scope of the activities previously conducted at a shooting range, which was in operation prior to the adoption, enactment, enforcement, or proposal of the administrative rule, statute, or ordinance.

159-B:5 Nuisance. Notwithstanding any other law to the contrary, a person may not maintain a nuisance action for noise or noise pollution against a shooting range, or the owners, operators, or users of the range, located in the vicinity of that person's property, if the shooting range was established, constructed, or being used on a regular basis as of the date the person acquired the property.

159-B:6 Exemption From State Standards. No standard in rules adopted by any state agency for limiting levels of noise in terms of decibel level, which may occur in the outdoor atmosphere, shall apply to the shooting ranges exempted from liability under the provisions of this chapter.

159-B:7 Cause of Action. The owners of a shooting range shall have a right of action in superior court to enforce the provisions of this chapter.

159-B:8 Definitions. In this chapter:

I. "Noise" shall mean the intensity, duration, and character of sounds from all sources.

II. "Shooting range" shall mean a property or properties designed and operated for persons using rifles, shotguns, pistols, revolvers, or blackpowder weapons; archery; air rifles; silhouettes; skeet ranges; trap ranges; or other similar facilities.

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

AMENDED ANALYSIS

This bill eliminates certain provisions authorizing local regulation of shooting ranges and makes certain immunities for shooting range owners additionally applicable to operators or users.

2004-0609h

Amendment to HB 1320

Proposed by the Committee on Commerce - C

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

1 Definitions; Retail Seller; Location. Amend RSA 361-A:1, XII to read as follows:

XII. "Retail seller" or "seller" means a person who sells a motor vehicle *in this state or* to a retail buyer under or subject to a retail installment contract.

2 Definitions; Sales Finance Company. Amend the introductory paragraph of RSA 361-A:1, XIII to read as follows:

XIII. "Sales finance company" means a person engaged, in whole or in part, directly or indirectly, in the business of providing *motor vehicle* financing *in this state* to one or more retail buyers, or in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to any federally chartered bank, savings bank, trust company, credit union, cooperative bank, finance company, lending agency, industrial bank, or investment company, if so engaged. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon, nor does it include a retail seller who:

3 Licensing of Sales Finance Companies and Retail Sellers Required; Responsibility for Supervision Added. Amend RSA 361-A:2, I to read as follows:

I. No person shall engage in the business of a sales finance company or retail seller in this state without a license therefor as provided in this chapter. ***Persons subject to this chapter shall be responsible for the supervision of their employees, agents and branch offices.*** No federally chartered bank, savings bank, trust company, credit union, cooperative bank, or industrial bank shall be required to obtain such a license but shall comply with the provisions of RSA 361-A:7-12, unless otherwise exempted in this chapter.

4 New Paragraphs; Licensing of Sales Finance Companies and Retail Sellers Required; No Implied Approval by the Commissioner. Amend RSA 361-A:2 by inserting after paragraph XII the following new paragraphs:

XIII. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

XIV. Any license fee required by this chapter shall be paid before a license may become effective.

5 License Surrender; Effective Date. Amend RSA 361-A:2-a to read as follows:

361-A:2-a License Surrender.

I.(a) A licensee who ceases to engage in the business of a sales finance company or retail seller at any time during a license year for any cause, including but not limited to bankruptcy, license revocation or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation.

(b) Withdrawal of the surrendered license becomes effective 30 days after receipt of the license by the commissioner or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 361-A:3 within one year after the withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications ***and the imposition of penalties under RSA 361-A:11.***

6 Annual Report. RSA 361-A:2-b, I is repealed and reenacted to read as follows:

I.(a) Each sales finance company licensee shall file, under oath, an annual report with the commissioner on or before February 1 each year concerning operations for the preceding year or license period ending December 31 upon a form prescribed by the commissioner

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in paragraph I(a), notwithstanding the fact that he or she is not licensed on the date that the report is due.

(c) Each sales finance company shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the sales finance company. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

(d) In lieu of the requirements of subparagraph (c), licensees may submit copies of their most recent Securities and Exchange Commission Form 10-K and Form 10-Q statements.

7 Annual Report; Maximum Penalty for Noncompliance. Amend RSA 361-A:2-b, III to read as follows:

III. Any sales finance company failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue ***to a maximum penalty of \$2,500 per report or statement and shall be subject to suspension or revocations of its license.***

8 Suspension or Revocation of Licenses; Procedure. Amend RSA 361-A:3, I to read as follows:

I. ***The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for a hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner, or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, the person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true.***

I-a. The commissioner may, by order, deny, suspend, or revoke any license or application if the commissioner finds that the order is in the public interest and the applicant, or licensee, any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

9 Cease and Desist Orders. RSA 361-A:3-a is repealed and reenacted to read as follows:

361-A:3-a Cease and Desist Orders.

I. Whenever the commissioner has reasonable cause to believe that any person is engaging in the business of a sales finance company or retail seller without obtaining a license as provided in this chapter, or has engaged or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order under this chapter, the commissioner may, in addition to all actions provided for in this chapter, enter an order requiring such person to cease and desist from such violation. Delivery of such order shall be by hand or registered mail at the principal office of the licensee or other person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. All hearings shall comply with RSA 541-A. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be decided against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

II. If any person refuses to obey such order, an action may be brought by the commissioner or by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

10 New Section; Books and Records. Amend RSA 361-A by inserting after section 9 the following new section:

361-A:9-a Books and Records. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be

recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

11 New Section; Applicability. Amend RSA 361-A by inserting after section 11 the following new section:

361-A:11-a Applicability. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

12 New Paragraphs; Application of Other Laws. Amend RSA 397-A:2 by inserting after paragraph II the following new paragraphs:

III. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

IV. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

V. Any license fee required by this chapter shall be paid before a license may become effective.

13 License Grant. RSA 397-A:6, I and II are repealed and reenacted to read as follows:

I. If the commissioner determines that the applicant meets the requirements of this chapter, then the commissioner shall forthwith issue a license or licenses permitting the applicant to engage in the business of making or brokering first mortgage loans in accordance with the laws of this state. Licensees shall be responsible for the supervision of their employees, agents, loan originators and branch offices.

II. No license shall be issued to any person whose principal place of business is located outside of this state unless that person designates an agent residing within this state for service of process.

14 License Surrender. Amend RSA 397-A:10-a to read as follows:

397-A:10-a License Surrender.

I.(a) A licensee who ceases to engage in the business of a first mortgage banker or first mortgage broker at any time during a license year for any cause, including but not limited to bankruptcy, license revocation or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

(b) Withdrawal of the surrendered license becomes effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 397-A:17 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications ***and the imposition of penalties under RSA 397-A:21.***

15 New Paragraph; Record Keeping; Rules. Amend RSA 397-A:11 by inserting after paragraph III the following new paragraph:

IV. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

16 New Paragraph; Annual Report; Non-Licensees. Amend RSA 397-A:13 by inserting after paragraph I the following new paragraph:

I-a. A person who surrenders, withdraws or does not renew a license shall file the annual report as required in paragraph I, notwithstanding the fact that he or she is not licensed on the date that the report is due

17 Annual Report; Maximum Penalty for Noncompliance. Amend RSA 397-A:13, IV to read as follows:

IV. Any [licensee] **first mortgage banker, first mortgage broker, or first mortgage banker and broker** failing to file either the annual report or the financial statement required by this section within the time prescribed may be required to pay to the banking department a penalty of \$25 for each calendar day the annual report or financial statement is overdue ~~[The penalties for failure to file an annual report that are prescribed by this paragraph shall not apply to mortgage brokers licensed under this chapter who earned no money from purchasing, placing or selling first mortgage loans during the preceding year and who indicate such in writing to the banking department on or before February 1.]~~ **to a maximum penalty of \$2,500 per report or statement and shall be subject to suspension or revocation of its license.**

18 Borrower's Rights. RSA 397-A:15, V is repealed and reenacted to read as follows:

V. Persons subject to or licensed under this chapter that service first mortgage home loans on real property located in the state of New Hampshire shall, within 5 days of receipt of a written request, provide a net payoff amount as of a specific date with a daily interest rate charge.

V-a. Licensees that service first mortgage home loans originated in the state of New Hampshire shall, within 5 days of receipt of a written request, provide a net payoff amount as of a specific date with a daily interest rate charge.

19 License Revocation; Procedure. The introductory paragraph of RSA 397-A:17, I is repealed and reenacted to read as follows:

I. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, percent or more owner, member, partner or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, such person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may by order, upon due notice and opportunity for hearing, assess penalties, deny, suspend or revoke a license if it is in the public interest and the applicant or licensee, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

20 Application of Chapter; Supervision Requirement. Amend RSA 397-B:2 is repealed and reenacted to read as follows:

397-B:2 Application of Chapter.

I. This chapter shall provide for the banking department's regulation of mortgage servicing companies that engage in the business of servicing first mortgage loans secured by real property located in the state of New Hampshire, which is or shall be occupied in whole or in part as a primary domicile or place of residence by the mortgagor and which consists of not more than 4 living units. Persons registered under this chapter shall be responsible for the supervision of their employees, agents, and branch offices.

II. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

III. Persons subject to or registered under this chapter that service first mortgage home loans on real property located in the state of New Hampshire shall, within 5 days of receipt of a written request, provide a net payoff amount as of a specific date with a daily interest rate charge. Persons who fail to provide a net payoff amount within 5 days of receipt of a written request shall be assessed a fine of \$100 per day up to a maximum penalty of \$2500 per violation.

IV. Any registration fee required by this chapter must be paid before a registration may become effective.

21 Administration by Commissioner; Rulemaking; Licensee Changed to Registrant. Amend RSA 397-B:3, IV to read as follows:

IV. The commissioner may require such regular or special reports as the commissioner deems necessary to the proper supervision of [licensees] **registrants** under this chapter.

22 Administration by Commissioner; Rulemaking; Licensee Changed to Registrant. Amend RSA 397-B:3, VIII to read as

follows:

VIII. The commissioner may issue an order requiring the person to whom any registration has been granted to show cause why the registration should not be revoked. The registration may be revoked for violations of this chapter or any rule or order thereunder. The commissioner may issue a cease and desist order against any registrant or person whom he or she has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter. Delivery of such orders shall be by hand or registered mail at the principal office of the [licensee] **registrant** or other person. The orders shall be calculated to give reasonable notice of the right of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the revocation or cease and desist order or making it permanent as the facts require. All hearings shall comply with 541-A. If the person to whom a revocation or cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the revocation or cease and desist order, the allegations of which may be deemed to be true. If the person to whom a revocation or cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

23 New Section; Record Keeping. Amend RSA 397-B by inserting after section 4 the following new section:

397-B:4-a Record Keeping. A registrant shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the registrant is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is registered under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any registrant to destroy original records or documents. Each registrant shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

24 Penalties; Licensee Changed to Registrant. Amend RSA 397-B:6, V to read as follows:

V. Every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every [licensee] **registrant** or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

25 Surrender. Amend RSA 397-B:8 to read as follows:

397-B:8 Surrender.

I.(a) Registrants under this chapter who cease to engage in the business of servicing mortgage loans in this state at any time during a registration year for any cause, including but not limited to bankruptcy, registration revocation, or voluntary dissolution, shall surrender such registration in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the state a notice to such effect. The commissioner shall adopt rules in accordance with RSA 541-A relative to such notice.

(b) Withdrawal of the surrendered license becomes effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Commissioner may nevertheless institute a revocation or suspension proceeding under RSA 397-A:17 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications ***and the imposition of penalties under RSA 397-A:21.***

26 Records and Filings; Licensee Changed to Registrant. Amend the introductory paragraph of RSA 397-B:11, III to read as follows:

III. A [licensee] **registrant** may maintain its records in electronic format if, upon request, the [licensee] **registrant**

provides the commissioner with:

27 Definitions; Second Mortgage Banker; Second Mortgage Broker. Amend RSA 398-A:1, VII and VIII to read as follows:

VII. "Second mortgage banker" means a person not exempt under RSA 398-A:10 who ~~[for compensation or gain, or in the expectation of compensation or gain,]~~ either directly or indirectly:

(a) Makes or originates second mortgage loans as payee on the note evidencing the loan; or

(b) Advances, or offers to advance, or makes a commitment to advance the banker's own funds for second mortgage loans, or closes second mortgage loans with the banker's own funds; or

(c) Otherwise engages in the business of funding second mortgage loans.

VIII. "Second mortgage broker" means a person not exempt under RSA 398-A:10 who ~~[for compensation or gain, or in the expectation of compensation or gain,]~~ either directly or indirectly:

(a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring second mortgage loans, or commitments for second mortgage loans; or

(b) Offers to serve as agent for any person in an attempt to obtain a second mortgage loan; or

(c) Offers to serve as agent for any person who has money to lend for a second mortgage loan.

28 License Required. RSA 398-A:1-a, I is repealed and reenacted to read as follows:

I. No person shall engage in the business of making or brokering second mortgage loans secured by real property located in the state of New Hampshire, which is or shall be occupied in whole or in part as a primary domicile or place of residence by the borrower and which consist of not more than 4 living units, unless the person first obtains a license as provided herein, except when the person lending money is the seller of the real estate upon which the second mortgage is to be taken as security. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, loan originators and branch offices. A person who is licensed under RSA 397-A to broker first mortgage loans may obtain a license under this chapter to broker second mortgage loans by filing a notice and paying the fee required by RSA 398-A:1-a, III. A person who is licensed under RSA 397-A as a first mortgage banker or as a first mortgage banker/broker may obtain a second mortgage home loan license under this chapter to make second mortgage loans by filing a notice and paying the fee required by RSA 398-A:1-a, III. A person who is licensed under 397-A may apply for a second mortgage home loan lender license to make and broker second mortgage loans.

29 License Required. RSA 398-A:1-a, IV(b) is repealed and reenacted to read as follows:

(b) The applicant for a second mortgage home loan lender license, who is not also licensed as a first mortgage banker, has available for use in such business at each location specified in the application at least \$25,000, or has such amount available, or actually invested in loans made under this chapter, or has posted a continuous surety bond in the amount of \$25,000 in the form and under the terms determined by the commissioner; and

30 New Paragraphs; License Required; No Implied Approval by the Commissioner. Amend RSA 398-A:1-a by inserting after paragraph VIII the following new paragraphs:

IX. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

X. Any license or notice filing fee required by this chapter shall be paid before a license may become effective.

31 Revocation; Procedure. RSA 398-A:1-b, II is repealed and reenacted to read as follows:

II. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. The order shall be calculated to give reasonable notice of the opportunity for hearing, and shall state the reasons for the issuance of the order. A license may be suspended or revoked by the commissioner for violation of this chapter or any rule or order thereunder, for violation of applicable federal laws, or for other good cause shown. The commissioner may by order postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, the person shall be deemed in default and the proceeding may be

decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true.

32 Revocation; Licensee no Longer in Business. RSA 398-A:1-b, V is repealed and reenacted to read as follows:

V. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a second mortgage banker or broker or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application. The commissioner may deem abandoned and withdraw any application for a license made under this chapter, if any applicant fails to respond in writing within 180 days to a written request from the commissioner requesting a response. The commissioner shall send such request via certified mail to the last known address of the applicant that is on file with the commissioner.

33 Report. RSA 398-A:1-e is repealed and reenacted to read as follows:

398-A:1-e Report.

I. Each licensee shall file with the commissioner on or before February 1 of each year a report under oath concerning the business and operations for the preceding calendar year ending December 31 in the form prescribed by the commissioner. The annual report shall include a list of all individuals, and the address of the work location of each such individual, who act as originators for the licensee. The commissioner shall publish an analysis of the information required under this section as a part of his or her annual report. Any second mortgage broker or second mortgage home loan lender failing to file the report required by this section within the time prescribed shall pay to the commissioner the sum of \$25 for each calendar day the report is overdue to a maximum penalty of \$2,500 per report and shall be subject to suspension or revocation of its license.

II. A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in paragraph I, notwithstanding the fact that they are not licensed on the date that the report is due.

III. Each licensee shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the second mortgage home loan lender. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge. Any licensee failing to file the financial statement required by this section within the time prescribed shall pay to the commissioner the sum of \$25 for each calendar day the statement is overdue to a maximum penalty of \$2,500 per statement.

34 License Surrender. Amend RSA 398-A:1-f to read as follows:

I. **(a)** A licensee who ceases to engage in the business of making second mortgage home loans at any time during a license year for any cause, including but not limited to bankruptcy, license revocation or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

(b) Withdrawal of the surrendered license becomes effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 398-A:1-b within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications ***and the imposition of penalties under RSA 398-A:11.***

35 New Sections; Applicability; Record Keeping. Amend RSA 398-A by inserting after section 1-f the following new sections:

398-A:1-g Applicability. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

398-A:1-h Record Keeping. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

36 Definitions; Branch Office Added. Amend RSA 399-A:1, I to read as follows:

I. ***“Branch office” means a business location within this state of a person required to be licensed under this chapter. Branch office does not include a person’s principal office location.***

I-a. “Check” means a draft drawn on the account of an individual or individuals at a depository institution.

37 New Paragraph; Definitions; Principal Office Added. Amend RSA 399-A:1 by inserting after paragraph XIII the following new paragraph:

XIII-a. “Principal office” means the main office location of a person required to be licensed under this chapter.

38 Application and Fees. Amend RSA 399-A:3, I and II to read as follows:

I. Every applicant for licensing under this chapter shall file with the commissioner a written application, under oath and penalty of perjury, and in the form prescribed by the commissioner. The application shall contain the name of the applicant; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees, and principal officers; names of any branch managers; the trade name, if any, under which the applicant proposes to conduct such business; the articles of incorporation or organization or partnership agreement; the name and address of the New Hampshire resident agent if the applicant is a foreign entity; and such other pertinent information as the commissioner may require. ***Each applicant and licensee who conducts payday or title loan lending shall maintain an office in this state that is accessible to consumers. Persons subject to this chapter shall be responsible for the supervision of their employees, agents and branch offices.*** Each initial and renewal license application shall be accompanied by a nonrefundable application fee of \$450 for the principal place of business of the licensee [~~within this state~~] and the sum of \$450 for each branch of such licensee maintained in this state.

II. Every applicant for licensing shall be required to submit to the banking department detailed financial information sufficient for the commissioner to determine the applicant’s ability to conduct the business of a small loan lender, payday lender, or title loan lender with financial integrity. The application shall include a balance sheet or a statement of net worth prepared in accordance with generally accepted accounting principles. Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under this chapter. Each applicant shall demonstrate that it has available for use in such business at each location specified in the application, at least \$25,000, or in the case of a licensee, has such amount available or actually invested in loans made under this chapter at each location ***or has posted a continuous surety bond in the amount of \$25,000 in the form and under the terms determined by the commissioner.***

39 Investigation of Application; License Requirements; Small Loan Lender License. Amend RSA 399-A:4, I to read as follows:

I. Upon the filing of the complete application for a small loan lender license[~~;~~ ***for lending activities including*** payday [~~loan~~] ***loans*** [~~lender license;~~] or [~~a~~] title [~~loan lender license~~] ***loans*** and payment of the required application fee, if the commissioner determines that the applicant’s financial resources and responsibility, experience, character and general fitness, personnel, and record of past or proposed conduct warrant the public’s confidence and that the business will be operated lawfully, honestly, and fairly within the purposes of this chapter, the commissioner shall enter an order approving such application and shall issue a license to the applicant and shall issue licenses to the applicant’s branches to engage in the business of a small loan lender[~~;~~] ***including*** payday loan lender[~~;~~] or title loan lender under and in accordance with the provisions of this chapter.

40 Investigation of Application; License Requirements; Surrendered License. RSA 399-A:4, VIII is repealed and reenacted to read as follows:

VIII.(a) A licensee who ceases to engage in the business of a small loan lender, payday loan lender, or title loan lender at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation.

(b) Withdrawal of the surrendered license becomes effective 30 days after receipt of the license by the commissioner or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke, suspend, or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 399-A:7 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

(c) Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications and the imposition of penalties under RSA 399-A:18.

41 New Paragraphs; Investigation of Application; License Requirements; No Implied Approval by the Commissioner. Amend RSA 399-A:4 by inserting after paragraph IX the following new paragraphs:

X. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

XI. Any license fee required by this chapter shall be paid before a license may become effective.

42 Reporting and Record Keeping Requirements. RSA 399-A:6, I is repealed and reenacted to read as follows:

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before February 1st each year concerning its business and operations for the preceding calendar year or license period ending December 31st in the form prescribed by the commissioner.

(b) A person who surrenders, withdraws or does not renew a license shall file the annual report as required in paragraph I(a), notwithstanding the fact that they are not licensed on the date that the report is due.

(c) Each licensee shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

43 Reporting and Record Keeping Requirements. Amend RSA 399-A:6, III to read as follows:

III. Any licensee **or person** failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue **to a maximum penalty of \$2,500 per report or statement and shall be subject to suspension or revocation of its license.**

44 Denial, Suspension, or Revocation of Licenses; Procedure. RSA 399-A:7, II and III are repealed and reenacted to read as follows:

II. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be suspended or revoked. The order shall be calculated to give reasonable notice of the opportunity for hearing, and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, that person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true.

III. If a licensee is a partnership, association, corporation, or entity however organized, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership has so acted or failed to act on behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for supervision of its branch offices and for the acts of any or all of its employees while acting as its agent if such licensee, after actual knowledge of such acts, retained the benefits, proceeds, profits or advantages accruing from such acts or otherwise ratified such acts.

45 Books and Records. RSA 399-A:21, I is repealed and reenacted to read as follows:

I. Each licensee shall keep and use in his business such books and accounting records as are in accord with sound and accepted accounting practice and enable the commissioner to determine whether the licensee is complying with this chapter and any rule adopted under it. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

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

2004-0409h

Amendment to HB 1329

Proposed by the Committee on Commerce - C

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

1 Consumer Credit Reporting; Obsolete Information. Amend RSA 359-B:5, I(a) to read as follows:

(a) Bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than ~~[14]~~ 10 years.

2 Effective Date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill limits the length of time consumer credit reporting agencies retain bankruptcy information.

2004-0170h

Amendment to HB 1335-LOCAL

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

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

AN ACT establishing a commission to examine the workers' compensation system in New Hampshire.

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

1 Commission Established. There is established a commission to study the workers' compensation system in New Hampshire.

2 Membership and Compensation.

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

- (a) Three members of the house, appointed by the speaker of the house of representatives.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) The commissioner of labor, or designee.
- (d) The insurance commissioner, or designee.
- (e) A representative of the governor's office, appointed by the governor.
- (e) Four public members, appointed by the governor, including:
 - (1) An attorney admitted to practice in New Hampshire.
 - (2) A licensed physician.
 - (3) A representative of business interests.
 - (4) A representative of the labor field.

II. Members of the commission shall serve without compensation, except that legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall examine worker's compensation laws and procedures in the state of New Hampshire. The commission shall identify any weaknesses in the current system and shall consider means for improving the efficacy and fairness of the workers' compensation system as a whole. The commission shall review information relative to the number and outcome of workers' compensation claims in the state, and may solicit such additional information as may assist the commission in its study.

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

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005.

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

AMENDED ANALYSIS

This bill establishes a commission to study the workers' compensation system.

2004-0305h

Amendment to HB 1372

Proposed by the Committee on State-Federal Relations and Veterans Affairs - C

Amend RSA 21:50, I(a)(2) as inserted by section 1 of the bill by replacing it with the following:

- (2) Has been discharged or released from duty in the United States armed forces with:
 - (A) An honorable discharge; or
 - (B) An uncharacterized discharge based on a service-connected injury, illness, or disability.

2004-0260h

Amendment to HB 1374

Proposed by the Committee on Commerce - C

Amend the bill by replacing section 1 with the following:

☐ Lightning Protection Dealers; Prerequisites. RSA 323:2 is repealed and reenacted to read as follows:
323:2 Prerequisites.

I. No such license shall be issued until the commissioner of safety has approved of the material used or offered for sale by said dealer for the purpose of protecting from lightning, and the manner and system of installing such material. Such approval shall not be given until all of the following have occurred:

- (a) The dealer has filed a bond with the commissioner of safety in the sum of \$5,000 to guarantee that all materials so used have the approval of a testing laboratory recognized by the state of New Hampshire;
- (b) The commissioner of safety is satisfied that the dealer has complied with the bonding and approval requirements and is responsible and reliable as to assets, business standing and practices and is entitled to confidence; and
- (c) The dealer has filed a written stipulation that legal process affecting such dealer or his or her agent served upon the commissioner of safety for the time being shall have the same effect as if personally served upon such applicant or his or her agent within this state.

II. Installation shall be in accordance with the state fire code. In the event that the installation does not meet the standards established in the state fire code, within 90 days from the completion of the installation, then the dealer shall reimburse the owner for the cost of the installation, including labor and materials.

2004-0535h

**Amendment to HB 1408-FN
Proposed by the Committee on Commerce - C**

Amend the bill by replacing section 1 with the following:

☐ New Paragraphs; Director of Charitable Trusts; Reports by Trustees of Charitable Trusts; Reporting Requirements Added. Amend RSA 7:28 by inserting after paragraph III the following new paragraphs:

III-a. Any charitable organization with a total revenue of \$500,000 or more that is required to file an Internal Revenue Service Form 990 with the attorney general shall also submit the organization's latest, audited financial report as a report required pursuant to this section.

III-b. Charitable organizations for which compliance with paragraph III-a would constitute a financial burden may request an exemption according to criteria established and administered by the director of charitable trusts. An exemption, if granted, shall be valid for 3 years from the date of issuance unless it is revoked by the director of charitable trusts and written notice of such revocation is provided to the charitable organization.

2004-0476h

**Amendment to HB 1419
Proposed by the Committee on Executive Departments and Administration - C**

Amend the bill by replacing section 1 with the following:

☐ Prescription Drugs; Clinics under Contract; Dispensing by Registered Nurses; ARNPs Added. Amend RSA 318:42, VII(a) to read as follows:

(a) The drugs are dispensed under a written protocol established by a licensed physician *or by an advanced registered nurse practitioner prescribing from the formulary pursuant to RSA 326-B:10, II*, and approved by the department of health and human services which provides for responsible supervision over the activities in question and mentions the name of each registered nurse for whom the physician *or advanced registered nurse practitioner* is assuming supervisory responsibility. A written copy of the protocol showing the date it was approved by the department of health and human services shall be kept at the clinic at all times and shall be made available during any inspection conducted under RSA 318:8.

2004-0657h

**Amendment to HB 1421-FN
Proposed by the Minority of the Committee on Science, Technology and Energy - R**

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

AN ACT relative to best available control technology in air pollution control.

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

☐ New Subparagraphs; Air Pollution Control Act; Rulemaking Authority. Amend RSA 125-C:4, I by adding the following new subparagraphs:

- (o) Best available control technology specifications for affected sources that are subject to RSA 125-C:10-a.
- (p) The preparation and submittal by a permit applicant of a report addressing the environmental effect of persistent bioaccumulative toxic chemicals, as listed in 40 CFR 372.28, from an affected source that is subject to RSA 125-C:10-a on air, water, and soil quality.
- (q) The commissioner of the department of environmental services shall review with the air pollution advisory committee all proposed rules to be adopted under subparagraphs (o) and (p).

2☐ New Section; Air Pollution Control Act; Best Available Control Technology. Amend 125-C by inserting the following new

section:

125-C:10-a Best Available Control Technology Required.

I. No person shall install, construct, or modify an affected source that will combust any material other than those described in RSA 125-I:3, III or RSA 125-C:6, VI-a, without first obtaining a permit that requires the installation of the best available control technology, as defined by the department, for controlling persistent bioaccumulative toxic chemicals, as listed in 40 CFR 372.28, from such sources pursuant to rules adopted under RSA 541-A.

II. Paragraphs I and III shall not apply to:

(a) An affected source that is within a listed source category and subject to a performance or technology standard or emission guidelines established by the United States Environmental Protection Agency pursuant to sections 111, 112, or 129 of the Clean Air Act, provided that these standards and guidelines are at least as strict as those achieved by applying best available control technology under paragraph I for each persistent bioaccumulative toxic chemical, as determined by the department;

(b) A municipal waste combustor that is subject to RSA 125-M; or

(c) An affected source that combusts material, at least 50 percent of which is described in RSA 125-I:3, III or RSA 125-C:6, VI-a.

III. Paragraph I shall apply to any affected source that has obtained an existing or modified permit, but which has not commenced combustion under such permit as of the effective date of this section.

3 Air Pollution Control; Administrative Requirements. Amend RSA 125-C:12, II to read as follows:

II. The commissioner shall act upon a permit application within a reasonable period of time. Prior to such action, the commissioner shall provide notice of the application by publication in at least one newspaper of general circulation. The commissioner shall also provide an opportunity for a hearing to interested persons. The requirement of public notice and hearing shall not apply to such devices or sources that will have, in the opinion of the commissioner, an insignificant effect on air quality. The commissioner ~~may~~ **shall** adopt rules relative to the requirements of public notice and hearing for such devices or sources.

4 New Paragraph; Air Pollution Control; Administrative Requirements. Amend RSA 125-C:12 by inserting after paragraph V the following new paragraph:

VI. A facility permit issued by the department shall not affect any obligation to obtain local approvals under all applicable, lawful local ordinances, codes and regulations not inconsistent with this chapter.

5 New Paragraph; Compliance. Amend RSA 125-I:5 by inserting after paragraph V the following new paragraph:

VI. In any case where a facility permitted under this chapter is also subject to a solid waste permit under RSA 149-M, the permit under this chapter shall be applied for and held by the same person or entity holding the waste permit.

6 Rules Included. The prohibition set forth in RSA 125-C:10-a, I shall include all rules adopted under the authority of RSA 125-I:3, III.

7 Effective date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill requires the use of best available control technology in air pollution control.

2004-0530h

Amendment to HB 1422

Proposed by the Committee on Executive Departments and Administration - C

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

1 New Paragraph; Public Employee Labor Relations; Bargaining by State Employees; Conflict of Interest. Amend RSA 273-A:9 by inserting after paragraph III the following new paragraph:

III-a. No person who is appointed to serve as a state negotiator or as a member of the state negotiating team shall use his or her position to obtain anything of value for the private benefit of the negotiator or the negotiator's immediate family. No such person shall participate in a negotiation in which he or she has a direct personal and pecuniary interest.

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

AMENDED ANALYSIS

This bill prohibits the official state negotiator and members of the state negotiating committee from having a direct personal and pecuniary interest in the negotiation.

2004-0627h

Amendment to HB 1426-FN

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

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

1 Testing; Human Immunodeficiency Virus. Amend RSA 141-F:6 to read as follows:

141-F:6 Testing~~[- Certification]~~.

I. The department, **or agencies operated by or under contract with the department**, shall offer laboratory testing, in accordance with RSA 131, for the presence or absence of antibodies or antigens of the human immunodeficiency virus. Each

sample for testing shall be submitted with a statement signed by a physician, or by a person authorized by a physician to sign, attesting that the ~~[person]~~ **patient** has consented to the test in accordance with RSA 141-F:5.

II. All other laboratories, public or private, which test human blood or any other business or organization, public or private, which tests human blood, tissue, or other samples as part of its operations may offer to test samples for the presence or absence of antibodies or antigens of the human immunodeficiency virus ~~[if such laboratories are annually certified by the department. The commissioner shall adopt rules under RSA 141-F:4 relative to the certification process]~~. Such laboratories **or other such businesses or organizations** shall require that any sample for testing be submitted with a written statement signed by a physician, or a person authorized by a physician to sign, attesting that ~~[such person]~~ **the patient** has given informed consent as required under RSA 141-F:5. ~~[Certification under this paragraph shall be in addition to any other certification, registration, or licensure required for such laboratories under state law.]~~

2] Repeal. The following are repealed:

I. RSA 141-F:3, X, relative to certifying laboratories.

II. RSA 141-F:4, V, relative to rulemaking for certification of laboratories.

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

AMENDED ANALYSIS

This bill allows testing for the presence or absence of antibodies or antigens of the human immunodeficiency virus in a physician's office in accordance with federal law. This bill also repeals certain rulemaking relative to certification of laboratories because such certification is preempted by federal law.

2004-0499h

Amendment to HB 2004-FN-LOCAL

Proposed by the Majority of the Committee on Public Works and Highways - R

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

AN ACT relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

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

1] State 10-Year Transportation Improvement Plan. Amend RSA 240:1 to read as follows:

240:1 Legislative Intent.

I. The ~~[program]~~ *plan* is predicated on the report submitted by the governor to the legislature dated ~~[December, 2001]~~ *January 20, 2004 and on the "State of New Hampshire Ten Year Transportation Improvement Plan 2005-2014 Submitted to the Governor, Pursuant to RSA 228:99 and RSA 240 of the Laws of New Hampshire, by the Governor's Advisory Commission on Intermodal Transportation (GACIT)" which was adopted by GACIT on December 3, 2003* and is intended to serve as the guideline for transportation projects in the state for the next decade.

II. *The general court understands that the revenue projected for the plan period 2005-2014 is inadequate to fund all the projects in the plan. Without additional projects, it is estimated that with revenue increases at \$5 million per year, the plan will take approximately 14 years to complete, excluding consideration of inflation on the cost of the projects. In passing this plan, it is the general court's intent to review the plan every 2 years, pursuant to RSA 228:99 and RSA 240, but not to add projects, except for emergencies, until the funding is adequate to bring the plan within a projected 10-year completion framework.*

2] Plan. Amend RSA 240:3 to read as follows:

240:3 ~~[Program]~~ ***Plan.*** The legislature hereby adopts the ~~[program as submitted by the governor]~~ ***plan known as the "State of New Hampshire Ten Year Transportation Improvement Plan 2005-2014 Submitted by the House Public Works and Highways Committee as Part of the Legislative Process Pursuant to RSA 228:99 and RSA 240 of the Laws of New Hampshire*** and encourages expeditious implementation of the projects shown therein.

3] State Transportation Plan Funding Study Committee.

I. There is established a committee to study the adequacy of funding for the state's 10-year transportation plan to include review and recommendations pertaining to the highway fund and the turnpike fund.

II.(a) The members of the committee shall be as follows:

(1) Seven members of the house of representatives, appointed by the speaker of the house, as follows:

(A) Three members of the public works committee

(B) Two members of the finance committee.

(C) One member of the ways and means committee.

(D) One other member.

(2) Four members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the adequacy of funding for the state's 10-year transportation plan to include review and recommendations pertaining to the highway fund and the turnpike fund.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the

committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Six members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2004.

4 New Paragraph; Authority Granted; 10-Year Transportation Improvement Plan Projects. Amend RSA 237:2 by inserting after paragraph VIII the following new paragraph:

IX. Make such other and further improvements to the New Hampshire turnpike system as may be required by RSA 240.

5 New Hampshire Turnpike System; Funds Provided. Amend RSA 237:7, I to read as follows:

I. The following sums are appropriated for the purpose of carrying out the projects authorized by RSA 237:2:

Projects	Amounts
(a) Improvements to the Blue Star memorial highway. RSA 237:2, I, IX .	\$ [~~43,800,000~~] 55,800,000
(b) Improvements and 2 lane extension of Spaulding turnpike. RSA 237:2, II.	43,200,000
(c) Improvements to central New Hampshire turnpike, RSA 237:2, III.	28,500,000
(d) Construction of Dover-Somersworth interchange number 9 of Spaulding turnpike, including the access roads into and away from the Weeks traffic circle in the city of Dover. RSA 237:2, II.	2,800,000
(e) Construction and improvements to the central New Hampshire turnpike. RSA 237:2, IV.	126,600,000
(f) Improvements to central New Hampshire turnpike. RSA 237:2, V.	24,100,000
(g) Repealed.]	
(h) Improvements to central New Hampshire turnpike. RSA 237:2, VII, IX .	[~~280,200,000~~] 485,200,000
(i) Improvements to the Spaulding turnpike Gosling Road interchange, RSA 237:2, VI.	17,800,000
(j) Study of exit 10 on Spaulding turnpike, RSA 237:2 II-a.	1,100,000
(k) Toll collection equipment. RSA 237:2, VIII, IX	[~~15,000,000~~] 39,000,000
(l) Construction of exit 10 on the Spaulding turnpike. RSA 237:2, II-b, IX .	[~~3,000,000~~] 37,000,000
(m) Construction of a second barrel from exits 12 to 16 on the Spaulding Turnpike with related interchange improvements from exits 11 to 16. RSA 237:2, II-d, IX .	[~~77,200,000~~] 138,200,000
(n) Construction of improvements to the Spaulding Turnpike/US 4/N.H. 16 north of Gosling Road intersection in Newington to just south of most southerly plaza in Dover, including access roads on and off the highway. RSA 237:2, II-e.	14,250,000

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

AMENDED ANALYSIS

This bill:

- I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.
- II. Establishes a committee to study the adequacy of funding for the state's 10-year transportation plan.
- III. Grants authority to the commissioner of transportation to make improvements to the turnpike system required by the 10-year transportation plan.
- IV. Changes appropriations for certain projects in the turnpike system.

2004-0445h

Amendment to SB 317

Proposed by the Committee on Environment and Agriculture - C

Amend the bill by replacing section 1 with the following:

1 Pesticide Registration. Amend RSA 430:33, I and II to read as follows:

I. No person shall engage in the commercial application of pesticides or in the private application of restricted pesticides within this state without possessing a valid certificate of registration issued by the division. An annual ***application for a certificate of registration with a*** fee of \$20 shall be collected by the division for each commercial or private applicator registration, except that no fee shall be collected from any nonprofit entity or from any governmental entity. The board shall by rule establish the criteria for eligibility for, and the limits on the use of, certificates of registration for commercial applicator, private applicator, and commercial applicator for hire. Each application for registration shall contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as the division may require. Every person applying for a registration certificate shall be required to demonstrate by examination, or by such other means as the board by rule may establish, his competency and ability to use pesticides in accordance with standards of the board. The division shall require from each applicant proof of financial responsibility in amounts to be determined under rules adopted by the board. Registered applicators shall maintain routine operational records pursuant to the rules of the board, which records shall be open to inspection at reasonable times by the division or its agents. Operational records for the preceding calendar year shall be submitted by an applicant for renewal of a certificate of registration. Upon submission of such records and satisfaction of such other conditions as the board may by rule impose, the division shall renew a certificate of registration.

II. No person, other than a commercial applicator, shall apply pesticides in this state without first obtaining a written permit from the division except as provided in RSA 430:46. An annual ***application for a permit with a*** fee of \$20 shall be collected by the division for each permit, except that no fee shall be collected from any nonprofit entity or from any governmental entity. The division shall require each applicant for a permit to demonstrate, by examination or other procedure prescribed by the board in rules, the applicant's competence and ability to use pesticides in accordance with standards of the board. Permit holders shall maintain routine operational records pursuant to rules of the board, which records shall be open to inspection at reasonable times by the division or its agents. Operational records for the preceding calendar year shall be submitted to the division by an applicant for renewal of a permit. Upon submission of such records and satisfaction of such other conditions as the board may by rule impose, the division shall renew a permit.

2004-0522h

Amendment to SB 496

Proposed by the Committee on Resources, Recreation and Development - C

Amend RSA 215-A:1, XIII as inserted by section 1 of the bill by replacing it with the following:

XIII. “Snow traveling vehicle” means any vehicle propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, belts or cleats. ***Only vehicles that are no more than 54 inches in width and no more than 1200 pounds in weight shall be considered snow traveling vehicles under this chapter.*** For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.