

State of
New Hampshire
HOUSE RECORD

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

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Friday, March 12, 2004

No. 19

Contains: Order Form for the 2003 and 2004 Permanent Journals, Reports and Amendments for March 17,
Hearings and Notices

HOUSE CALENDAR

A MESSAGE FROM THE SPEAKER

MEMBERS OF THE HOUSE:

The House will meet in session on Wednesday, March 17 and Thursday, March 18 at 10:00 a.m.

Chairmen and Vice Chairmen will meet on **Monday, March 15, 2004 at noon** in Rooms 201-203, LOB.

Speaker Gene G. Chandler

NOTICE

There will be a Republican Caucus on Wednesday, **March 17** and Thursday, **March 18** at 9:00 a.m. in Representatives Hall.
Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Wednesday, **March 17** at 9:00 a.m. in Rooms 306-308 of the Legislative Office Building
and on Thursday, **March 18** at 9:00 a.m. 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

WEDNESDAY, MARCH 17 CONSENT CALENDAR

CHILDREN AND FAMILY LAW

HB 1198, relative to reporting child custody statistics. **REFER FOR INTERIM STUDY**

Rep. David A. Bickford for Children and Family Law: The committee decided further study was necessary in order to determine what statistics it would like the courts to gather to help understand what is happening with the placement of children . **Vote 11-0.**

HB 1312, relative to the court's discretion to extend child support obligations. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This amended bill removes the discretion of the court to order child support for emancipated adult children unless disabled or still finishing high school. **Vote 10-1.**

HB 1415, relative to de facto child custody. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas I. Arnold, Jr. for Children and Family Law: After substantial discussion, it was determined that the goal of this bill is incorporated in an even broader child guardianship statute, RSA 463. **Vote 12-0.**

COMMERCE

HB 1202, relative to third-party payment of covered services ordered by the juvenile court. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation addresses a problem regarding managed care health insurance companies refusing to pay for court-ordered medical services of juveniles. It appeared to some that the insurance companies were refusing to pay for services simply because they were court ordered, even though the service requested was a covered benefit of the juvenile's health insurance. The amendment, which replaces the entire bill, clarifies the fact that a health insurer must take notice of a claim by the parent where there is insurance covering the juvenile. The benefits shall be subject to the same dollar amounts, deductibles, co-payments and co-insurance factors, and to the terms and conditions of the policy or certificate of insurance. The claimant, however, has 72 hours after commencement of a court-ordered service placement to get the referral that is usually required under the policy. Determination of these pre-service claims shall be made as soon as possible by the insurance company, but in no event later than 72 hours after receipt of the request. The remainder of the amendment repeats this requirement in several different sections of the laws to cover all types of health insurance including small group and individual. Grave concerns were articulated at the commencement of the process, but at the conclusion the insurance department, the health insurers, and the juvenile justice services all supported the final amendment. **Vote 15-1.**

HB 1244, relative to subcontractors' liens for labor and materials. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: The intent of this bill is to protect the purchaser of a property from statutory mechanics liens filed by subcontractors who have not been paid for services provided to the property. In reality, these liens are judicial liens and can only be perfected by court order. Additionally, a standard title examination would expose the lien, or the risk of a lien being filed. These disputes are principally between contractors and subcontractors, and the seller of the property need only prove that all contract payments between the owner and the general contractor have been made. **Vote 12-0.**

HB 1264, relative to advertisement of prescription drugs. **REFER FOR INTERIM STUDY**

Rep. Matthew J. Quandt for Commerce: The original legislation relative to advertisement for prescription drugs is current law

so the sponsor, in conjunction with the Commissioner of Health and Human Services, brought in an amendment dealing with the drug companies' marketing and educating efforts in New Hampshire. The amendment is similar to laws in Maine and Vermont. The committee was interested in the subject matter, but many questions and details need to be worked on so the committee voted to keep the bill for work in this session. **Vote 15-1.**

HB 1282, relative to exemptions from the consumer protection act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation, as amended, will have far reaching effects on the ability of consumers to receive restitution in the event the consumer has been harmed by unfair or deceptive acts or practices of a regulated or licensed financial entity or an insurance company. Essentially the bill gives the relevant regulatory agencies the exclusive authority and jurisdiction to investigate conduct that is or may be an unfair or deceptive act or practice, yet is exempt from the Consumer Protection Act under RSA 358-A:3, I. The bill, as introduced, would have added the real estate commission to the list of exempt departments under the consumer protection act. Currently any "Trade or commerce that is subject to the jurisdiction of the bank commissioner, the director of securities regulation, the insurance commissioner, the public utilities commission, the financial institutions and insurance regulators of other states, or federal banking or securities regulators who possess the authority to regulate unfair or deceptive trade practices" is exempt from the consumer protection act. The bill now gives authority and jurisdiction to the bank commissioner to investigate conduct by all regulated financial entities and licensees, including pay day lenders and title loan companies, that may be an unfair or deceptive act or practice. The insurance commission already has such authority and jurisdiction with respect to regulated entities and persons subject to its jurisdiction. The legislative intent is that any business that is exempt from RSA 358-A may be ordered by its regulatory agency to pay restitution to any consumers that the business may have harmed by committing unfair or deceptive acts. During the subcommittee work session, the Attorney General's Office of Consumer Protection emphasized that the customers injured by unfair or deceptive acts of the exempted regulated industries should have access to the remedies that are established by RSA 358-A. While RSA 358-A does provide a method for such restitution, the committee did not want to subject highly regulated industries to dual supervision, because it would be inefficient for the state and unfair to the regulated industry. However, the committee feels strongly that consumers should be able to obtain restitution. As a result of that discussion, the subcommittee then reviewed whether restitution was available under the four exemptions. Only two did not have restitution, banking and insurance. Currently, New Hampshire Insurance and Banking Department may suspend, revoke or refuse to renew the license of any person found to have violated their statutes. The insurance department does currently have an unfair trade practice statute but banking does not. Under the amendment to HB 1282, the insurance commissioner may order payment of restitution for actual economic loss sustained by any individual directly injured by violation of RSA 417, the insurance unfair trade practice law. Since banking did not have an unfair trade practice statute, the bank commissioner under this legislation, will be authorized to enforce the provisions of RSA 358-A against its regulated community. The bank commissioner will now be able to order restitution to consumers, who have not only been harmed by any violation of current banking laws or regulations, but also any unfair or deceptive acts or practices as defined by RSA 358-A. The committee feels this is a reasonable compromise and is intended to insure that consumers have a way to gain redress with minimal cost and effort. The committee would also make it clear that consumers do not have the right to take legal action under 358-A against those who are exempted under 358-A. The consumers will now be able to efficiently obtain redress of any unfair trade practice through restitution from the state departments that regulate those exempt businesses. **Vote 16-0.**

HB 1348-FN, relative to registration of business organizations. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mark A. Brady for Commerce: This bill makes a variety of changes to the process for registering business organizations pursuant to the request of the Secretary of State's Corporate Division. Specifically, as amended, the bill objectifies the process for the Secretary of State to take action on a deceptively similar name of a corporation. The bill also codifies the requirements for electronic filings and updates certain filing fees to be more reflective of the current market. **Vote 16-0.**

HB 1409, relative to the disclosure of protected health information by court ordered service providers. **REFER FOR INTERIM STUDY**

Rep. Matthew J. Quandt for Commerce: This legislation is relative to the disclosure of protection of health information by court-ordered service providers. At issue is whether an exemption involving HIPPA qualifies for the court-ordered treatment outside of the correctional institutions. The committee felt that we need more input on the issue before we asked for the exemption.

Vote 13-3.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1146, ratifying the national crime prevention and privacy compact. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: New Hampshire is already a member of the National Crime Prevention Compact. Therefore, this legislation is unnecessary. **Vote 13-0.**

HB 1147, relative to the use of deadly force in defense of a fetus. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill would justify a pregnant woman using deadly force upon another for the purpose of defending her fetus when she reasonably believes that such other person is using or is about to use unlawful, deadly, force against her fetus in the course of any act prohibited under Title LXII or RSA 173-B. The committee

heard emotional testimony from both sides of this issue. However, current laws, in particular RSA 631:1 first degree assault, and RSA 631: 2 second degree assault, make it a felony for causing injury to another resulting in miscarriage or stillbirth. RSA 627:4, II (a) describes conditions under which deadly force can be used and does provide protection sought under this bill. The committee believes the bill is unnecessary. **Vote 12-1.**

HB 1190, relative to exceptions to the carrying or selling of certain weapons. **INEXPEDIENT TO LEGISLATE**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: At the public hearing on this bill, 13 persons responded to give testimony. Of those 4 were for the bill and 9 were against, including one of the sponsors and the Attorney General's office. It was felt by the committee that New Hampshire has some good weapons laws already on the books. This bill would possibly dilute our present weapons laws by allowing license holders to legally carry stilettos, switchblades, blackjacks, daggers, sling shots and metallic knuckles. Not all of these items are suitable for self defense. **Vote 13-0.**

HB 1219-FN, establishing penalties for transmission or distribution of obscene electronic mail. **REFER FOR INTERIM STUDY**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill along with several others dealt with the subject of the distribution of electronic obscene and pornographic material, prior to a new federal law called the, "Controlling the Assault of Non-solicited Pornography and Marketing Act" or CAN-SPAM Act. Most if not all the reasons for the New Hampshire bills to come before the house committees were found to be covered by this new CAN-SPAM Act. Though HB 1219 would add the requirement of a hyperlink to the senders' e-mail address, which in effect would request the sender to discontinue sending such electronic e-mail it was noted by some testimony that the Do Not Call List now advanced by the federal laws will soon be up and running for Do Not E-Mail. The committee would like to study this subject and monitor activities at the federal level. **Vote 14-2.**

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill elevates Driving While Under the Influence when transporting a child under the age of 16 to Aggravated DWI. The committee amendment includes boating while intoxicated in the statute and clarifies RSA 265-82-b to remove a conflicting reference to RSA 262:82. **Vote 14-0.**

HB 1271-FN, repealing the license to carry provisions of state law. **INEXPEDIENT TO LEGISLATE**

Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: This proposed bill would repeal the present carry license statute. Current license holders presently enjoy reciprocity with 17 other states. This law would invalidate that. Folks, who currently carry loaded firearms on OHRV's would no longer be able to because of the lack of a concealed carry license. It was not clear to the committee what problems would be solved by repealing the current concealed carry statutes, but it is clear that many problems would be created. **Vote 12-1.**

HB 1274, relative to evidence admissible in sexual assault cases. **REFER FOR INTERIM STUDY**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill would allow the introduction of conduct commonly referred to as "grooming" regardless of the prejudice to the defendant. The committee felt that this matter had merit; however, due to the considerable constitutional issues and other problems, as worded, the amount of time available was insufficient to give proper considerations to the matter and that interim study would allow this matter to be looked at and if resolved be redrafted for introduction in the first year of the next session. There would then be sufficient time to create a workable solution. **Vote 15-0.**

HB 1310, relative to licenses to sell firearms. **INEXPEDIENT TO LEGISLATE**

Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: This bill would take away discretion from the local police chief, or the issuing authority, in the granting of licenses to sell, at retail, pistols and revolvers by changing "may" to "shall". It further would change the term of the state license from not more than 3 years to not less than 10 years. The committee was not convinced that this was an improvement as the mandatory federal firearms license is issued for three years **Vote 13-0.**

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks. **OUGHT TO PASS**

Rep. E. Albert Weare for Criminal Justice and Public Safety: The state and federal regulations relating to consumer and display fireworks are convoluted and in some cases confusing and in conflict with each other. This committee can look toward recodifications of applicable laws and regulations pertaining to fireworks and correct the problems pertaining to the sale and display of fireworks. **Vote 12-3.**

HB 1341-FN, relative to prohibited computer practices. **REFER FOR INTERIM STUDY**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: The committee is recommending this bill be referred to interim study because the subject matter is currently under study by the Committee to Study the Integrated Criminal Justice Communication System, the so-called J-One project. **Vote 11-4.**

HB 1343-FN, making it a crime to cause the death of a fetus as a result of committing a violent act against a pregnant woman. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: After hearing testimony at great length on this bill, with the consent of the main sponsor, a motion was made to ITL this bill and concentrate on another bill that is similar in nature. **Vote 12-3.**

HB 1347-FN, implementing a "good time" sentence reduction system for inmates in the state prison system. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This is the so-called “good time bill” which attempted to address sentence reduction for inmates in the state prison system. Not surprisingly, most support for this bill came from prison inmates or their families. The attorney general, all of the county attorneys, and law enforcement, strongly opposed the bill. The committee felt that the current “truth in sentencing” law was a good law that is well received by the public and crime victims. The proposed bill would invalidate truth in sentencing. Further, the Department of Corrections would not be able to handle the number of prisoners that would automatically become immediately eligible for early release if the bill were passed. Those currently serving sentences would, in effect, have a change in sentence after the judge has made consideration of mitigating circumstances. The judge has already heard all the evidence, reviewed the present investigation, and listened to the victims. It would be wrong to disregard these considerations by giving across the board sentence reductions. Truth in sentencing already allows 150 days a year to be deducted from a prisoner’s maximum sentence, not the minimum this bill proposes. Part of the reason cited for this bill is shortening sentences in order to reduce expenditures. While this is a laudable goal, it should not be what drives sentencing policy. **Vote 13-1.**

HB 1349-FN-L, relative to medical parole. **REFER FOR INTERIM STUDY**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill would reduce the costs of the Department of Corrections tremendously by granting parole to those prisoners who have a terminal or permanently debilitating illness thus making them eligible for Medicaid upon parole. However, while this would make approximately 50% of the cost paid by Medicaid, it would cost shift 25% of the costs to the counties. This could increase the county liability in the hundreds of thousands and perhaps millions of dollars depending upon the number of prisoners paroled and where they reside. This increase in liability could come after the county budgets are passed and could happen at random intervals resulting in the counties either cutting services to balance the budget or requiring a supplemental budget, passing the increase to the county taxpayer. **Vote 15-0.**

HB 1351-FN, relative to penalties for acts committed during a riot. **INEXPEDIENT TO LEGISLATE**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: The Criminal Justice and Public Safety Committee recognizes the sponsors earnest desire to address the serious issue of rioting on and near our college campuses; however, two bills warranting equal consideration were presented to the committee. The committee felt this bill would require the reduction in penalty for rioting from a Class B felony to a Class A misdemeanor. It also would establish a minimum mandatory sentence of 30 days imprisonment and mandate the expulsion of students involved. The committee felt these decisions were best left to the courts and university officials. This bill does address the issue of cruelty to a law enforcement animal used in quelling a riot, however reduces the current penalty of a Class B felony for that act (RSA 644:8) to a misdemeanor. The committee voted to support HB 1361, which addresses the intent of this bill. **Vote 16-0.**

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus. **OUGHT TO PASS WITH AMENDMENT**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: The submission of this important bill to the Criminal Justice & Public Safety Committee provides the General Court the opportunity to address and rectify the criminal acts of rioting occurring on, and adjacent to, our public colleges and university campuses. Being an enabling measure, this bill would allow the court, upon finding of guilt, in addition to criminal penalties as per RSA 644:1 to order restitution of damages occurred during a riot. The court would also have the ability of restricting those responsible from entering upon any public university or college campus for a period of up to two years. The University of New Hampshire system in conjunction with their respective community leaders need this critical legislation to strengthen their position of zero tolerance relating to criminal behavior in an educational environment. **Vote 14-0.**

HB 1365-FN, relative to hearing ear dogs, guide dogs, and service dogs. **REFER FOR INTERIM STUDY**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill would require a person interfering with a hearing ear dog, guide dog, or service dog to make full restitution for all damages. While this is an important consideration, the sponsor and many of the people testifying before the committee, wanted to also provide serious criminal penalties for persons who injure or kill these specialized dogs. Given the short period of time available to the sub-committee, and the variety of issues raised, it was the feeling of the committee that more time was needed to address the concerns raised in this legislation. **Vote 13-0.**

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: The amended bill would now allow, at the request of a 16 year old or younger sexual assault victim, with the approval of the prosecutor, that the court shall permit the parents or legal guardians to remain with the victim during the entirety of the procedure. In the past, all the defense had to do was to ask for the sequestering of witnesses, including the parents, thus eliminating the emotional support that the victim might need. **Vote 16-0.**

HB 1380-FN, establishing a criminal penalty for unauthorized video surveillance. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill adds so-called “up skirting” or “down blousing” as a violation of privacy. It also makes clear that a person has a right to privacy from surveillance in public restrooms, locker rooms,

or any place where a person's private body parts, including genitalia, breasts or buttocks may be exposed. **Vote 15-0.**

EDUCATION

HB 1412, relative to college and university recognition of student organizations and athletic teams. **INEXPEDIENT TO LEGISLATE**

Rep. John Alger for Education: The prime sponsor spoke with the committee chairman and advised him the bill was no longer needed. The policy of the bill would have restricted institutions within the state university system from adopting certain rules regarding membership in that institution. The prime sponsor reported satisfactory communication with the university system eliminating need for the bill. **Vote 17-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1159, relative to prohibited employment for state liquor commission employees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Carl G. Robertson for Executive Departments and Administration: This bill exempts certain employees of the state liquor commission from the prohibition on holding a wine or liquor representative license for one year after termination of employment. The committee's investigation determined that the commissioners and their three market specialist control the decision as to what wines and spirits are sold in New Hampshire. The length of time a product is kept on the shelf is strictly determined by its sales. As a result, this bill will only restrict elected state officials, members of the liquor commission and those employees directly responsible for making recommendations to the commission relative to the purchase of liquor and wine from holding a representative license for one year after leaving office or termination employment. **Vote 13-2.**

HB 1364-FN, establishing a statutory joint commission to review and propose changes to state unclassified officers' salaries. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: The purpose of this legislation is to establish a statutory committee, which will have the responsibility of reviewing and recommending to the legislature the approval of the appropriate salary grade for unclassified state employee positions. The bill contains language explaining the process for setting the salary grade for any new unclassified position as well as for the upgrade or downgrade of existing unclassified positions. The acting director or administrative head of any agency or department shall submit a recommendation to the commissioner of administrative services. The commissioner shall submit the recommendation to an outside consultant retained for the purpose of assessing the appropriate letter grade of unclassified state officers. The consultant shall assess the recommendation and report to the joint committee on compensation of state officers. The committee shall set a temporary letter grade allocation for each position referred. The committee shall subsequently propose to the general court legislation recommending permanent salary levels. **Vote 16-0.**

HB 1406, relative to the regulation of physician assistants. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill makes various revisions to the licensure, regulation and discipline of physician assistants. The committee learned that the Senate passed a bill, SB 375, dealing with the same issue in greater detail. The committee will take action on the senate bill. **Vote 14-0.**

HB 1425, relative to food safety in restaurants. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill will require one food employee in each food service establishment to be certified in food preparation management. As requirements for food safety become more complex and are ever changing, it is important that there be a contact person for each license in the state who will help ensure each establishment is in compliance. The amendment clarifies the definition of potentially hazardous foods, added a requirement that the designated employee have supervisory authority over the establishment and gives specific guidelines for what happens when the employee leaves the establishment. **Vote 14-3.**

SB 493, repealing examination standards for certified public accountants. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: With the conversion from a pen and paper examination to a computer-based Uniform CPA examination, the Board of Accountancy has requested that New Hampshire accept the national standards for passing grade and an 18 month maximum time limit for completion of all sections of the examination. The committee decided to maintain in statute the passing grade of 75% and establish a maximum of 10 attempts for completion of the exam. Section two of the amendment makes provision for phasing in the candidates who have already completed some sections of the exam in its pen and paper version. **Vote 15-0.**

FINANCE

HB 612-FN-L, making certain changes to the allocation of catastrophic aid expenditures. **REFER FOR INTERIM STUDY**

Rep. Elizabeth S. Hager for Finance: The committee held many work sessions on this bill, and although we understand the importance of the policy, we cannot get good, tight numbers on the financial impact. After basic school funding is settled this session and after the Department of Education provides additional dollar numbers, this bill can be finalized. **Vote 18-1.**

HB 640, relative to post-conviction DNA testing. **OUGHT TO PASS**

Rep. Robert G. Holbrook for Finance: Post-conviction DNA testing is currently available in New Hampshire and this bill does

not create a new avenue for defendant appeals. What HB 640 does do is formalize the process by establishing standards a petitioner must meet to qualify for post-conviction DNA testing. This bill also provides much needed criteria to determine how long evidence must be preserved and when it can be destroyed. Representatives from the Attorney General's Office, Public Defenders Office, Department of Safety and Indigent Defense all support this bill and further note this bill will not cost money and may actually save money and avoid confusion. **Vote 17-0.**

HB 645-FN-A-L, relative to educational scholarship grants by the postsecondary education commission to qualifying private education institutions. **REFER FOR INTERIM STUDY**

Rep. Robert K. Dodge for Finance: Private educational institutions in New Hampshire pay property tax on some of their holdings, for example on dormitories and cafeterias. For many years, they have been trying to lessen some part of their tax burden. This year, the Municipal and County Government and Ways and Means Committees struggled with how to address this problem without harming their host communities. Eventually, with the agreement of the House, a bill was passed on to the Finance Committee that called for the state to make payments to these educational institutions that could be used for scholarships for New Hampshire students. There was no money in the bill for this or any other purpose. The sponsors were candid that there was no requirement for any institution to increase its financial aid and that this was merely a mechanism to provide compensation for the property taxes paid by the institutions. While the committee understands the desire of the educational institutions to be freed from the requirement to pay property taxes, the committee had many questions about both the proposed method and the eventual cost that could best be explored in detail in the interim. **Vote 15-4.**

HB 781-FN-A, establishing the office of corrections ombudsmen. **REFER FOR INTERIM STUDY**

Rep. MaryAnn N. Blanchard for Finance: The Chairmen of the House ED&A and Criminal Justice Committees agree to continue to work on the policy of this bill. The history to date of the nature and number of voluntary settlements occurring in the Department of Corrections indicates a severely unhealthy environment in the department for both personnel as well as inmates. There is a real urgency to put in place a well-thought out program to reduce these problems. **Vote 19-0.**

HB 1241, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. **OUGHT TO PASS**

Rep. Marjorie K. Smith for Finance: The community-technical college system operates a child care center which serves as a model for other child care programs while it offers training opportunities for students interested in entering the field of child care. To conform with licensing requirements, and offer appropriate care, a certain number of staff members must be present at all times. Under current conditions which include a hiring freeze for all except emergency and direct care employees, if a staff member leaves, a replacement could be hired only after going through the arduous process to receive an exemption from the freeze. The Finance Committee agreed with the policy committee that these child care workers should be included in the definition of emergency and direct care workers, thereby exempting them from the requirements of the hiring freeze. This would have no effect on the general fund. **Vote 20-0.**

HB 1324-FN, authorizing the position of clerk of the board of manufactured housing. **INEXPEDIENT TO LEGISLATE**

Rep. Eric Anderson for Finance: A subcommittee of the Finance Committee held three work sessions on the bill with representatives from the Manufactured Housing Board and the Division of Personnel in attendance. The Board of Manufactured Housing and the Division of Personnel worked together to reassess the position of the Board Clerk. They agreed to reclassify the position at labor grade 16, paralegal 1, step 2 at \$13.78 per hour. Formerly, the position was classified at labor grade 9, step 4 at \$11.26 per hour. All parties were in agreement. Therefore, this legislation is not needed. **Vote 19-0.**

HB 1399-FN-A, establishing the telecommunications planning and development fund. **OUGHT TO PASS**

Rep. Robert G. Holbrook for Finance: This bill establishes a development fund for telecommunications planning. The fund will accept present funds and future gifts for technological advancement in the fast moving communications field. As the bill is written the fund will be established 60 days from bill passage and will sunset on July 1, 2008. **Vote 18-0.**

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: HB 1411 creates a committee to study funding sources for the state laboratories and extends the lapse date for a capital appropriation in the Department of Corrections. This bill was amended by the Committee to include four members of the House to allow for the participation of thought from capital and operating budgets. The Committee felt that it was important to include input from both areas, since issues from each had to be dealt with on this topic. **Vote 20-0.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SB 472, relative to updating the terminology in statutes affecting children with special health care needs. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill eliminates the term "crippled children" and replaces it with "children with special health care needs." From the 1930's through the 1970's, a majority of the states that were funded through Title V of the Social Security Act were called Crippled Children's Services (CCS) Program. There was a consensus that the term "crippled children" was stigmatizing. In response, Congress changed the name of this program to "State Programs for Children with Special Health Care needs". This bill will bring state terminology in alignment with federal terminology. **Vote 11-0.**

JUDICIARY

HB 1394, relative to de novo appeals in certain criminal proceedings. **OUGHT TO PASS WITH AMENDMENT**

Rep. James W. Craig for Judiciary: This bill attempted to redesign the methods of appealing misdemeanor convictions to the Superior Court. However, upon reflection, a subcommittee uncovered related issues that were objectionable but had not been aired in a public hearing. The committee therefore deleted the problematic sections and amended the bill to allow the Superior Court to have original jurisdiction over Class A misdemeanor cases that fall within guidelines established by the Attorney General. This bill would allow the state to try felony and Class A misdemeanor charges against a defendant in the same court in the same trial in the proper situation. **Vote 16-0.**

LEGISLATIVE ADMINISTRATION

SB 350, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. **REFER FOR INTERIM STUDY**

Rep. Eric G. Stohl for Legislative Administration: This bill would provide access by the legislative budget assistant to confidential information maintained by the department of revenue administration. The public hearing on the bill raised concerns relating to jeopardizing security of the data. The hearing was recessed for one week with assurances from both LBA and DRA that they would meet and establish an amendment to the bill. The two parties could not reach a compromise and the committee felt more time is needed to study all the aspects of the issue. **Vote 12-0.**

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HB 1427, continuing the New Hampshire National Guard Educational Assistance Act. **INEXPEDIENT TO LEGISLATE**

Rep. Peter M. Sullivan for State-Federal Relations and Veterans Affairs: The bill repeals the sunset provision of the National Guard Educational Assistance Act. The Senate has incorporated this repeal into an amended HB 65. Thus, HB 1427 is redundant. **Vote 11-0.**

HR 24, opposing the exploration for oil in the Arctic National Wildlife Refuge. **OUGHT TO PASS WITH AMENDMENT**

Rep. Timothy E. Easson for State-Federal Relations and Veterans Affairs: The committee believes that a comprehensive national energy plan is in the best interest of the people of New Hampshire and the United States. The resolution as amended calls for greater energy independence, the promotion of cleaner and alternate technologies, modernization of our electricity system, incentives for the utilization of renewable energy sources, and the promotion of conservation. The committee amendment removes any reference to drilling in the Arctic National Wildlife Refuge. **Vote 12-0.**

SB 479, commemorating the anniversary of the founding of the United States Marine Corps. **OUGHT TO PASS**

Rep. Ken Hawkins for State-Federal Relations and Veterans Affairs: This bill would recognize the anniversary of the founding of the Marine Corps by flying the Marine Corps flag over the State House on November 10 each year. Presently the Army, Navy, Air Force and Coast Guard flags are flown on their respective anniversaries. This adds the Marine Corps to RSA 4:13-i. **Vote 12-0.**

WAYS AND MEANS

HB 1316-FN-A, relative to the computation of tax on certain telecommunications services under the communications services tax. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeffrey D. Gilbert for Ways and Means: This legislation as amended puts forth a set of uniform rules commonly known as “sourcing” that was developed and endorsed by the National Conference of State Legislators, the American Legislative Exchange Council and a group of firms in the telecom industry. “Sourcing” is the determination of the jurisdiction within which a transaction is considered to take place for tax purposes. The legislation establishes clear rules for sourcing of telecommunications service not sold on a call-by-call basis (bundled communication offers); calling card service and private communication services (a service that allows the customer exclusive or priority use of a communication channel). Its purpose is to modernize rules for determining when a communication service is taxable in New Hampshire and to simplify compliance and avoid double taxation by conforming to uniform tax rules for determining the state within which a communication service takes place. It is not a determination of whether the transaction is taxable. The amendment establishes a committee to study the feasibility of unbundling communications services charges; the recordkeeping required by communications services providers; the revenue implications of excluding certain unbundled charges from taxation and the application to voice over the internet services. The amendment also makes technical corrections to the definition of “paid calling service” and the rate of tax. Nineteen states have adopted this legislation, six states have no sales tax on telecommunications services and the twenty- six remaining states are pursuing this legislation. This bill is revenue neutral and its passage will help the legislature determine where the communications services tax is to be collected and simplifies the administration by the Department of Revenue Administration and the industry. **Vote 18-0.**

WEDNESDAY, MARCH 17

REGULAR CALENDAR

CHILDREN AND FAMILY LAW

HB 1393, relative to the appeal of the lower court's decision in a child protection case. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Margaret D. Hallyburton for the **Majority** of Children and Family Law: This bill came about as the result of the "Committee to Study the Process of De Novo Appeals from the District Court", established by HB 77. The right of de novo appeal was established in the 19th century, when all but a few of the District Court judges and magistrates were lay people, not versed in the law. With the backlogs in the courts, we do not have the resources to replay the District Court hearing in Superior Court. The revised appellate process allows for admission of newly discovered evidence and for submittal of memoranda in support of the parties' positions. It does not subject a child witness to having to testify yet again, re-victimizing the child in the process. This is an appeal "as of right", not discretionary. The defense bar will no longer be able to use the District Court adjudication as a deposition; they will have to prepare their defense for District Court. The committee agreed to follow up on statistical feedback on the effectiveness of the revised appellate process. **Vote 9-3.**

Rep. David A. Bickford for the **Minority** of Children and Family Law: The committee heard testimony that the district courts are "hurried" and agrees with Judge Galway's information shared with the committee stating the NH Supreme Court has "long recognized the right to raise and care for one's children as a fundamental liberty interest protected by Part I, Art. 2 of the State Constitution." We feel that government must recognize this and afford parents every opportunity to defend that right. We also agree that the de novo hearing provides an important second look and allows both parties to present the evidence after a cooling off period has taken place.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1360-FN, including "unborn child" in the definition of "another" for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide. **REFER FOR INTERIM STUDY**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill, if passed, would include an "unborn child" in the definition of "another" for the purpose of capital murder, first and second degree murder, manslaughter and negligent homicide. This is a very emotional bill and with the time restraints, the committee felt that more time is needed to do justice to this important subject. **Vote 11-5.**

EDUCATION

HB 1162, relative to school district policies on bullying. **OUGHT TO PASS WITH AMENDMENT**

Rep. Debra Naro for Education: There is broad agreement among the experts that the single most important thing a school can do to prevent bullying is to have a clear policy to which staff, pupils, and parents are committed. HB 1162, as amended, requires school districts to notify parents or legal guardians, on an annual basis, of the district's policies on bullying and the appeals process available at the local and state levels. It further requires that parents or legal guardians, of the pupils involved, receive written notification of bullying incidents and written disposition of local school board decisions when rendered. The Education Committee recognizes that bullying may result in serious implications for victims, families, and the school community. In 2002, a report released by the U.S. Secret Service concluded that bullying played a significant role in many school shootings and that efforts should be made to eliminate bullying behavior. Consequently, bullying needs to be dealt with swiftly and with due attention to procedural fairness. It is crucial that parents be aware of bullying incidents to ensure proper action has been taken to remedy the situation and protect their children's safety and wellbeing. Open communication and cooperation between key partners which include parents or guardians, are important factors in prevention and intervention efforts and ensuring the safety of the entire school community. **Vote 17-0.**

HB 1226-LOCAL, establishing a debt retirement fund in the Governor Wentworth regional school district. **WITHOUT RECOMMENDATION**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SPECIAL ORDER

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 1424-FN-A, establishing a pharmaceutical commission and making an appropriation therefor. **MAJORITY: OUGHT TO**

PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.

Rep. Peter E. Bergin for the **Majority** of Executive Departments and Administration: The original bill was to establish a three person pharmaceutical commission to purchase drugs in order to lower the cost to consumers. The subcommittee felt that lowering prescription drug cost was a very important issue. However, after studying the proposal, the committee felt the issue warranted further review by a joint study commission with representatives from the pharmaceutical industry. The commission will report back by November 1, 2004. This will enable legislation to be filed for the 2005 session. **Vote 11-6.**

Rep. John DeJoie for the **Minority** of Executive Departments and Administration: The cost of prescription drugs is a major problem for New Hampshire citizens, especially our senior citizens. It is estimated that 80% of seniors take at least one prescription medication every day, spending an average of \$480 per year in out-of-pocket costs. Yet New Hampshire lacks a comprehensive strategy for lowering the cost of prescription drugs. House Bill 1424 attempts to fill the gap by establishing a state commission, modeled on the liquor commission, to negotiate for lower priced prescription drugs to be distributed to New Hampshire pharmacies. The goal is to provide the lowest possible cost for wholesale prescription drugs, while maintaining proper health and safety controls. At its most basic level, this is a very simple bill: if the State of New Hampshire can negotiate with liquor companies for cheap alcohol, we can negotiate with pharmaceutical companies for cheaper prescription drugs.

FINANCE

HB 698-FN, relative to electronic toll collections. OUGHT TO PASS WITH AMENDMENT

Rep. Elizabeth S. Hager for Finance: This bill defines the State's relationship with the Interstate Agency Group (IAG) that sets standards for EZ Pass. The original bill dealt with a fine structure and administrative procedure for motorists who evade tolls in the EZ Pass gates. When the bill arrived at the Finance Committee, it was revealed that the annual operating costs for EZ Pass were more than \$7 million per year. When we initiated this program three years ago, DOT's intent was to pay for those costs by eliminating tokens and their discount. The Governor and Council disapproved. To protect the financial integrity of the Turnpike System and to avoid the need to increase tolls, the Committee felt that we needed both to pay for the operating costs and to provide incentives to use EZ Pass. The resulting amendment gives a 20% discount to token users, a 40% discount to EZ Pass users with two axles, and a 20% discount to EZ Pass users with more than 2 axles or more than 4 wheels. EZ Pass will speed traffic through tolls so that no new gates are needed. The Committee's amendment keeps the adoption of EZ Pass revenue neutral to the Turnpike System. **Vote 15-5.**

HB 1188, relative to indoor air quality in public schools. OUGHT TO PASS WITH AMENDMENT

Rep. Kenneth L. Weyler for Finance: The bill provides financial incentives to school districts that incorporate a higher standard in the design of air handling systems in new construction. It also adds a requirement for school districts to submit a written plan for maintenance of school buildings constructed with state aid. Amendments added in the Finance Committee changed the incentive grant from 5% to 1 ½ % to more clearly reflect actual costs, and added detail to the required maintenance plan. Until the goals and the costs of this program are better determined through experience, the committee felt it best that the total financial grant be limited to \$100,000 annually. **Vote 18-2.**

HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment. OUGHT TO PASS WITH AMENDMENT

Rep. MaryAnn N. Blanchard for Finance: This bonus program continues New Hampshire's tradition of prior awards to our servicemen in the recent Vietnam and Persian Gulf Wars. Under the bill a bonus payment will be made to New Hampshire Veterans who receive the Global War on Terrorism expeditionary medal (Presidential Executive Order #13289). The Finance Committee amendment: 1) sets the bonus at \$100; 2) removes the contingency which determined commencement of payment when the cessation of operations has been declared by the Secretary of Defense; and 3) changes the effective date to "upon passage". The committee was unable to calculate specifically the cost. However, based on the Persian Gulf War bonus medal awards at 542 over a long period, it was deemed a modest expense. **Vote 19-0.**

HB 1216-FN-A, making an appropriation to the small business innovation research support program. INEXPEDIENT TO LEGISLATE

Rep. Frederick W. King for Finance: This bill would require an appropriation of \$200,000 for support of economic development. The Finance Committee felt that the budget as passed contained sufficient funds for such programs in the biennium. This program, while worthwhile is better addressed in the fiscal years 2006-2007 budget. **Vote 15-4.**

HB 1339-FN-L, relative to distribution of tobacco settlement funds. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Rogers J. Johnson for the **Majority** of Finance: This bill in its original format would have restored \$3 million to the tobacco use prevention fund during the current budget thus undoing an aspect of the budget passed in September of 2003. The first amendment the committee reviewed changed the distribution of the tobacco settlement funds to \$3 million to the tobacco use prevention fund and 8.9% interest of those amounts over the \$3 million to be distributed to the counties starting in the next biennial budget. The final amendment removed the funds going to the tobacco use prevention fund, settling for 8.91% of the tobacco settlement fund going to the counties, also beginning in the next biennial budget. The committee rejected the notion of negotiating any aspect of the next biennial budget during the existing budget. This is unwise given the current fiscal condition

of the state. To place a marker stamped "Payment Due" in the 2006-2007 budget when we do not now know what our obligations will be does not make fiscal sense. Finally, the committee rejected the claim that the requested funds are monies due the counties in compliance with the tobacco Master Settlement Agreement. Based upon the testimony of a representative from the Attorney General's office, the counties do not have standing to make such a claim. **Vote 12-9.**

Rep. Frederick W. King for the **Minority** of Finance: The Tobacco Settlement Funds received by the state should be allocated to the counties in proportion to the counties' share of providing services to those with tobacco related illnesses. The settlement money is partial compensation for the funds that county property taxpayers expend to provide services to tobacco users under the Medicaid system. An in-depth study determined that the present discount value of county nursing home expenditures during 1970-1998 was equal to 8.91% of the present discounted value of the state's total computable Medicaid spending during the same time period. This amendment to HB 1339 will dedicate 8.91% of the state's settlement funds to the counties beginning in 2006. Addressing this issue now will guide budget writers as they begin the drafting of the 2006-2007 state budget this fall.

HB 1423-FN, relative to reimbursement of business travel expenses for judges and court reporters and stenographers. **OUGHT TO PASS WITH AMENDMENT**

Rep. Frederick W. King for Finance: HB 1423 as amended makes revisions to a statute that has been law since 1901 when the Supreme Court was established. The revisions make Probate and District Court Justices equal to Supreme Court and Superior Court Justices regarding mileage payments. All Justices will now receive payments for traveling from their residence to their assigned court for mileage in excess of 25 miles. This replaces the existing law which allows only Supreme Court and Superior Court Justices mileage payments from the first mile of travel. The Court reported that the annual savings to the court would be \$100,000. **Vote 16-4.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SB 404, establishing a committee to study the feasibility of providing statewide access to "Newline for the Blind." **INEXPEDIENT TO LEGISLATE**

Rep. Pamela Price for Health, Human Services and Elderly Affairs: This bill proposes to establish a committee to study the feasibility of providing statewide access to "Newline for the Blind". This service, operated by the National Federation of the Blind, offers telephone access to over 100 newspapers. The newspapers offer their content free of charge to the National Federation which converts the text to speech. This in turn is offered free of charge to qualifying sight impaired residents when a state subscribes to the service. There are currently 2000 residents who are eligible for this service and 10-12,000 legally blind in our state. The committee believes this is a terrific service which will keep the sight impaired connected to current events. The committee learned in testimony that funding is the only issue, the service is currently available and ready to be turned on "with the flip of a switch" if we can pay the \$26,000 fee. The committee felt it would be more quickly effective if it appointed an ad-hoc committee to pursue private funding sources. That committee has been appointed. The committee recommends ITL so we may continue work immediately on an ad-hoc basis on this worthwhile service for our sight impaired residents. **Vote 8-5.**

JUDICIARY

HB 1220-FN, relative to banning partial birth abortion. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS**

Rep. Bette R. Lasky for the **Majority** of Judiciary: This bill is yet another attempt to pass legislation ruled unconstitutional by the US Supreme Court as indicated in Stenberg v. Carhart in 2000. This bill refers to a ban on so called partial birth abortions, a procedure which does not exist in medical terminology. The specific medical procedure, a D and X, can be used throughout pregnancy. Further, the bill lacks an exception to protect a woman's life and health even though those exceptions have been repeatedly constitutionally required. Similar legislation recently passed by the US Congress was immediately enjoined by three separate federal courts for similar flaws previously determined to be unconstitutional. On this basis, the majority of the Judiciary Committee believes it is our duty to uphold the constitution. **Vote 8-5.**

Rep. Gregory M. Sorg for the **Minority** of Judiciary: This bill proposed to criminalize a practice considered by many to be barbaric by which an infant in utero is turned around in order that it can be delivered feet first until all but his or her head has been born, at which point, instead of completing the delivery of the last four or so inches of the infant consisting solely of the head. the base of the skull is punctured with a sharp instrument and the infant killed. The majority objects to criminalizing the physician's act of stabbing an infant to death in this manner, instead of completing the last twenty percent of its delivery, on the ground that the bill contains no exception for cases where the procedure is necessary to protect the life or health of the woman. The minority believes that, even were the medical evidence not conclusive that it is far more dangerous to a woman's life or health to deliberately cause a feet-first rather than a head-first delivery and that there is no danger whatsoever in delivering the head after having already delivered the other eighty percent of the infant's length, common sense would tell us that this is so. It is integral to the constitutional policy-making authority of the legislature to reflect common sense, which tells us also that the insertion of a "life or health of the woman" exception in this bill would serve no purpose other than to provide the physician with a giant loophole by which to self-immunize him or herself from culpability for the heinous crime of infanticide. An abortion performed in this manner is never necessary to protect the life or health of the woman.

HB 1340-FN, relative to the Informed Consent for Abortion Act. **WITHOUT RECOMMENDATION.**

HB 1413, relative to the creation of mandatory screening panels for medical injury claims. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Harry M. Haytayan, Jr. for the **Majority** of Judiciary: This bill will increase access and reduce the cost of medical care in New Hampshire. It is the work product of two successive legislative studies. The bill is targeted at a very specific problem: the problem of rapidly rising rates of medical malpractice insurance costs that are driving doctors out of New Hampshire. The bill addresses this problem by setting up a more efficient system of settling medical malpractice lawsuits. It makes the legal system more efficient by tracking medical malpractice claims along an accelerated schedule and requiring the parties to actively participate in a panel process which encourages early resolution of their claims, before thousands of dollars are unnecessarily spent on legal fees. A similar system in Maine saved on average \$14,000 per claim in defense costs, while assuring that plaintiffs with meritorious claims were fully compensated for their injuries. Simply put, meritorious cases are settled quicker by focusing the insurance companies on the merits of the claims sooner, and non-meritorious cases are settled quicker by focusing the plaintiff on the weakness of the claim sooner. The most important element of the statute is a credible screening panel, made up of a judge, a doctor and a lawyer charged with evaluating the merits of each claim and encouraging the parties to settle. The judge acts as panel chair and is responsible for moving the case along and helping the parties to settle. If the parties can't settle, they present their claims on the limited issues of liability and comparative negligence to the panel at a hearing and the panel decides whether the case has merit. If the panel finds against the plaintiff unanimously the plaintiff has a choice. He or she can choose not to have the findings admitted to the jury. If the panels findings are not admitted and the plaintiff loses at trial he or she will pay the subsequent costs and attorney's fees. If the plaintiff allows the panel's findings to be admitted at trial, he or she will not be responsible for any subsequent costs. This should encourage admissibility of the panel's unanimous findings. If the parties still can't settle their claims after the panel hearing and decision, they proceed to trial. In Maine a similar panel process resulted in settlement of over 80% of all claims, before they ever got to a full panel hearing. The bill also sets up a legislative oversight committee to monitor the system and to recommend further reforms, if necessary. It also codifies accepted principles of expert evidence to assure that only reliable expert testimony is offered in all civil cases at trial. This bill reforms the system to reduce the cost of settling cases, so that medical malpractice insurance rates won't force medical providers out of practice. It will help provide access to medical care in New Hampshire while helping to reduce the costs. The Minority's belief that the panel system can work without the panel having any power flies in the face of logic and experience. To be effective, the panel process must be credible. This bill is credible. The minority's proposal is not. **Vote 11-9.**

Rep. James W. Craig for the **Minority** of Judiciary: The minority concurs with the majority in that it agrees that medical malpractice insurance rates are too high and that a screening panel may in the long run help in lowering these rates. However, the minority believes that these goals can be accomplished without meddling with the jury system as this bill does. A screening panel system has existed for years and lawyers did not use it because it was not mandatory. This panel will be mandated and it will force parties to lay their legal cards on the table early in the process. If a party loses 3-0 at the panel that sends a strong message that there is a problem with the case. Only a fool would spend more money on a trial after losing a panel decision and the minority believes that the panel decision alone will be sufficient to settle cases. The majority, however, does not trust peoples' common sense in light of these litigation and financial pressures and takes the panel a giant step further. It requires that a subsequent trial be tainted with jury instructions which tell the jury who the panel members were and what its finding were. Then it tells the jury to make up its own mind in spite of the panel. If the loser at the panel stage does not like that option then he or she can have a jury trial without those instructions and if he or she loses the trial the loser pays the post panel costs and attorney's fees incurred by the other side – choices well known to Hobson and Sophie. The minority believes that this provision is unconstitutional under Part 1, Art. 20 which holds the right to a jury trial to be "sacred." Further, these onerous provisions discriminate unfairly against the middle class. The wealthy and insurance companies can afford to pay costs and the poorest members of society are judgment proof. The middle class truly has something to lose by these sanctions and they will be effectively barred from the courts if this bill passes.

MUNICIPAL AND COUNTY GOVERNMENT

HB 1187-L, allowing municipalities to deposit land use change tax revenues into a heritage fund. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David L. Buhlman for the **Majority** of Municipal and County Government: Any local legislative body may establish a heritage committee pursuant to RSA 673:1 which is modeled after the conservation commission pursuant to RSA 36-A and is funded by a yearly appropriation in the budget. This bill would allow municipalities to vote to deposit a specific percentage of the land use change tax, instead of the yearly appropriation, into the heritage fund. This mirrors the same procedure as the conservation commissions currently implement at the local level. The committee felt that this might end up pitting the heritage commission against the conservation commission since they would be requesting funds from the same land use change tax. The present situation of having to receive yearly appropriations devoted to the heritage commission from the local legislative body seemed the most reasonable to the majority of the committee. **Vote 10-4.**

Rep. Mary R. Cooney for the **Minority** of Municipal and County Government: The land use change which is tax collected when

land is taken out of current use is revenue which is unanticipated and therefore not designated for any particular purpose. The legislative body of the municipality can vote to deposit all or a percentage of the land use change tax into the conservation fund. This bill simply adds the possibility of designating a portion of the land use change tax to a heritage fund. The advantage of using a portion of these funds is that the legislative body would not to vote to raise taxes to fund the commission but rather would let it be funded as such revenues were generated.

SPECIAL ORDER

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.**

SPECIAL ORDER

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.**

SCIENCE, TECHNOLOGY AND ENERGY

SPECIAL ORDER

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.**

WAYS AND MEANS

CACR 22, relating to taxation. Providing that a 2/3 vote is required to pass a new tax or to increase a tax after it is levied and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth. **REFER FOR INTERIM STUDY**

Rep. Jeffrey D. Gilbert for Ways and Means: The committee was presented with conflicting testimony on the history and current experience of the state of Colorado which is the only state that has adopted a similar constitutional amendment. The bill, as drafted, had a number of technical problems and sought to both limit spending and tax increases. An amendment was adopted by the committee that deleted the spending limits. Notwithstanding the amendment's modification, a strong bi-partisan majority of the committee felt that further study of the remaining proposed limits on the legislature's constitutional power to establish and modify tax policy was required. Currently, both Colorado and California are addressing similar issues to this bill. The committee believes that it is important to New Hampshire to study the course of action that these states choose before proceeding with this legislation. **Vote 15-3.**

HB 1416-FN, relative to a permanent property tax exemption for wooden poles and conduits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kurt J. Roessner for the **Majority** of Ways and Means: This amended bill temporarily extends an exemption from property tax on wooden poles and conduits which are owned by telephone companies and establishes a study committee to further examine the exemption. The current exemption will lapse on July 1, 2004. The exemption, a well-considered tax policy, was established in 1998 and traces back to the enactment of the Communications Services Tax (CST). The CST was designed to level the competitive playing field between the regulated wireline business and the unregulated wireless business and replaced the state's personal property tax on poles and conduits. Today the CST generates over six times as much revenue as the

personal property tax did. The health of the regulated wireline industry is crucial to the well being of our economy and it has been in decline for several years. The regulated wireline phone companies in New Hampshire have approximately 850,000 wire access lines and are declining by over 35,000 a year resulting in net operating losses for the companies. It should be noted that the regulated telecommunications industry in New Hampshire consists of nine service providers who all face the pressures of today's regulated telecommunications marketplace. The unregulated wireless telecommunications industry in New Hampshire have approximately 600,000 access lines and are growing. A 2003 study committee overwhelmingly recommended a permanent exemption from the property tax, since repealing the exemption would authorize a new local property tax and this new tax could be passed on to wireline telephone customers and/or lead to a further deterioration of New Hampshire's wireline telecommunications industry. Despite this recommendation, Ways and Means uncovered additional concerns and considerations during its deliberations and the bill was amended to make the exemption temporary, lapsing in 2006. The amended bill establishes a study committee to examine concerns raised by the minority, including whether the exemption should be continued; the feasibility of sharing CST revenues with local communities; public policy issues involving regulated wireline communications companies; and potential assessment methodologies for wooden poles and conduits. The majority of Ways and Means believes we should not implement irreversible tax policy on such an important matter without a thorough understanding of the consequences. **Vote 12-6.**

Rep. John M. Gibson for the **Minority** of Ways and Means: This legislation continues a corporate tax loophole created by the legislature in 1990. Currently, poles owned by non-telephone utilities, pay state and local property taxes while poles owned by telephone companies are exempted from paying property taxes resulting in millions less in revenues that local government could use to ease the burden of property taxes. In a year when many homeowners are having a hard time paying their property taxes, it is blatantly unfair for a multi-million dollar industry to be exempted from paying their fair share. Some find it distasteful to extend this form of corporate welfare for another 2 years. I strongly urge you to support your communities over big corporate special interest groups.

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 65, relative to educational assistance for national guard members. (House Concurred 3/11/04)

HB 121, relative to grounds for modification of a permanent child custody order. (House Concurred 3/11/04)

HB 258, relative to the community-technical college system. (House Concurred 3/11/04)

HB 326, relative to establishing a 6-year capital budget. (SJ 1/9/04)

HB 384, relative to financial affidavits in domestic relations cases. (SJ 1/9/04)

HB 464-FN, establishing a criminal penalty for facilitating a drug or underage alcohol house party. (House Concurred 3/11/04).

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)

HB 620-FN, providing a right to counsel for indigent parents and other protections in cases involving the guardianship of minors. (House Concurred 3/11/04)

HB 749, relative to the description in a criminal complaint of the party accused. (House Concurred 3/11/04)

COMMITTEE MEETINGS

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.

1:15 p.m. **SB 424-FN**, relative to boating and carnival-amusement regulation by the department of safety.

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.

11:30 a.m. **SB 459**, making certain changes to the real estate practice act.

1:00 p.m. **SB 362**, changing the name of the college for lifelong learning to Granite state college.

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

FINANCE, Rooms 210-211, LOB

10:00 a.m. **SB 336-L**, relative to certain costs in the development of a high school in the town of Bedford.

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

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

1:00 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

1:00 p.m. Presentation by the Commissioner of the Department of Health and Human Services.

1:30 p.m. **SB 383-FN**, relative to pharmacy benefit management.

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

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

10:00 a.m. Public hearing on proposed amendment to **SB 381**, relative to the transfer of certain capital appropriations within the department of safety. The proposed amendment is relative to authorization for and transfer of certain capital appropriations within the department of safety. Copies of the amendment are available from the Sergeant-at-Arms counter.

11:00 a.m. **SB 529**, making a technical correction to the eminent domain procedure act.

1:00 p.m. **SB 518**, establishing a commission to study railroad matching funds and authorizing an expenditure for a certain feasibility study.

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

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.

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.

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

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

10:00 a.m. Regular 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.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:30 a.m. **SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety.

10:30 a.m. **SB 409-FN**, revising the vocational school licensing statutes.

11:15 a.m. **SB 312-FN**, establishing a state code of ethics.

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), 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.

SETBACK REQUIREMENTS FOR SEPTAGE, BIOSOLIDS AND SHORT PAPER FIBERS STUDY (SB 87, Chapter 302:1, Laws of 2003), UNH, Kingman Farm, Research Farm, Route 155, Madbury

10:00 a.m. Subcommittee meeting.

TUESDAY, MARCH 23

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.

1:00 p.m. Subcommittee work session on **SB 520**, relative to modification of child support obligation.

COMMERCE, Room 302, LOB

10:00 a.m. **SB 400**, relative to real estate appraisals conducted for mortgage loan applicants.

11:00 a.m. **SB 428**, establishing a committee to study the protection of consumers from unfair lending practices.

1:15 p.m. **SB 498-FN**, relative to the regulation of debt adjustment services.

2:00 p.m. **SB 500-FN**, relative to certain procedures of financial institutions.

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

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **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.

1:15 p.m. **SB 320-FN**, relative to penalties for damaging emergency vehicles.

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

11:00 a.m. Subcommittee work session on ***SB 457***, relative to animal population control.

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.

1:00 p.m. ***SCR 6***, a resolution designating January as stalking awareness month.

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

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

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

WAYS AND MEANS, Room 202, LOB

10:00 a.m. Public hearing on the proposed amendment to ***SB 324-FN-A-L***, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. The proposed amendment is relative to the real estate transfer tax, the NH estate tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality. Copies of the proposed amendment will be available from the Sergeant-at-Arms counter.

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

WEDNESDAY, MARCH 24

COMMERCE, Room 302, LOB

10:00 a.m. ***SB 366-FN***, relative to the Interstate Insurance Product Compact.

11:00 a.m. ***SB 369***, relative to examinations of insurance companies by the insurance department.

1:15 p.m. Public hearing on proposed amendment to ***SB 301-FN***, relative to liquor licenses. The proposed amendment is relative to sales of alcoholic beverages. Copies of the amendment are available from the Sergeant-at-Arms counter.

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

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. ***SB 439***, relative to probationary drivers' licenses.

10:30 a.m. ***SB 318***, relative to the applicability of driving while intoxicated prohibitions.

11:00 a.m. ***SB 513***, relative to the death penalty.

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

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:30 a.m. ***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.

RESOURCES, RECREATION AND DEVELOPMENT, Rooms 305-307, LOB

10:00 a.m. ***SB 488***, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams.

- 11:00 a.m. ***SB 512-FN***, establishing a Lake Sunapee public access commission.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

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

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.

NEW HAMPSHIRE LAND AND COMMUNITY HERITAGE AUTHORITY BOARD OF DIRECTORS (RSA 227-M:4), Room 204, LOB

- 11:00 a.m. Subcommittee meeting.

TUESDAY, MARCH 30

COMMERCE, Room 302, LOB

- 10:00 a.m. ***SB 345***, exempting payroll accounts from trustee process.
10:30 a.m. ***SB 207***, relative to transactions exempt from the consumer protection act.
1:15 p.m. ***SB 314***, relative to access to medical records.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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

- 2:00 p.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Rooms 202-204, LOB

- 11:00 a.m. ***SB 454-FN***, relative to carrying a concealed weapon without a license.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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.

CONSENSUS REVENUE ESTIMATING PANEL (RSA 17-Q), Room 202, LOB

9:00 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

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

1:00 p.m. Complaint hearing and board rules.

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.

STATE VETERANS' ADVISORY COMMITTEE (RSA 115-A:2), American Legion Post 79, Manchester

5:00 p.m. Regular meeting.

WEDNESDAY, APRIL 7

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

1:00 p.m. County subcommittee meeting.

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

NOTICE

LEGISLATIVE ETHICS COMMITTEE

The Legislative Ethics Committee finds that the following House members have not filed a Financial Disclosure Form as required by the Ethics Guidelines:

Debra A. Kudalis
Mary Ellen Martin
Alice T. McDonough-Wallace
Claire B. McHugh

Rep. Shawn N. Jasper, Chairman
Legislative Ethics 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

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.

Jacqueline A. Pitts, 110 Ledgewood Drive, Apt. A-8, Portsmouth, New Hampshire 03801-6428.

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

There will be a meeting of the County Delegation Leadership Committee on Tuesday, **March 16th** at 9:00 a.m. in Room 301, LOB. All County Chairmen, Vice Chairmen, Clerks and Executive Committee Chairmen are invited to attend.

Rep. Betsey L. Patten

The Nashua City Delegation will meet in Room 100, State House at noon on **March 16th** to discuss pending legislation. Nashua City officials will discuss issues of interest to the City Administration. Meeting should not last more than one hour.

Rep. Nelson S. Allan

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

NH Solutions for the Affordable, Accessible Housing Shortage with Clair Monier, Executive Director of the NH Housing Finance Authority. This is the third session of the 2004 legislative education series: SUPPORTING OLDER ADULTS AND INDIVIDUALS WITH DISABILITIES IN YOUR COMMUNITY: AN EDUCATION SERIES FOR LEGISLATORS. Tuesday, **March 23** at the NH Historical Society, Tuck Library, Park Street, Concord. The session will be held from noon to 1:30 p.m. with lunch. Please contact Judy King at 1-800-238-2048 or jaking@cisunix.unh.edu to confirm your attendance.

Rep. Peter L. Batula

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 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
3-15-04	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
3-30-04	10:00 & 11:30 SH/HM	Rescheduled from December 11 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.

In an effort to contain costs, the number of Journals printed will be determined by the number of advance orders received. Please do not order a Journal if you have no intention of claiming it.

Please clip this form and return it in person or via mail to:

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

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

REP/SEN/NAME _____

AGENCY/BUSINESS _____

CONTACT _____

PHONE/EXT. _____

ADDRESS _____

CITY/STATE/ZIP _____

2003 _____ COPY(IES) **2004** _____ COPY(IES)

SIGNED _____

WEDNESDAY, MARCH 17
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2004-0541h

Amendment to HB 698-FN
Proposed by the Committee on Finance - R

Amend the bill by replacing section 3 with the following:

3 New Section; Suspension for Evasion of Electronic Toll Collection System. Amend RSA 263 by inserting after section 56-e the following new section:

263:56-f Suspension for Evasion of Electronic Toll Collection System.

I. Upon receiving a report from the commissioner of the department of transportation or designee, that the owner of a vehicle, as defined in RSA 236:31, has violated the terms of RSA 236:31, the director shall notify the owner in writing by first class mail that the owner's driving privileges, registration, resident plates, or motor vehicle registration privileges may be suspended on the date which is 30 days from the date of notification unless the toll and any administrative fees assessed by the department of transportation are paid. The director shall also notify the owner that he or she may request an administrative hearing before the suspension takes effect. A request for a hearing shall be in writing. A request for a hearing received by the division more than 30 days from the date the notice is issued shall be denied as untimely.

II.(a) The director shall, pursuant to RSA 541-A, adopt by rule, a uniform administrative fine schedule for each separate violation that shall not exceed:

- (1) \$250 for a first offense.
- (2) \$500 for a second offense within a 12-month period.
- (3) \$1,000 for a third or subsequent offense within a 12-month period.

(b) No fine shall take effect unless approved by the commissioner. The commissioner shall have the authority to modify the amount of the fine assessed. Notwithstanding any other law to the contrary, all administrative fines collected under this section shall be deposited into the turnpike fund.

III. The director shall adopt rules under RSA 260:5 establishing a uniform administrative hearing process.

IV.(a) The scope of the hearing shall be limited to:

- (1) Whether the owner has paid all tolls and administrative fees owed to the department of transportation;
- (2) Whether the report from the department of transportation correctly identified the owner of the vehicle at the time of the incident; or

(3) Whether the vehicle, identified as having violated the duty to pay a toll, had been reported as taken without the owner's consent, pursuant to RSA 262:12, or stolen to a law enforcement agency in a timely manner.

(b) A notice of violation may be based in whole or in part upon inspection of any photographic or other recorded image of a vehicle using the bridge or highway subject to a toll or charge. The written certification of any person employed by or under contract with the department of transportation that the notice is so based shall be admissible in any hearing held hereunder and shall create a rebuttable presumption that the owner is liable for such violation.

V. The driving privileges, resident plates, and motor vehicle registration of any vehicle, if applicable, of an owner shall be reinstated upon:

(a) Notice to the director from the department of transportation that all tolls, fees, and fines have been paid; and

(b) Payment to the director of a fee of \$100 for license or driving privilege restoration, and \$25 for each motor vehicle registration restored. Such restoration fees shall be in lieu of any other reinstatement fees. All funds received under this subparagraph shall be deposited in the highway fund.

Amend the bill by inserting after section 4 the following and renumbering the original sections 5 and 6 to read as 6 and 7, respectively:

5 Toll Criteria; Discounts. Amend RSA 237:11, V to read as follows:

V. In establishing tolls or charges pursuant to RSA 237:9, ~~[24 or 40]~~ **RSA 237:24, or RSA 237:40**, the governor and council shall discount or reduce the established tolls on any of the turnpikes in the system ~~[for those motor vehicles that participate in the regional electronic toll collection system]~~ **as follows:**

(a) For a motor vehicle with a maximum of 2 axles and 4 tires, the discount shall be:

- (1) Twenty percent if payment is made by use of turnpike system tokens.**
- (2) Forty percent if payment is made through the regional electronic toll collection system.**

(b) For a motor vehicle with more than 2 axles, or more than 4 tires, that is identified to a New Hampshire account in the regional electronic toll collection system, the discount shall be 20 percent if payment is made through the regional electronic toll collection system.

(c) If the application of a discount causes the last digit in the calculated toll fare to be a fraction of a cent, the fare shall be rounded up to the next whole cent.

AMENDED ANALYSIS

This bill establishes a procedure for violations of the electronic toll collection system.

This bill also establishes toll discounts for classes of motor vehicles using the regional electronic toll collection system and using tokens.

-0733h

Amendment to HB 1159

Proposed by the Committee on Executive Departments and Administration - C

Amend the bill by replacing section 1 with the following:

☐ Employment Prohibited. Amend RSA 179:21 to read as follows:

179:21 Employment Prohibited. No elected state official, member of the liquor commission, or employee of the liquor commission **responsible for making recommendations to the commission relative to the purchase of liquor, wine, or beer** shall hold a liquor or wine representative license~~[-or salesperson's liquor or wine license]~~ for a period of 1 year from the date that such person leaves office or terminates such employment.

AMENDED ANALYSIS

This bill limits the applicability of the prohibition on holding certain licenses during the first year after leaving office or terminating employment with the liquor commission.

2004-0748h

Amendment to HB 1162

Proposed by the Committee on Education - R

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

☐ Pupil Safety and Violence Prevention. RSA 193-F:3 is repealed and reenacted to read as follows:

193-F:3 Pupil Safety and Violence Prevention.

I.(a) Each local school board shall adopt a pupil safety and violence prevention policy which addresses pupil harassment, also known as “bullying”, and which is consistent with the provisions of this chapter.

(b) At the beginning of each school year, school districts shall, in writing, inform the parent, legal guardian, or other person responsible for the welfare of the pupil of the district’s pupil safety and violence prevention policy and the appeals process available at the local and state levels.

II.(a) Any school employee, or employee of a company under contract with a school or school district, who has witnessed or has reliable information that a pupil has been subjected to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response shall report such incident to the principal, or designee who shall in turn report the incident to the superintendent and the school board.

(b) The principal, or designee, shall in writing and by first-class mail, report the occurrence of any incident described in this paragraph to the parent or legal guardian of all pupils involved within 48 hours of the occurrence of such incident. The notice shall advise the individuals involved of their due process rights including the right to appeal to the state board of education.

III. The remedy required in paragraph II shall be defined by the local school board and the local school board shall, in writing, notify all parties involved of its decision. If the remedies outlined in the school board’s policy are exhausted, the aggrieved party shall have the right to appeal the decision to the state board of education. The state board of education shall, in writing, notify all parties involved of its decision. The local school board may provide opportunities for educators to have the knowledge and skills to prevent and respond to acts covered by this chapter.

IV. A school employee, or employee of a company under contract with a school or school district, who has reported violations under this chapter to the principal, or designee or who has intervened under paragraph II, shall be immune from any cause of action which may arise from the failure to remedy the reported incident.

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

AMENDED ANALYSIS

This bill requires school districts to notify the parents or legal guardians of the district’s policies on bullying and requires that a written report of any bullying incidents be sent by mail to the parent or legal guardian of the pupils involved.

2004-0572h

Amendment to HB 1188

Proposed by the Committee on Finance - R

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

AN ACT relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.

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

☐ New Paragraph; School Building Aid; Approval of Plans. Amend RSA 198:15-b by inserting after paragraph I the following new paragraph:

I-a. A school district, or other entity listed in paragraph I of this section, shall be entitled to receive an additional grant equal to 1.5 percent of the total construction costs. Not more than \$100,000 in any fiscal year in additional grant moneys shall be awarded. To be eligible for additional grant moneys, construction projects, as built, shall comply with all of the following requirements:

(a) Achieve indoor air quality equal to or better than the standards for clean indoor air in state buildings established pursuant to RSA 10-B:3, II. Achievement shall be demonstrated by providing a copy of the results of indoor air quality testing performed within 6 months of the date of building occupancy or the date of substantial project completion, whichever is later. The number of samples taken shall be sufficient to reasonably conclude that the standards are met throughout the entire new or renovated portions of the facility. The report of the air quality testing shall indicate the specific location of all samples taken

including height above the floor and shall be signed by a certified industrial hygienist.

(b) Achieve total energy use that is at least 15 percent below the maximum allowable energy use for the building under the current state energy code. Achievement shall be demonstrated by a report of energy use calculations using a method provided by the United States Department of Energy or other method of calculation acceptable to the department of education. The report shall be signed and stamped by a mechanical engineer licensed to practice in the state of New Hampshire.

(c) Achieve a 2 percent minimum daylight factor of uniformly distributed daylighting, with no direct sunlight penetration, in 75 percent of all classroom space. The daylight factor is expressed as a percentage of daylight at the task level, measured in foot candles or lux, to the total amount of outdoor daylight. Achievement shall be demonstrated by a report signed and stamped by an electrical engineer licensed to practice in the state of New Hampshire. The report shall indicate the daylight factor in each classroom in new or renovated portions of the facility.

(d) Perform commissioning of all heating, ventilation, and air conditioning (HVAC) systems and all life safety systems. The school district or entity shall provide a commissioning report which describes the commissioning process used and which indicates that all systems are performing according to all design specifications. The commissioning report shall be signed and stamped by a mechanical engineer licensed to practice in the state of New Hampshire.

2) School Building Aid; Approval of Plans. Amend RSA 198:15-c to read as follows:

198:15-c Approval of Plans, Specifications and Costs of Construction or Purchase.

I. A school district maintaining approved schools, desiring to avail itself of the grants herein provided shall have the plans, specifications, and cost estimates for school plant construction or proposals for the purchase of school buildings, or both, and the costs for them approved by the state board prior to the start of construction. For this purpose the district shall submit its plans, specifications, cost and purchase estimates in writing to the state board on such forms as the board prescribes. Application for school building aid shall be submitted before January 1 of each year in order to be eligible for school building aid in the fiscal year following the year of submittal. The state board shall not approve the plans, specifications, cost or purchase estimates, if in the board's judgment the facilities planned will not adequately meet the educational requirements, or if its cost estimates are excessive or unreasonable. The state board shall not approve the plans, specifications, cost or purchase estimates if in the board's judgment the proposed construction or purchase is in conflict with effective statewide planning. Necessary costs of the purchase of school buildings may be determined by any recognized method of real estate appraisal with appropriate adjustments for remodeling or other expenditures. Upon approval of the construction or purchase, or both, by the state board of education, the school district shall be entitled to receive an annual grant as provided herein.

II. In addition to the requirements of paragraph I, each school district shall, submit a written maintenance plan describing in detail how the school district will maintain facilities constructed with state aid. The required maintenance plan shall provide the following information:

(a) The manner in which the following building services are or will be provided using in-house staff, contracted services, or a combination of both. For work performed by in-house staff, an indication of the staffing level expressed as full-time equivalent positions for:

- (1) Daily facility cleaning.**
- (2) Grounds maintenance.**
- (3) Refuse removal.**
- (4) Snow removal.**
- (5) Minor maintenance and repair.**
- (6) Pest management.**
- (7) Periodic equipment servicing.**

(b) The average amount of space, in square feet, assigned to each custodian for daily cleaning.

(c) The process for reporting, recording, verifying, and prioritizing building problems, how corrective work is assigned and performed, and how the success of corrective actions is determined.

(d) The process for tracking and analyzing recurring problems.

(e) The process for scheduling and completing preventive maintenance services and inspections on installed equipment and major building systems including, but not limited to heating, ventilation, and air conditioning, (HVAC), life safety, elevators, plumbing, roof, windows and doors, and kitchen appliances.

(f) Custodial and/or maintenance staff increases or reductions that result from the project.

(g) The training program for employees who will be required to operate and maintain new equipment installed through the construction project.

(h) A statement of assurance, signed by the superintendent of schools or the chair of the school board, which indicates that the district intends to maintain and service all installed equipment according to the manufacturer's instructions.

3) Repeal. RSA 198:15-b, I-a, relative to additional grant moneys for certain school construction projects, is repealed.

4) Effective Date.

I. Section 3 of this act shall take effect July 1, 2011.

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

2004-0703h

Amendment to HB 1202
Proposed by the Committee on Commerce - C

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

1 New Section; Accident and Health Insurance; Third-Party Payment of Covered, Court-Ordered Services. Amend RSA 415 by inserting after section 18-o the following new section:

415:18-p Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

2 New Section; Health Service Corporations; Third-Party Payment of Covered, Court-Ordered Services. Amend RSA 420-A by inserting after section 15 the following new section:

420-A:15-a Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

3 New Section; Health Maintenance Organizations; Third-Party Payment of Covered, Court-Ordered Services. Amend RSA 420-B by inserting after section 8-n the following new section:

420-B:8-o Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer

shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

4 New Section; Managed Care Law. Amend RSA 420-J by inserting after section 6-b the following new section:

420-J:6-c Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

5 Effective Date. This act shall take effect 90 days after its passage.

AMENDED ANALYSIS

This bill provides that an insurance provider shall not consider the existence of a court order under RSA 169-B, 169-C, and 169-D for a covered service, placement, or program in determining qualification for third-party payment for the service, placement, or program, provided that the claimant meets certain criteria established by the insurance provider.

2004-0726h

Amendment to HB 1207-FN-A

Proposed by the Committee on Finance - R

Amend RSA 115-A:18 as inserted by section 1 of the bill by replacing it with the following:

115-A:18 Bonus Payment. In recognition of the services performed by the persons designated as eligible under RSA 115-A:16, the state treasurer, when such names are certified to the state treasurer as provided in RSA 115-A:17, and when application is made therefor, shall pay to each such qualified person the sum of \$100; and shall take such formal receipt as the state treasurer shall prescribe.

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

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

2004-0455h

Amendment to HB 1221

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

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.
2004-0603h

Amendment to HB 1257-FN

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

Amend the introductory subparagraph of RSA 215-A:11, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) While having an alcohol concentration of 0.08 or more *or, in the case of a person under the age of 21, 0.02 or more* and, at the time alleged:

Amend the introductory subparagraph of RSA 265:82-a, II as inserted by section 2 of the bill by replacing it with the following:

II. While having an alcohol concentration of 0.08 or more *or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more or, in the case of a person licensed pursuant to RSA 263:86 at the time of the offense and notwithstanding the provisions of RSA 263:94, 0.04 or more* and, at the time alleged:

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

6 Penalties for Intoxication or Under Influence of Drug Offenses; Boating. Amend RSA 265:82-b, VIII to read as follows:

VIII. Any person convicted of a violation of RSA 215-A:11, RSA ~~265:82~~ **270:48-a**, or RSA 265:82-a, and who at the time of driving a vehicle or off highway recreational vehicle *or operating a boat* was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the state-operated multiple DWI offender program or an equivalent 7-day residential intervention program approved by the commissioner at the person's own expense.

2004-0700h

Amendment to HB 1282

Proposed by the Committee on Commerce - C

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

AN ACT authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

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

1 New Section; Consumer Complaint Administrator. Amend RSA 383 by inserting after section 10-e the following new section:

383:10-f Consumer Complaint Administrator. The commissioner shall annually designate one person from within the banking department who shall administer and coordinate the commissioner's response to consumer complaints concerning conduct in trade or commerce licensed under Title XXXVI or RSA 361-A, or conduct which is alleged to be an unfair or deceptive practice under the provisions of RSA 383:10-d.

2 Consumer Complaints and Restitution. RSA 383:10-d is repealed and reenacted to read as follows:

383:10-d Consumer Complaints and Restitution. The commissioner shall have exclusive authority and jurisdiction to investigate conduct that is or may be an unfair or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or that may violate any of the provisions of Titles XXXV and XXXVI and administrative rules adopted thereunder. The commissioner may hold hearings relative to such conduct and may order restitution for a person or persons adversely affected by such conduct.

3 Insurance; Orders and Penalty. Amend RSA 417:10 to read as follows:

417:10 Orders and Penalty. If after hearing or at the expiration of the period set forth in a show cause order issued pursuant to this chapter, any person is found to have violated RSA 417:3, the commissioner may suspend, revoke, or refuse to renew the license of that person. The commissioner, in the commissioner's discretion, in addition to or in lieu of such suspension, revocation, or refusal to renew, may impose upon that person an administrative penalty of not more than \$2,500 for each method of competition, act, or practice found to be in violation of RSA 417:3. The commissioner shall collect the amount so imposed and may bring an action in the name of the state to enforce collection. *In addition, the commissioner may order the payment of restitution for actual economic losses sustained by any individual directly injured by violations of RSA 417:3. An insurer shall be permitted to satisfy an order of restitution which applies to current policyholders and which involves de minimis amounts by crediting the accounts of such policyholder where the mailing and processing costs of paying the restitution are not reasonable in relation to the de minimis amount thereof. The*

commissioner may also order the insurer or other appropriate person to remediate any method of competition, act, or practice found to be in violation of RSA 417:3.

4 Insurance; Penalty. Amend RSA 417:13 to read as follows:
417:13 Penalty. If any person violates a cease and desist order issued by the commissioner pursuant to RSA 417:12, the commissioner may suspend, revoke, or refuse to renew the license of that person. The commissioner in the commissioner's discretion, in addition to or in lieu of such suspension, revocation, or refusal to renew, may impose upon that person an administrative penalty of not more than \$2,500 for each method of competition, act, or practice found to be in violation of this chapter pursuant to RSA 417:12. The commissioner shall collect the amount so imposed and may bring an action in the name of the state to enforce collection. *In addition, the commissioner may order the payment of restitution for actual economic losses sustained by any individual directly injured by any such method of competition, act, or practice found to be in violation of this chapter pursuant to RSA 417:12. An insurer shall be permitted to satisfy an order of restitution which applies to current policyholders and involves de minimis amounts by crediting their accounts where the mailing and processing costs associated with the restitution would not be reasonable in relation to the de minimis amount thereof. The commissioner may also order the insurer or other appropriate person to affirmatively remediate any method of competition, act, or practice found to be in violation of this chapter pursuant to RSA 417:12.*

5 Definitions. Amend RSA 417:18, II to read as follows:
II. "Consumer" means any natural person who is offered or supplied goods or services for personal, family, or household purposes, *and who has not received restitution under the provisions of RSA 417:10 or RSA 417:13.*
6 Effective Date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill authorizes the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.
2004-0459h

Amendment to HB 1312
Proposed by the Committee on Children and Family Law - C

Amend the bill by replacing all after the enacting clause with the following:
1 Support and Custody of Children. Amend RSA 458:17, I to read as follows:
I. In all cases where there shall be a decree of divorce or nullity, the court shall make such further decree in relation to the support, education, and custody of the children as shall be most conducive to their benefit and may order a reasonable provision for their support and education *for the period of time specified in RSA 458:35-c.* All such support orders shall provide for the assignment of the wages of the responsible parent pursuant to RSA 458-B, including the exceptions listed in RSA 458-B:2.
2 Domestic Relations; Duration of Child Support. Amend RSA 458:35-c to read as follows:
458:35-c Duration of Child Support. [~~Unless the court or other body empowered by law to issue and modify support orders specifies differently,~~] The amount of a child support obligation stated in the order for support shall remain as stated in the order until all dependent children for whom support is provided in the order shall terminate their high school education or reach the age of 18 years, whichever is later, or become married, or become a member of the armed services, at which time the child support obligation terminates without further legal action. This amount shall remain as specified unless a legal order expressly allocates the payments on a per child basis. If the order involves a disabled child, the court shall specify the duration of the order, which may be beyond the time when the child reaches the age of 18.
3 Applicability. Enactment of this law shall not constitute a substantial change in circumstances for purposes of modification pursuant to RSA 458-C:7.
4 Effective Date. This act shall take effect upon its passage.
2004-0650h

Amendment to HB 1316-FN-A
Proposed by the Committee on Ways and Means - C

Amend the title of the bill by replacing it with the following:
AN ACT relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges.
Amend the bill by deleting section 2 and renumbering the original sections 3-9 to read as 2-8, respectively.
Amend RSA 82-A:2, XXIII as inserted by section 4 of the bill by replacing it with the following:
XXIII. "Paid calling service" means the communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, calling card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the communications service.
Amend RSA 82-A:4 as inserted by section 5 of the bill by replacing it with the following:

82-A:4 Imposition of Tax; Interstate Communications Services. Except as provided in RSA 82-A:4-b, a tax is imposed upon interstate communications services and private communications services furnished to a person in this state and purchased at retail from a retailer by such person, at the rate of 7 percent of the gross charge when such service purchased on a call-by call basis originates in this state and terminates outside this state or originates outside this state and terminates in this state and the service address is in this state, or when such service purchased on a basis other than a call-by-call basis is provided to a person with a place of primary use in this state or when such private communications services are apportioned to this state in accordance with RSA 82-A:4-c. Provided however, a tax is imposed upon interstate paid calling service furnished to a person in this state and purchased at retail from a retailer by such person, at the rate of 7 percent of the gross charge when the origination point of the communications signal (as first identified by either (a) the seller's telecommunications system, or (b) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller) is in this state. To prevent actual multi-state taxation of communications services that are subject to taxation under this section, any taxpayer, upon proof that that taxpayer has paid a tax in another state on such services, shall be allowed a credit against the tax imposed in this section to the extent of the amount of such tax properly due and paid in such other state. However, such tax is not imposed on communications services to the extent such services may not, under the Constitution and statutes of the United States, be made the subject of taxation by the state.

Amend the bill by replacing all after section 6 with the following:

7 Applicability; Sections 1-6. Sections 1-6 of this act shall apply to bills issued on or after January 1, 2005; provided, however, in the case of private communications services, if information on mileage is not available, the department of revenue administration may allow the application of the apportionment rules in RSA 82-A:2, XIII to prior periods and provided further, in the case of a paid calling service, the carrier shall be allowed a transition period from January 1, 2005 through June 30, 2005 in which to change its tax systems to conform with the provisions of this act.

8 Committee Established. There is established a committee to study the feasibility of unbundling communications services charges.

9 Membership and Compensation.

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

- (a) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (b) Three members of the senate, appointed by the president of the senate.

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

10 Duties. The committee shall study the feasibility of unbundling communications services charges. In addition, the committee shall study the recordkeeping required by communications services providers, the revenue implications of excluding certain unbundled charges from taxation, and the application to voice over internet services.

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

12 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

13 Effective Date.

I. Sections 1-7 of this act shall take effect July 1, 2004.

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

AMENDED ANALYSIS

This bill changes the definitions of "gross charge", "service address," and "place of primary use" and adds definitions of "paid calling service" and "private communications service" for purposes of the communications services tax. The bill establishes certain rules for computation of the tax for private communications services and paid calling services. The bill also establishes a committee to study the feasibility of unbundling communications services charges.

2004-0808h

Amendment to HB 1339-FN-A-LOCAL

Proposed by the Minority of the Committee on Finance - R

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

1 Distribution of Tobacco Settlement Funds. Amend 2000, 212:1, II to read as follows:

II. ~~[Beginning]~~ In fiscal ~~[year]~~ **years** 2001 ~~[and in each year thereafter]~~ **through 2005:**

- (a) The first \$3,000,000 to the tobacco use prevention fund, established in RSA 126-K:15.
- (b) The next \$40,000,000 to the education trust fund, established in RSA 198:39.
- (c) Any amount over \$43,000,000 shall be deposited as unrestricted revenue to the general fund.

III. Beginning in fiscal year 2006 and in each year thereafter:

(a) 8.91 percent shall be distributed in shares according to the population of each county to the treasurers of the 10 counties.

(b) Of all remaining amounts, \$40,000,000 shall be allocated to the education trust fund, established in RSA 198:39, and the balance shall be deposited in the general fund.

2 Effective Date. This act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill changes the distribution of tobacco settlement funds received by the state.

2004-0800h

Floor Amendment to HB 1340-FN

Proposed by Reps. Souza, J. Wheeler, Sorg, Woods and Dudley

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

□ New Subdivision; Informed Consent for Abortion Act. Amend RSA 132 by inserting after section 28 the following new subdivision:

Informed Consent for Abortion Act

132:29 Title. This subdivision may be known and cited as the “Informed Consent for Abortion Act.”

132:30 Findings and Purposes.

I. The general court finds that:

(a) It is essential to the psychological and physical well-being of a woman considering an abortion that she receive complete and accurate information on her alternatives.

(b) The knowledgeable exercise of a woman’s decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between 2 alternatives: giving birth or having an abortion.

II. Based on the findings in paragraph I, it is the purpose of this subdivision to:

(a) Ensure that every woman considering an abortion receive information on her alternatives and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure;

(b) Reduce “the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed.” *Planned Parenthood v. Casey*, 505 U.S. 833, 882 (1992); and

(c) Adopt the construction of the term “Medical Emergency” accepted by the U.S. Supreme Court in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

132:31 Definitions. In this subdivision:

I. “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child;

(b) Remove a dead unborn child caused by spontaneous abortion; or

(c) Remove an ectopic pregnancy.

II. “Complication” means that condition which includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, pelvic inflammatory disease, endometriosis, and retained products. The department may further define “complication.”

III. “Conception” means the fusion of a human spermatozoon with a human ovum.

IV. “Department” means the department of health and human services.

V. “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.

VI. “First trimester” means the first 12 weeks of gestation.

VII. “Gestational age” means the time that has elapsed since the first day of the woman’s last menstrual period.

VIII. “Hospital” means an institution licensed pursuant to RSA 151.

IX. “Physician” means any person licensed under RSA 329.

X. “Pregnant” or “pregnancy” means that female reproductive condition of having an unborn child in the woman’s uterus.

XI. “Qualified person” means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

XII. “Unborn child” means the offspring of human beings from conception until birth.

XIII. “Viability” means the state of fetal development when, in the judgment of the physician based on the particular facts of the case before him or her and in light of the most advanced medical technology and information available to him or her, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support.

132:32 Informed Consent Requirement. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

I. At least 24 hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of the following:

- (a) The name of the physician who will perform the abortion.
- (b) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion including:
 - (1) A description of the proposed abortion method;
 - (2) The immediate and long-term medical risks associated with the proposed abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation, danger to subsequent pregnancies, and increased risk of breast cancer; and
 - (3) Alternatives to the abortion.
- (c) The probable gestational age of the unborn child at the time the abortion is to be performed, and, if the unborn child is viable or has reached the gestational age of 24 weeks, that:
 - (1) The unborn child may be able to survive outside the womb;
 - (2) The woman has the right to request the physician to use the method of treatment that is most likely to preserve the life of the unborn child; and
 - (3) If the unborn child is born alive, the attending physician has the legal obligation to take all reasonable steps necessary to maintain the life and health of the child.
- (d) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.
- (e) The medical risks associated with carrying her child to term.
- (f) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy.

II. At least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that:

- (a) Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials given to her and described in RSA 132:33.
- (b) The printed materials in RSA 132:33 describe the unborn child and list agencies that offer alternatives to abortion.
- (c) The father of the unborn child is liable to assist in the support of this child, even in instances where he has offered to pay for the abortion. In the case of rape or incest, this information may be omitted.
- (d) She is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

III. The information in paragraphs I and II is provided to the woman individually and in a private room to protect her privacy and maintain the confidentiality of her decision, to ensure that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

IV. At least 24 hours before the abortion, the woman is given a copy of the printed materials described in RSA 132:33. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in a language she can understand.

V. Prior to the abortion, the woman certifies in writing on a checklist form provided or approved by the department that the information required to be provided under paragraphs I, II, and IV has been provided.

VI. Except in the case of a medical emergency, the physician who is to perform the abortion shall receive and sign a copy of the written certification prescribed in paragraph V prior to performing the abortion. The physician shall retain a copy of the checklist certification form in the woman's medical record.

VII. A physician shall not require or obtain payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the 24-hour reflection period required in paragraphs I, II, and IV.

132:33 Publication of Materials. The department shall publish printed materials in English, within 90 days after this subdivision becomes law. On an annual basis, the department shall review and update, if necessary, the following easily comprehensible printed materials:

I.(a) Geographically indexed materials that inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies, and shall inform the woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care.

(b) The department shall ensure that the materials described in this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section. The materials shall also contain a toll-free 24-hour-a-day telephone number which may be called to obtain information about the agencies in the locality

of the caller and of the services they offer.

(c) The materials shall state that it is unlawful for any individual to coerce a woman to undergo an abortion and that if a minor is denied financial support by the minor's parents, guardian, or custodian due to the minor's refusal to have an abortion performed, the minor shall be deemed emancipated for the purposes of eligibility for public-assistance benefits, except that such benefits may not be used to obtain an abortion. The materials shall also state that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages in a civil action at law and that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care. The materials shall include the following statement:

(d) "There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place him or her for adoption. The state of New Hampshire strongly urges you to contact one or more of these agencies before making a final decision about abortion. The law requires that your physician or his or her agent give you the opportunity to call agencies like these before you undergo an abortion."

II.(a) Materials that include information on the support obligations of the father of a child who is born alive, including but not limited to the father's legal duty to support his child, which may include child support payments and health insurance, and the fact that paternity may be established by the father's signature on a birth certificate or statement of paternity, or by court action.

(b) The printed material shall also state that more information concerning paternity establishment and child support services and enforcement may be obtained by calling state or county public assistance agencies.

III. Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at 2-week gestational increments from fertilization to full term, including color photographs of the developing unborn child at 2-week gestational increments. The descriptions shall include information about brain and heart function, the presence of external members and internal organs during the applicable stages of development and any relevant information on the possibility of the unborn child's survival. If a photograph is not available, a picture shall contain the dimensions of the unborn child and shall be realistic. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages.

IV. Materials which contain objective information describing the various surgical and drug-induced methods of abortion, as well as the immediate and long-term medical risks commonly associated with each abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation or rupture, danger to subsequent pregnancies, increased risk of breast cancer, the possible adverse psychological effects associated with an abortion, and the medical risks associated with carrying a child to term.

V. A checklist certification form to be used by the physician or a qualified person under RSA 132:32, V, which shall list all the items of information which are to be given to the woman by a physician or the agent under this subdivision.

VI. The materials shall be printed in a typeface large enough to be clearly legible.

VII. The materials required under this section shall be available at no cost from the department upon request and in an appropriate number to any person, facility, or hospital.

132:34 Criminal Penalties. Any person who intentionally, knowingly, or recklessly violates this subdivision is guilty of a felony. Any information given by the woman pursuant to this subdivision shall be confidential and any person, except the woman who provided the information, who willfully discloses any such information shall be guilty of a felony.

132:35 Civil Penalties. In addition to whatever remedies are available under the common or statutory law of this state, failure to comply with the requirements of this subdivision shall:

I. Provide a basis for a civil malpractice action. Any intentional violation of this subdivision shall be admissible in a civil suit as prima facie evidence of a failure to obtain informed consent. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

II. Provide a basis for professional disciplinary action under RSA 329.

III. Provide a basis for recovery for the woman for the wrongful death of her unborn child, whether or not the unborn child was born alive or was viable at the time the abortion was performed.

132:36 Construction. Nothing in this subdivision shall be construed as creating or recognizing a right to abortion. It is not the intention of this subdivision to make lawful an abortion that is currently unlawful.

132:37 Severability. If any provision of this subdivision or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of this subdivision which can be given effect without the invalid provisions or applications, and to this end, the provisions of this subdivision are severable.

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

AMENDED ANALYSIS

This bill requires the informed consent of a pregnant woman before an abortion may be performed.

2004-0402h

Amendment to HB 1348-FN

Proposed by the Committee on Commerce - C

Amend RSA 293-A:1.22, (a)(12) as inserted by section 4 of the bill by replacing it with the following:

(12) Late filing ~~[\$50]~~ **\$25 per month**

Amend RSA 304-C:81, I(d) as inserted by section 53 of the bill by replacing it with the following:

(d) Upon receipt for filing of an annual report under RSA 304-C:80, a fee in the amount of \$100; for failure or refusal to file an annual report or pay the filing fee by April 15 of any year, an additional late filing fee in the amount of ~~[\$50]~~ **\$25 per month**; and upon receipt for filing of an application for reinstatement pursuant to RSA 304-C:54, a fee of ~~[\$75]~~ **\$135**.

2004-0727h

Amendment to HB 1361

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

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

¶ New Paragraph; Breaches of the Peace; Riot. Amend RSA 644:1 by inserting after paragraph IV the following new paragraph:

V.(a) If the conduct comprising the offense of riot occurred within any municipality in which a student housing facility owned by a public institution of higher education is located, or in any adjacent municipality, the following penalties may be imposed, in addition to those set forth in RSA 651:

(1) The court may order the individual not to enter the campus of any public institution of higher education in this state as follows:

(A) If the offense is a felony, for a period of time not to exceed 2 years following the imposition of sentence or the completion of any term of imprisonment.

(B) If the offense is a misdemeanor, for a period of time not to exceed one year following the imposition of sentence or the completion of any term of imprisonment.

(2) The court may order the individual to pay restitution to the public institution of higher education and, if appropriate, any municipality for expenses incurred as a result of the riot. The amount shall be reasonable and shall not exceed the individual's fair and reasonable share of the costs.

(b) An order issued under this section shall not apply to any of the following:

(1) Entering onto the campus of a public institution of higher education to obtain medical treatment.

(2) Traveling on a public roadway situated on the campus of a public institution of higher education for the purpose of traveling to a location other than on such campus.

(c) For the purposes of this section, "public institution of higher education" shall include any public community college, public college, or public university.

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

2004-0767h

Amendment to HB 1364-FN

Proposed by the Committee on Executive Departments and Administration - C

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

2 Compensation of State Officers; Allocation Decisions. Amend RSA 94:1-d to read as follows:

94:1-d Allocation Decisions. Each acting director or administrative head of any state agency or department shall submit his ~~[decision]~~ **or her recommendation** relative to appropriate letter grades for any new position, vacancy, upgrade or downgrade occurring in ~~[his]~~ **the** agency or department to the ~~[fiscal]~~ **commissioner of administrative services. The commissioner shall submit the recommendation to an outside consultant retained for the purpose of assessing the appropriate letter grade of unclassified state officers. The consultant shall assess the recommended allocation, recommend an alternate allocation, if necessary, and include the reasoning for such allocation in its report. The commissioner shall submit the consultant's report to the joint** committee~~[-]~~ established in RSA ~~[14:30-a]~~ **94:10**, for its review and temporary letter grade allocation.

3 Salary Adjustment; Joint Committee on Compensation. Amend RSA 94:3-b to read as follows:

94:3-b Salary Adjustment for Recruitment or Retention. Notwithstanding any other provisions of law to the contrary, upon the request of an appointing authority submitted to the commissioner of administrative services for review and evaluation and upon approval by the ~~[fiscal committee of the general court]~~ **joint committee on compensation of state officers**, the governor and council is hereby authorized and empowered upon a finding by them that it is in the best interests of the state and is necessary in order to recruit and retain or recruit or retain qualified personnel to increase the salary ranges of unclassified positions.

4 New Section; Office of Legislative Services; Drafting Salary Legislation. Amend RSA 17-A by inserting after section 6 the following new section:

17-A:7 Legislation Relating to Unclassified State Officers. Legislation establishing a new, upgraded, or downgraded state unclassified officer position shall be drafted by the office of legislative services without a recommended salary allocation, which

shall be indicated in the legislation, if possible. Legislative changes to the salaries of unclassified officers listed in RSA 94:1-a, I shall be adopted in legislation reflecting the review and allocation approval by the joint committee on compensation of state officers pursuant to the procedure in RSA 94:1-d and RSA 94:10.

5] Repeal. RSA 14:30-a, IV, relative to review by the fiscal committee of allocation decisions, is repealed.

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

2004-0778h

Amendment to HB 1367

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

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

1] New Paragraph; Sexual Assault; Testimony and Evidence. Amend RSA 632-A:6 by inserting after paragraph IV the following new paragraph:

V. At the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, the court shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

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

AMENDED ANALYSIS

This bill provides that the court, upon the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

2004-0781h

Amendment to HB 1380-FN

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

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

AN ACT relative to unauthorized video surveillance.

Amend the bill by replacing section 1 with the following:

1] Breach of Peace; Violation of Privacy. RSA 644:9, I-II is repealed and reenacted to read as follows:

I. A person is guilty of a class A misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:

(a) Any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or so-called "up-skirting" or down-blousing"; or

(b) In any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting images or sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

II. As used in this section, "private place" means a place where one may reasonably expect to be safe from surveillance including public restrooms, locker rooms, or any place where a person's private body parts including genitalia, buttocks, or female breasts may be exposed.

AMENDED ANALYSIS

This bill revises the provisions of the violation of privacy statute relative to unauthorized video surveillance.

2004-0734h

Amendment to HB 1393

Proposed by the Majority of the Committee on Children and Family Law - R

Amend RSA 169-C:28, II and III as inserted by section 1 of the bill by replacing them with the following:

II. The superior court shall give an appeal under this chapter priority on the court calendar, and shall review the district court or family division adjudicatory ruling to determine whether the ruling is clearly unreasonable or arbitrary. The dispositional order of the district court or family division is not subject to review or modification by the superior court. The appealing party shall have the burden of proof. In reviewing the district court or family division ruling, the superior court may accept offers of proof and shall accept written memoranda from the appealing party and other parties, and may review all or parts of the district court or family division record. As justice may require, the superior court may remand the appeal to the district court or family division for further findings of fact. The superior court shall allow for newly discovered evidence to be presented de novo if the evidence was not known or available upon reasonable search at the time of the district court or family division adjudication, is material and relevant, and has potentially significant merit.

III. If the superior court finds that the district court or family division adjudicatory finding of abuse or neglect is clearly unreasonable or arbitrary, the superior court shall dismiss the abuse or neglect petition with prejudice. If the superior court

finds that a dismissal of the petition by the district court or family division was improper and finds, further, that the child has been abused or neglected, then the superior court shall so rule and shall return the matter to the district court or family division for disposition. If the superior court finds that the district court or family division adjudicatory ruling is not clearly unreasonable or arbitrary, the superior court shall so rule and shall return the matter to the district court or family division. The corrective time period shall commence from the date of the district court or family division adjudicatory order.
2004-0713h

Amendment to HB 1394
Proposed by the Committee on Judiciary - C

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

- 1 Jurisdiction and Procedure; Superior Court; Class A Misdemeanor Cases. Amend RSA 592-A:1 to read as follows:
592-A:1 Superior Court. The superior court has jurisdiction of all criminal cases and proceedings; but it may dismiss a prosecution originally begun therein which is within the jurisdiction of a district ~~[or municipal]~~ court, ***with the exception of class A misdemeanor cases brought in superior court by the attorney general or county attorneys pursuant to guidelines promulgated by the attorney general delineating the circumstances under which the attorney general and the county attorneys may initiate class A misdemeanor cases in superior court. The court may dismiss, without prejudice, any class A misdemeanor case not brought within the parameters established by the attorney general's guidelines, however this provision is not intended to create any right of a defendant to seek dismissal on that basis.***
- 2 Effective Date. This act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill provides that the superior court shall have original jurisdiction over class A misdemeanor cases that fall within guidelines established by the attorney general.
2004-0693h

Amendment to HB 1411-FN-A
Proposed by the Committee on Finance - C

Amend subparagraph I(a) as inserted by section 2 of the bill by replacing it with the following:

- (a) Four members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the ways and means committee, 2 of whom shall be members of the finance committee, and one of whom shall be a member of the public works and highways committee.
- 2004-0794h

Amendment to HB 1413
Proposed by the Majority of the Committee on Judiciary - R

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

AN ACT relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims. Amend the bill by replacing all after the enacting clause with the following:

- 1 New Chapter; Panels for Medical Injury Claims. Amend RSA by inserting after chapter 519-A the following new chapter:

CHAPTER 519-B
PANELS FOR MEDICAL INJURY CLAIMS

- 519-B:1 Findings, Purpose and Intent.
I. This chapter affirms the intent of the general court to contain the costs of the medical injury reparations system and to promote availability and affordability of insurance against liability for medical injury. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims. Defendants should consider paying or compromising meritorious claims and plaintiffs should consider withdrawing or compromising non-meritorious claims, as soon as the merits of the claims are known to the parties. Presentation of claims to a medical review panel is intended to help identify both meritorious and non-meritorious claims without the delay and expense of a court trial. It is essential to the effectiveness of the panel process that panel proceedings be confidential unless and until a matter heard by a panel proceeds to trial. The panel process will encourage the prompt resolution of claims, because both sides will be given an objective view of the merits. If the panel finds that a claim has merit, the defendant will be more likely to pay the claim or negotiate a compromise that is favorable to the claimant. If the panel finds that the claim lacks merit, the claimant is more likely to withdraw the claim or accept a nominal settlement.
- II. The purpose of requiring mandatory panels in medical injury cases is to identify claims of medical injury which merit compensation and to encourage early resolution of those claims, as well as to identify and encourage early withdrawal or dismissal of non-meritorious medical injury claims.
- 519-B:2 Definitions. In this chapter:
I. "Action for medical injury" means an action for medical injury as defined in RSA 507-E:1, I.

II. "Medical care provider" means a medical care provider as defined in RSA 507-E:1, II.

III. "Medical injury" means a medical injury as defined in RSA 507-E:1, III.

519-B:3 Formation and Procedure.

I. The chief justice of the superior court shall maintain a list of retired judges from which the chief justice of the superior court shall choose a panel chairperson under paragraph II of this section. The chief justice of the superior court shall maintain lists of medical care providers, and attorneys with litigation experience, recommended by their respective professional organizations, to serve on panels under this chapter. As required by the chief justice, the professional organizations of those professions shall provide the chief justice with the names of volunteers qualified to serve on a panel.

II. Panel members shall be selected as follows.

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a judge or retired judge from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson.

(c) The chief justice of the superior court shall notify the chairperson and the parties, and provide them with the lists of medical care providers and attorneys. The chairperson shall choose 2 additional panel members from the lists as follows:

(1) An attorney with litigation experience.

(2) A medical care provider who in the opinion of the panel chairperson is best qualified to serve on the panel.

(3) When agreed upon by the plaintiff and the defendant, a member who is not on the chief justice's list.

III. The panel process shall not delay or postpone the trial of a medical injury case. The superior court, in coordination with the chairperson of the panel, shall establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court shall establish the compensation of the panel chairperson if he or she is not otherwise compensated by the state of New Hampshire. Other panel members shall serve without compensation or payment of expenses.

V. The clerk of the superior court in the county in which the medical injury case is filed shall, with the consent of the chief justice of the superior court, provide clerical and other assistance to the panel chairperson.

VI.(a) If any panel member other than the chairperson is unable or unwilling to serve in any matter or is challenged for cause by any person who is a party to a proceeding before a panel, the party challenging the member shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the panel member.

(b) If the chairperson is challenged for cause by any person who is a party to the proceeding before a panel, the party challenging shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the chairperson.

VII. The panel, through the chairperson, shall have the same subpoena power as exists for a superior court judge. The chairperson shall have sole authority, without requiring the agreement of other panel members, to issue subpoenas.

VIII. The parties, through the panel chairperson, may subpoena witnesses to the panel.

IX. The parties shall conduct discovery in accordance with the rules of the superior court. The parties shall attempt in good faith to resolve disputes themselves.

X. The chairperson shall rule on disputes regarding discovery and may issue such orders as are necessary to enforce the ruling.

519-B:4 Panel Procedures.

I. All documents filed with the court in a medical injury action during the process are confidential.

II. Within 30 days of the return date, the defendant shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination by the panel and for completing discovery. If the parties are unable to agree on a timetable within 30 days of the return date, the claimant shall notify the chairperson of the panel. The chairperson, in coordination with the superior court judge, shall then establish a timetable for the filing of all relevant records and reasonable discovery. The panel hearing shall be no later than 6 months from the return date, except when the time period has been extended by the panel chairperson in accordance with this chapter.

III. If the defendant concedes liability, the panel may be bypassed. All parties to a claim may, by written agreement, submit any issue on liability or damages to binding determination by the panel. Both parties may agree to bypass the panel for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel has no jurisdiction to hear or decide, absent agreement of the parties, dispositive legal affirmative defenses, other than comparative negligence. The panel chairperson may require the parties to litigate, by motion, such dispositive legal affirmative defenses in the superior court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chairperson has chosen not to rule on may be presented, by motion, in superior court.

IV. Except as otherwise provided in this section, there shall be one combined hearing for all claims under this section arising out of the same set of facts. Where a medical injury case has been filed against more than one person accused of medical injury based on the same facts, the parties may, upon agreement of all parties, require that hearings be separated. The chairperson may, for good cause, order separate hearings.

V. All requests for extensions of time under this section shall be made to the panel chairperson. The chairperson may extend any time period for good cause, except that the chairperson may not extend any time period that would result in the hearing being held more than 9 months following the return date. Extensions of any time period that would result in the hearing being held more than 9 months following the return date can be granted only by the superior court and only in exceptional circumstances.

VI. Cases pending before the panels may be dismissed pursuant to the rules of the superior court.

VII. The panel chairperson may impose sanctions pursuant to the rules of the superior court. Dismissals shall require the approval of the superior court.

519-B:5 Hearing.

I.(a) The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or that person's representative shall make a responding presentation. The panel shall afford the parties wide latitude in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The chairperson shall make all procedural rulings and those rulings are final. The New Hampshire rules of evidence shall not apply. Evidence shall be admitted if it is the kind of evidence which reasonable persons are accustomed to rely upon in the conduct of serious affairs. The panel shall make findings upon such evidence as is presented at the hearing, the records, and any expert opinions provided by or sought by the panel or the parties.

(b) After presentation by the parties, the panel may request from either party additional facts, records, or other information to be submitted in writing or at a continued hearing, which continued hearing shall be held as soon as possible. The continued hearing shall be attended by the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties. Replacement panel members shall be appointed pursuant to this chapter.

II. The panel shall maintain a tape-recorded record. Except as provided in RSA 519-B:9, the record may not be made public and the hearings may not be public without the consent of all parties.

III. The panel chairperson shall attempt to mediate any differences of the parties before proceeding to findings.

IV. The panel chairperson may order sanctions against any party in accordance with superior court rules.

519-B:6 Findings by Panel.

I. At the conclusion of the presentations, the panel shall make its findings regarding negligence and causation in writing within 30 days by answering the following questions:

(a) Whether the acts or omissions complained of constitute a deviation from the applicable standard of care by the medical care provider charged with that care and whether the acts or omissions complained of proximately caused the injury complained of; and

(b) If fault on the part of the medical care provider is found, whether any fault on the part of the patient was equal to or greater than the fault on the part of the practitioner or provider.

II. The standard of proof used by the panel shall be as follows.

(a) The plaintiff shall prove negligence and proximate causation by a preponderance of the evidence; and

(b) The defendant shall prove comparative negligence by a preponderance of the evidence.

519-B:7 Notification of Findings. The panel's findings, signed by the panel members, indicating their vote, shall be sent by registered or certified mail to the parties within 7 days of the date of the findings. The findings, notice of claim, and record of the hearing shall be preserved in the superior court records after final judgment or final resolution of the case. All medical and provider records shall be returned to the party providing them to the panel.

519-B:8 Mediation. If requested by the parties after the panel issues its findings, the panel chairperson may assist the parties by serving as a mediator.

519-B:9 Confidentiality and Admissibility.

I. Except as provided in this section, all proceedings before the panel, including its final determinations, shall be treated in every respect as private and confidential by the panel and the parties to the claim.

(a) The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible in court and shall not otherwise be submitted or used for any purpose in a subsequent trial and shall not be publicly disclosed, except:

(1) Any testimony or writings made under oath may be used in subsequent proceedings for purposes of impeachment; and

(2) The party who made the statement or presented the evidence may agree to the submission, use, or disclosure of that statement or evidence.

(b) If the panel findings under RSA 519-B:6, I(a) are unanimous and unfavorable to the defendant, the findings may

be admissible in accordance with RSA 519-B:10.

(c) If the panel findings as to any question under RSA 519-B:6, I are unanimous and unfavorable to the plaintiff, the findings may be admissible in accordance with RSA 519-B:10.

(d) If the panel findings under RSA 519-B:6, I(a) are unanimous and favorable to the plaintiff and the panel findings under RSA 519-B:6, I(b) are unanimous and favorable to the defendant, then RSA 519-B:10 shall not apply.

II. The confidentiality provisions of this section shall not apply if the findings were influenced by fraud.

III. The deliberations and discussion of the panel and the testimony of any expert, whether called by any party or the panel, shall be privileged and confidential, and no such person may be asked or compelled to testify at a later court proceeding concerning the deliberations, discussions, findings, or expert testimony or opinions expressed during the panel hearing, unless by the party who called and presented the nonparty expert, except such deliberation, discussion, and testimony as may be required to prove an allegation of fraud.

IV. The New Hampshire superior court rules shall govern discovery conducted under this chapter. The chairperson has the same authority to rule upon discovery matters as a superior court justice. Notwithstanding paragraph I of this section, in a subsequent superior court action all discovery conducted during the panel proceedings is deemed discovery conducted as a part of that court action.

V. Medical records shall be available for the investigation of medical injury claims and defenses pursuant to RSA 151:21, X and RSA 332-I:1, I.

519-B:10 Optional Instructions.

I. When the panel makes unanimous findings on all questions under RSA 519-B:6, I, the party against whom the findings are made may elect to have the trial court read the panel findings to the jury and furnish the following information to provide a basis for the jury to understand the nature of the panel findings and to put the panel findings in context in evaluating all of the evidence presented at the trial:

(a) The panel process is a preliminary procedural step through which malpractice claims proceed;

(b) The panel in this case consisted of (insert the name and identity of the members);

(c) The panel conducts a summary hearing and is not bound by the rules of evidence;

(d) The hearing is not a substitute for a full trial and may or may not have included all of the evidence that is presented at the trial;

(e) The jury is not bound by the findings of the panel and it is the jurors' duty to reach their own conclusions based on all of the evidence presented to them; and

(f) The panel proceedings are privileged and confidential. Consequently, the parties may not introduce panel documents or present witnesses to testify about the panel proceedings, and they may not comment on the panel findings or proceedings except as provided in subparagraphs (a) through (f).

II. The information specified in paragraph I shall be provided to the jury when the findings are admitted into evidence and when the court instructs the jury prior to submitting the case to the jury.

III. If a party does not elect to have the trial court provide instructions under paragraph I and the jury's verdict on liability and comparative negligence are for the same party as the panel's unanimous findings, the losing party shall pay the prevailing party's costs and reasonable attorneys' fees that are incurred subsequent to the panel hearing.

519-B:11 Effect of Panel Findings. Unanimous findings entered by the panel under RSA 519-B:6, I shall be implemented as follows.

I. If findings are in the affirmative, the person accused of professional negligence shall promptly enter into negotiations to pay the claim or admit liability. If liability is admitted, the claim may be submitted to the panel, upon agreement of the claimant and the person accused, for determination of damages. If the claim goes to a trial, the findings of the panel are admissible as provided in RSA 519-B:9, I(b).

II. If the findings are in the negative, the claimant shall release the claim or claims based on the findings without payment, or be subject to the admissibility of those findings under RSA 519-B:9, I(c).

519-B:12 Report.

I. The administrative office of the courts shall collect data on medical injury claims and submit a report on the panel process to the committee established in RSA 519-B:13 on or before September 30 of each year. The report shall include information on medical injury cases filed, pending, and resolved during the fiscal year ending on the June 30 preceding the report date, compared to the 5 previous years.

II. The insurance commissioner shall report the average rates of medical liability insurance by specialty for medical care providers in New Hampshire to the committee established in RSA 519-B:13 on or before September 30 of each year.

519-B:13 Medical Malpractice Panel and Insurance Oversight Committee Established.

I. There is established a committee to study medical malpractice insurance rates in this state and the mandatory panels for medical injury claims process.

II. The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house as follows:

- (a) Three members of the house judiciary committee.
- (b) Two members of the house health, human services and elderly affairs committee.
- (c) Two members of the house commerce committee.

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

IV. The committee shall:

(a) Regularly collect, and insurers providing medical malpractice liability insurance coverage to New Hampshire insureds shall provide, complete claims information for claims asserted against New Hampshire insureds, including, but not limited to, the total number of claims made; the amount of each indemnity payment; the amount of the loss adjustment expense for each claim (the costs incurred to handle claims, such as defense, litigation and adjuster costs); and underwriting expenses. Total annual compensation paid to all company officers, directors, and executives shall also be provided.

(b) Review and analyze the information provided pursuant to paragraph I, and may commission studies and make recommendations as appropriate.

(c) Determine the effectiveness of mandatory screening panels for medical injury claims including, but not limited to, whether medical malpractice insurance premiums have been affected and whether there has been any limitation to access to the courts by injured parties.

(d) Seek out information from the chief justice of the superior court or any other relevant sources.

V. 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. Five members of the committee shall constitute a quorum.

VI. Report.

(a) The committee shall analyze the information it receives from the administrative office of the courts and the insurance commissioner and report it annually to the speaker of the house of representatives, the senate president, the house clerk, and the senate clerk.

(b) The committee shall make an interim report of its findings about medical insurance rates and the mandatory panel process 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, 2006.

(c) The committee shall make a final report of its findings about medical insurance rates and the mandatory panel process 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, 2009. The report shall include a recommendation to terminate, continue, or amend RSA 519-B.

2) New Sections; Testimony of Expert Witness; Disclosure of Expert Testimony. Amend RSA 516 by inserting after section 29 the following new sections:

516:29-a Expert Witnesses.

I. A witness shall not be allowed to offer expert testimony, unless the court finds that:

- (a) The testimony is based upon sufficient facts or data.
- (b) The testimony is the product of reliable principles and methods.
- (c) The witness has applied the principles and methods reliably to the facts of the case.

II. In evaluating the basis for proffered expert testimony, the court shall consider, if appropriate to the circumstance, whether the expert's opinion were supported by theories or techniques that have been or can be tested; have been subjected to peer review and publication; have a known or potential rate of error; and are generally accepted in the appropriate scientific literature. In making its findings, the court may consider other factors specific to the proffered testimony.

516:29-b Disclosure of Expert Testimony.

I. A party shall disclose to other parties to a litigation the identity of any person who may be used at trial to present expert testimony.

II. Except as otherwise stipulated, or directed by the court, the disclosure shall be accompanied by a written report signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

III. The disclosure shall be made as directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosure shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 30 days after the disclosure made by the other party. The parties shall supplement their disclosures as required by the court's rules.

IV. The deposition of any person who has been identified as an expert whose opinions may be presented at trial, and

whose testimony has been the subject of a report under this section, shall not be conducted until after such report has been provided.

3 Patient's Bill of Rights; Medical Records. Amend RSA 151:21, X to read as follows:

X. The patient shall be ensured confidential treatment of all information contained in the patient's personal and clinical record, including that stored in an automatic data bank, and the patient's written consent shall be required for the release of information to anyone not otherwise authorized by law to receive it. Medical information contained in the medical records at any facility licensed under this chapter shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. ***Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative, with the prior written authorization of the patient. The facility shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the facility shall be allowed an additional 15 days to provide copies of the records.*** The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

4 Medical Records; Requests to Obtain. Amend RSA 332-I:1, I to read as follows:

I. The medical information contained in the medical records in the possession of any health care provider shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. ***Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative with the prior written authorization of the patient. The health care provider shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the health care provider shall be allowed an additional 15 days to provide copies of the records.*** The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

5 Severability. If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this act.

6 Repeal. RSA 519-A, relative to professional malpractice claims, is repealed.

7 Repeal. RSA 519-B:13, relative to a committee to study medical malpractice insurance rates and the mandatory medical panel process, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect December 31, 2009.

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

AMENDED ANALYSIS

This bill:

I. Creates mandatory panels for medical injury claims.

II. Establishes a committee to study medical malpractice insurance rates and the effectiveness of the mandatory panel process.

III. Establishes criteria for the testimony of expert witnesses in certain medical injury cases.

IV. Requires parties to a litigation to disclose expert witnesses.

V. Establishes a procedure for a patient to obtain his or her medical records.

VI. Repeals the current hearing panels for professional malpractice claims.

2004-0802h

Amendment to HB 1413

Proposed by the Minority of the Committee on Judiciary - R

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

AN ACT relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

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

1 New Chapter; Panels for Medical Injury Claims. Amend RSA by inserting after chapter 519-A the following new chapter:

CHAPTER 519-B

PANELS FOR MEDICAL INJURY CLAIMS

519-B:1 Findings, Purpose and Intent.

I. This chapter affirms the intent of the general court to contain the costs of the medical injury reparations system and to promote availability and affordability of insurance against liability for medical injury. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination

cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims. Defendants should consider paying or compromising meritorious claims and plaintiffs should consider withdrawing or compromising non-meritorious claims, as soon as the merits of the claims are known to the parties. Presentation of claims to a medical review panel is intended to help identify both meritorious and non-meritorious claims without the delay and expense of a court trial. It is essential to the effectiveness of the panel process that panel proceedings be confidential unless and until a matter heard by a panel proceeds to trial. The panel process will encourage the prompt resolution of claims, because both sides will be given an objective view of the merits. If the panel finds that a claim has merit, the defendant will be more likely to pay the claim or negotiate a compromise that is favorable to the claimant. If the panel finds that the claim lacks merit, the claimant is more likely to withdraw the claim or accept a nominal settlement.

II. The purpose of requiring mandatory panels in medical injury cases is to identify claims of medical injury which merit compensation and to encourage early resolution of those claims, as well as to identify and encourage early withdrawal or dismissal of non-meritorious medical injury claims.

519-B:2 Definitions. In this chapter:

- I. “Action for medical injury” means an action for medical injury as defined in RSA 507-E:1, I.
- II. “Medical care provider” means a medical care provider as defined in RSA 507-E:1, II.
- III. “Medical injury” means a medical injury as defined in RSA 507-E:1, III.

519-B:3 Formation and Procedure.

I. The chief justice of the superior court shall maintain a list of retired judges from which the chief justice of the superior court shall choose a panel chairperson under paragraph II of this section. The chief justice of the superior court shall maintain lists of medical care providers, and attorneys with litigation experience, recommended by their respective professional organizations, to serve on panels under this chapter. As required by the chief justice, the professional organizations of those professions shall provide the chief justice with the names of volunteers qualified to serve on a panel.

II. Panel members shall be selected as follows.

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a judge or retired judge from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson.

(c) The chief justice of the superior court shall notify the chairperson and the parties, and provide them with the lists of medical care providers and attorneys. The chairperson shall choose 2 additional panel members from the lists as follows:

- (1) An attorney with litigation experience.
- (2) A medical care provider who in the opinion of the panel chairperson is best qualified to serve on the panel.
- (3) When agreed upon by the plaintiff and the defendant, a member who is not on the chief justice’s list.

III. The panel process shall not delay or postpone the trial of a medical injury case. The superior court, in coordination with the chairperson of the panel, shall establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court shall establish the compensation of the panel chairperson if he or she is not otherwise compensated by the state of New Hampshire. Other panel members shall serve without compensation or payment of expenses.

V. The clerk of the superior court in the county in which the medical injury case is filed shall, with the consent of the chief justice of the superior court, provide clerical and other assistance to the panel chairperson.

VI.(a) If any panel member other than the chairperson is unable or unwilling to serve in any matter or is challenged for cause by any person who is a party to a proceeding before a panel, the party challenging the member shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the panel member.

(b) If the chairperson is challenged for cause by any person who is a party to the proceeding before a panel, the party challenging shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the chairperson.

VII. The panel, through the chairperson, shall have the same subpoena power as exists for a superior court judge. The chairperson shall have sole authority, without requiring the agreement of other panel members, to issue subpoenas.

VIII. The parties, through the panel chairperson, may subpoena witnesses to the panel.

IX. The parties shall conduct discovery in accordance with the rules of the superior court. The parties shall attempt in good faith to resolve disputes themselves.

X. The chairperson shall rule on disputes regarding discovery and may issue such orders as are necessary to enforce the ruling.

519-B:4 Panel Procedures.

- I. All documents filed with the court in a medical injury action during the process are confidential.

II. Within 30 days of the return date, the defendant shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination by the panel and for completing discovery. If the parties are unable to agree on a timetable within 30 days of the return date, the claimant shall notify the chairperson of the panel. The chairperson, in coordination with the superior court judge, shall then establish a timetable for the filing of all relevant records and reasonable discovery. The panel hearing shall be no later than 6 months from the return date, except when the time period has been extended by the panel chairperson in accordance with this chapter.

III. If the defendant concedes liability, the panel may be bypassed. All parties to a claim may, by written agreement, submit any issue on liability or damages to binding determination by the panel. Both parties may agree to bypass the panel for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel has no jurisdiction to hear or decide, absent agreement of the parties, dispositive legal affirmative defenses, other than comparative negligence. The panel chairperson may require the parties to litigate, by motion, such dispositive legal affirmative defenses in the superior court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chairperson has chosen not to rule on may be presented, by motion, in superior court.

IV. Except as otherwise provided in this section, there shall be one combined hearing for all claims under this section arising out of the same set of facts. Where a medical injury case has been filed against more than one person accused of medical injury based on the same facts, the parties may, upon agreement of all parties, require that hearings be separated. The chairperson may, for good cause, order separate hearings.

V. All requests for extensions of time under this section shall be made to the panel chairperson. The chairperson may extend any time period for good cause, except that the chairperson may not extend any time period that would result in the hearing being held more than 9 months following the return date. Extensions of any time period that would result in the hearing being held more than 9 months following the return date can be granted only by the superior court and only in exceptional circumstances.

VI. Cases pending before the panels may be dismissed pursuant to the rules of the superior court.

VII. The panel chairperson may impose sanctions pursuant to the rules of the superior court. Dismissals shall require the approval of the superior court.

519-B:5 Hearing.

I.(a) The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or that person's representative shall make a responding presentation. The panel shall afford the parties wide latitude in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The chairperson shall make all procedural rulings and those rulings are final. The New Hampshire rules of evidence shall not apply. Evidence shall be admitted if it is the kind of evidence which reasonable persons are accustomed to rely upon in the conduct of serious affairs. The panel shall make findings upon such evidence as is presented at the hearing, the records, and any expert opinions provided by or sought by the panel or the parties.

(b) After presentation by the parties, the panel may request from either party additional facts, records, or other information to be submitted in writing or at a continued hearing, which continued hearing shall be held as soon as possible. The continued hearing shall be attended by the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties. Replacement panel members shall be appointed pursuant to this chapter.

II. The panel shall maintain a tape-recorded record. Except as provided in RSA 519-B:9, the record may not be made public and the hearings may not be public without the consent of all parties.

III. The panel chairperson shall attempt to mediate any differences of the parties before proceeding to findings.

IV. The panel chairperson may order sanctions against any party in accordance with superior court rules.

519-B:6 Findings by Panel.

I. At the conclusion of the presentations, the panel shall make its findings regarding negligence and causation in writing within 30 days by answering the following questions:

(a) Whether the acts or omissions complained of constitute a deviation from the applicable standard of care by the medical care provider charged with that care and whether the acts or omissions complained of proximately caused the injury complained of; and

(b) If fault on the part of the medical care provider is found, whether any fault on the part of the patient was equal to or greater than the fault on the part of the practitioner or provider.

II. The standard of proof used by the panel shall be as follows.

(a) The plaintiff shall prove negligence and proximate causation by a preponderance of the evidence; and

(b) The defendant shall prove comparative negligence by a preponderance of the evidence.

519-B:7 Notification of Findings. The panel's findings, signed by the panel members, indicating their vote, shall be sent by registered or certified mail to the parties within 7 days of the date of the findings. The findings, notice of claim, and record of the hearing shall be preserved in the superior court records after final judgment or final resolution of the case. All medical and

provider records shall be returned to the party providing them to the panel.

519-B:8 Mediation. If requested by the parties after the panel issues its findings, the panel chairperson may assist the parties by serving as a mediator.

519-B:9 Confidentiality and Admissibility.

I. Except as provided in this section, all proceedings before the panel, including its final determinations, shall be treated in every respect as private and confidential by the panel and the parties to the claim.

II. The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible in court and shall not otherwise be submitted or used for any purpose in a subsequent trial and shall not be publicly disclosed, except:

(a) Any testimony or writings made under oath may be used in subsequent proceedings for purposes of impeachment; and

(b) The party who made the statement or presented the evidence may agree to the submission, use, or disclosure of that statement or evidence.

III. The confidentiality provisions of this section shall not apply if the findings were influenced by fraud.

IV. The deliberations and discussion of the panel and the testimony of any expert, whether called by any party or the panel, shall be privileged and confidential, and no such person may be asked or compelled to testify at a later court proceeding concerning the deliberations, discussions, findings, or expert testimony or opinions expressed during the panel hearing, unless by the party who called and presented the nonparty expert, except such deliberation, discussion, and testimony as may be required to prove an allegation of fraud.

V. The New Hampshire superior court rules shall govern discovery conducted under this chapter. The chairperson has the same authority to rule upon discovery matters as a superior court justice. Notwithstanding paragraph I of this section, in a subsequent superior court action all discovery conducted during the panel proceedings is deemed discovery conducted as a part of that court action.

VI. Medical records shall be available for the investigation of medical injury claims and defenses pursuant to RSA 151:21, X and RSA 332-I:1, I.

519-B:10 Report.

I. The administrative office of the courts shall collect data on medical injury claims and submit a report on the panel process to the committee established in RSA 519-B:11 on or before September 30 of each year. The report shall include information on medical injury cases filed, pending, and resolved during the fiscal year ending on the June 30 preceding the report date, compared to the 5 previous years.

II. The insurance commissioner shall report the average rates of medical liability insurance by specialty for medical care providers in New Hampshire to the committee established in RSA 519-B:11 on or before September 30 of each year.

519-B:11 Medical Malpractice Panel and Insurance Oversight Committee Established.

I. There is established a committee to study medical malpractice insurance rates in this state and the mandatory panels for medical injury claims process.

II. The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house as follows:

(a) Three members of the house judiciary committee.

(b) Two members of the house health, human services and elderly affairs committee.

(c) Two members of the house commerce committee.

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

IV. The committee shall:

(a) Regularly collect, and insurers providing medical malpractice liability insurance coverage to New Hampshire insureds shall provide, complete claims information for claims asserted against New Hampshire insureds, including, but not limited to, the total number of claims made; the amount of each indemnity payment; the amount of the loss adjustment expense for each claim (the costs incurred to handle claims, such as defense, litigation and adjuster costs); and underwriting expenses. Total annual compensation paid to all company officers, directors, and executives shall also be provided.

(b) Review and analyze the information provided pursuant to paragraph I, and may commission studies and make recommendations as appropriate.

(c) Determine the effectiveness of mandatory screening panels for medical injury claims including, but not limited to, whether medical malpractice insurance premiums have been affected and whether there has been any limitation to access to the courts by injured parties.

(d) Seek out information from the chief justice of the superior court or any other relevant sources.

V. 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. Five members of the committee shall constitute a quorum.

VI. Report.

(a) The committee shall analyze the information it receives from the administrative office of the courts and the insurance commissioner and report it annually to the speaker of the house of representatives, the senate president, the house clerk, and the senate clerk.

(b) The committee shall make an interim report of its findings about medical insurance rates and the mandatory panel process 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, 2006.

(c) The committee shall make a final report of its findings about medical insurance rates and the mandatory panel process 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, 2009. The report shall include a recommendation to terminate, continue, or amend RSA 519-B.

2) New Sections; Testimony of Expert Witness; Disclosure of Expert Testimony. Amend RSA 516 by inserting after section 29 the following new sections:

516:29-a Expert Witnesses.

I. A witness shall not be allowed to offer expert testimony, unless the court finds that:

(a) The testimony is based upon sufficient facts or data.

(b) The testimony is the product of reliable principles and methods.

(c) The witness has applied the principles and methods reliably to the facts of the case.

II. In evaluating the basis for proffered expert testimony, the court shall consider, if appropriate to the circumstance, whether the expert's opinion were supported by theories or techniques that have been or can be tested; have been subjected to peer review and publication; have a known or potential rate of error; and are generally accepted in the appropriate scientific literature. In making its findings, the court may consider other factors specific to the proffered testimony.

516:29-b Disclosure of Expert Testimony.

I. A party shall disclose to other parties to a litigation the identity of any person who may be used at trial to present expert testimony.

II. Except as otherwise stipulated, or directed by the court, the disclosure shall be accompanied by a written report signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

III. The disclosure shall be made as directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosure shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 30 days after the disclosure made by the other party. The parties shall supplement their disclosures as required by the court's rules.

IV. The deposition of any person who has been identified as an expert whose opinions may be presented at trial, and whose testimony has been the subject of a report under this section, shall not be conducted until after such report has been provided.

3) Patient's Bill of Rights; Medical Records. Amend RSA 151:21, X to read as follows:

X. The patient shall be ensured confidential treatment of all information contained in the patient's personal and clinical record, including that stored in an automatic data bank, and the patient's written consent shall be required for the release of information to anyone not otherwise authorized by law to receive it. Medical information contained in the medical records at any facility licensed under this chapter shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. ***Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative, with the prior written authorization of the patient. The facility shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the facility shall be allowed an additional 15 days to provide copies of the records.*** The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

4) Medical Records; Requests to Obtain. Amend RSA 332-I:1, I to read as follows:

I. The medical information contained in the medical records in the possession of any health care provider shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. ***Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative with the prior written authorization of***

the patient. The health care provider shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the health care provider shall be allowed an additional 15 days to provide copies of the records. The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

- 5 Severability. If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this act.
- 6 Repeal. RSA 519-A, relative to professional malpractice claims, is repealed.
- 7 Repeal. RSA 519-B:11, relative to a committee to study medical malpractice insurance rates and the mandatory medical panel process, is repealed.
- 8 Effective Date.
 - I. Section 7 of this act shall take effect December 31, 2009.
 - II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

- This bill:
- I. Creates mandatory panels for medical injury claims.
 - II. Establishes a committee to study medical malpractice insurance rates and the effectiveness of the mandatory panel process.
 - III. Establishes criteria for the testimony of expert witnesses in certain medical injury cases.
 - IV. Requires parties to a litigation to disclose expert witnesses.
 - V. Establishes a procedure for a patient to obtain his or her medical records.
 - VI. Repeals the current hearing panels for professional malpractice claims.

2004-0564h

Amendment to HB 1416-FN
Proposed by the Majority of the Committee on Ways and Means - R

- Amend the title of the bill by replacing it with the following:
- AN ACT extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption.
- Amend the bill by replacing all after the enacting clause with the following:
- 1 Prospective Repeal Date Extended for Exemption of Wooden Poles and Conduits Under RSA 72:8-b. Amend 1998, 304:6, I as amended by 1999, 163:7, 2001, 158:2, and 2003, 270:8 to read as follows:
 - I. Section 5 of this act shall take effect July 1, ~~2004~~ **2006**.
 - 2 Committee Established. There is established a committee to study issues related to the property tax exemption for wooden poles and conduits.
 - 3 Membership and Compensation.
 - I. The members of the committee shall be as follows:
 - (a) Three members of the house of representatives, appointed by the speaker of the house.
 - (b) Three members of the senate, appointed by the president of the senate.
 - II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.
 - 4 Duties.
 - I. The committee shall consider issues related to the property tax exemption for wooden poles and conduits, including but not limited to:
 - (a) Whether the property tax exemption for wooden poles and conduits should be continued.
 - (b) The feasibility of sharing communications services tax and potential property tax revenues between local communities and the state.
 - (c) Wireline companies profits, the pass through to customers of any property tax, and the public benefits provided by wireline companies and the property tax exemption.
 - (d) Methods to access and assess poles.
 - II. The public utilities commission shall provide information and assistance to the committee, upon the request of the committee.
 - 5 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.
 - 6 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.
 - 7 Effective Date.

I. Section 1 of this act shall take effect June 30, 2004.

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

AMENDED ANALYSIS

This bill extends the prospective repeal of the property tax exemption for wooden poles and conduits to July 1, 2006.

The bill also establishes a study committee on issues related to the property tax exemption for wooden poles and conduits.
2004-0476h

Amendment to HB 1419

Proposed by the Committee on Executive Departments and Administration - R

Amend the bill by replacing section 1 with the following:

1 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.

2004-0716h

Amendment to HB 1423-FN

Proposed by the Committee on Finance - R

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

AN ACT relative to reimbursement of travel expenses for judges.

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

1 Supreme Court Justices; Expenses. RSA 490:18 is repealed and reenacted to read as follows:

490:18 Expenses. The justices shall be entitled to receive their actual personal expenses when absent from the court in the performance of their official duties. A justice who resides more than 50 miles from the court may be reimbursed for money paid for office rent. The justices shall not be reimbursed for mileage to commute from the justice's residence to the court except for any mileage in excess of 25 miles each way. A temporary justice shall be entitled to receive the same expenses and reimbursements, except for office rent, for the period of such service.

2 Superior Court Justices Expenses. RSA 491:6-a is repealed and reenacted to read as follows:

491:6-a Superior Court Justices Expenses. The justices shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The justices shall not be reimbursed for mileage to commute from the justice's residence to their assigned court except for any mileage in excess of 25 miles each way.

3 New Section; District Court Justices Expenses. Amend RSA 502-A by inserting after section 6-b the following new section:

502-A:6-c District Court Justices Expenses. The justices shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The justices shall not be reimbursed for mileage to commute from the justice's residence to their assigned court except for any mileage in excess of 25 miles each way.

4 New Section; Probate Court Judge's Expenses. Amend RSA 547 by inserting after section 22-a the following new section:

547:22-b Probate Court Judges Expenses. The judges shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The judges shall not be reimbursed for mileage to commute from the judge's residence to their assigned court except for any mileage in excess of 25 miles each way.

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

AMENDED ANALYSIS

This bill states the criteria for the payment of expenses and mileage of supreme, superior, district, and probate court judges.
2004-0742h

Amendment to HB 1424-FN-A

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

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

AN ACT establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

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

1 Commission Established. There is established a pharmaceutical study commission to study direct purchasing of prescription medication by the state for resale to retail pharmacies.

2 Membership and Compensation.

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

- (a) Three members of the house of representatives, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) One representative appointed by the New Hampshire Independent Pharmacist Association.
- (d) One representative appointed by the National Association of Chain Drug Stores.
- (e) One representative appointed by the American Pharmaceutical Association.
- (f) One representative appointed by the Pharmaceutical Research and Manufacturers of America.
- (g) One representative appointed by the American Association of Retired Persons.

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 which drug plans have the greatest potential for savings, the methods for purchasing drugs from manufacturers, the methods of distribution, and any other issue necessary for the state to act as a wholesale distributor of prescription medication.

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, 2004.

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

AMENDED ANALYSIS

This bill establishes a commission to study direct purchasing of prescription medication by the state for resale to retail pharmacies.

2004-0755h

Amendment to HB 1425

Proposed by the Committee on Executive Departments and Administration - C

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

2 Food Service Licensure; Certified Food Protection Manager Defined. Amend RSA 143-A:3, I to read as follows:

I. "Certified food protection manager" means a person who meets the requirements of RSA 143-A:9-c.

I-a. "Commissioner" means the commissioner of the department of health and human services.

3 New Paragraph; Definition Added. Amend RSA 143-A:3 by inserting after paragraph VI the following new paragraph:

VI-a. "Potentially hazardous food" means:

(a) A food which is natural or synthetic and is in a form capable of supporting the:

- (1) Rapid and progressive growth of infectious or toxigenic microorganisms; or
- (2) Growth and toxin production of *Clostridium botulinum*; or
- (3) In raw shell eggs, the growth of *Salmonella enteritidis*; and

(b) Which is further defined by the U.S. Public Food Service Food Code adopted by the federal Food and Drug Administration.

4 New Subdivision; Food Service Licensure; Requirement of Certain Establishments to Have a Certified Food Protection Manager. Amend RSA 143-A by inserting after section 9-a the following new subdivision:

Certified Food Protection Managers

143-A:9-b Certified Food Protection Manager Requirement.

I. Except as provided in paragraph III, each food service establishment licensed under RSA 143-A serving a potentially hazardous food shall assign at least one food employee to be a certified food protection manager.

II. No person shall use the title "certified food protection manager" or in any way present himself or herself as a certified food protection manager unless he or she holds a current certificate from a certification program which meets the Conference for Food Protection standards for training, testing, and certification.

III. The following establishments shall not be required to assign a person who is a certified food protection manager:

(a) Food service establishments that serve only commercially pre-packaged foods and beverages, commercially pre-cooked potentially hazardous foods that are dispensed in a manner that minimizes contamination of the food, or commercially prepared cold foods not requiring any further preparation and dispensed or packaged immediately to the consumer in a manner that minimizes contamination of the food.

(b) Home food manufacturers and bed and breakfast establishments.

IV. The commissioner may by rule pursuant to RSA 541-A, establish an exemption for other small food service establishments.

143-A:9-c Certified Food Protection Managers. Each certified food protection manager shall:

I. Be at least 18 years of age.

II. Take and pass a food protection manager certification program that meets the standards of the Conference for Food

Protection.

III. Be recertified at least every 5 years.

IV. Be assigned to no more than 2 licensed establishments.

V. Have supervisory and training responsibilities of the food services establishment.

VI. Be responsible for food preparation and service with authority and responsibility to direct and control such responsibilities.

VII. Be responsible for operating the food service establishment in compliance with this subdivision.

143-A:9-d Termination of Food Protection Manager; New or Changed Ownership.

I. Upon termination of the employment of a certified food protection manager, the food service establishment where the manager was employed shall have 60 days to:

(a) Employ a new certified food protection manager in accordance with RSA 143-A:9-c; or

(b) Have an employee enrolled in the next scheduled approved food protection manager certification program.

II. Establishments that are new or have changed ownership shall meet the requirements of this section within 90 days of initial operation.

143-A:9-e Display of Certificate. Food protection manager certification program certificates shall be:

I. Prominently posted in the establishment next to the food service license to operate; and

II. Removed when the certified food protection manager identified in the certificate is no longer employed by the establishment.

143-A:9-f Expired Certification. An individual with a certificate which has been expired for more than 6 months shall complete an approved food safety course in accordance with RSA 143-A:9-c.

5 Applicability. Notwithstanding RSA 143-A:9-b, no food service establishment licensed under RSA 143-A which serves potentially hazardous food shall be required to assign a person who is a certified food protection manager until July 1, 2005.

6 Effective Date. This act shall take effect July 1, 2004.

2004-0739h

Amendment to HR 24

Proposed by the Committee on State-Federal Relations and Veterans Affairs - C

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

A RESOLUTION encouraging a comprehensive energy plan.

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

Whereas, a comprehensive plan for energy independence is a vital component of the United States' national security strategy; and

Whereas, it is prudent for both national security and environmental concerns to promote energy independence for our country, and promote efficiency and conservation to develop cleaner technologies; now, therefore, be it

Resolved by the House of Representatives:

That the New Hampshire house of representatives urges the President of the United States and the Congress of the United States to develop and work to implement a comprehensive plan to promote theses states' goals; and

That this plan should include a plan to modernize our electricity system, promote conservation, and improve the United States' air quality; and

That this plan should promote economic incentives for the utilization of renewable energy sources; and

That this plan should promote increased energy production at home so the United States is less dependent on foreign oil; and

That this plan should promote the development of alternative energy technologies, such as hybrid, hydrogen, electric or natural gas powered vehicles; and

That copies of this resolution be forwarded by the house clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the United States Secretary of Energy and the New Hampshire congressional delegation.

AMENDED ANALYSIS

This house resolution encourages the President of the United States and the Congress to adopt a comprehensive energy program.

2004-0793h

Amendment to SB 493

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT relative to examination standards for certified public accountants.

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

1 Certified Public Accountants; Certification. Amend RSA 309-B:5, V to read as follows:

V. An applicant shall be required to pass all sections of the examination provided for in paragraph IV in order to qualify

for a certificate. A passing grade for each section shall be 75. ~~[If, at a given sitting of the examination, an applicant passes 2 or more but not all sections, the applicant shall be given credit for those sections passed and need not sit for reexamination in those sections, provided that:~~

~~(a) At that sitting the applicant wrote all sections of the examination for which the applicant does not have credit;~~
~~(b) The applicant attained a minimum grade of 50 on each section not passed at that sitting;~~
~~(c) The applicant passes the remaining sections of the examination within 5 years of the examination at which the first sections were passed;~~

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

~~(e) In order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of 50 on sections taken at that sitting.]~~ ***The applicant shall pass all sections of the examination within 18 months of the examination at which the first section was passed. No candidate shall be allowed more than 10 attempts to complete all sections of the examination.***

2] Applicability. Notwithstanding section 1 of this act, applicants who have passed 2 or more sections of the examination by April 1, 2004 shall be required to complete all remaining sections no later than December 31, 2005.

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

AMENDED ANALYSIS

This bill changes the time frame in which a candidate as a certified public account has to complete all sections of the exam.