

HOUSE RECORD

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

Vol. 26

Concord N.H.

Friday, April 16, 2004

No. 28

Contains: Reports and Amendments for April 22, Order Form for the 2003 and 2004 Permanent Journals, Hearings and Notices

HOUSE CALENDAR

A MESSAGE FROM THE SPEAKER

MEMBERS OF THE HOUSE:

The House will meet in session on **Thursday, April 22**, and April 29, Wednesday, May 5, Thursday, May 6 and Wednesday, May 26 at 10:00 a.m. Please reserve Thursday, May 13, and Tuesday, May 25, as possible session days depending on the workload.

It is with deepest sympathy and care that our thoughts and prayers are with Representative W. Packy Campbell and his family in the loss of their young son, Ian Joseph. Calling hours will be Friday, April 16, 6-8 p.m. at Peaslee Funeral Home, 32 Central St, Farmington. A funeral mass will be held on Saturday at 1:00 p.m. at Our Lady of the Holy Rosary Church, 189 N. Main St., Rochester. Memorial donations can be made to The Farmington Fire & Rescue, Main St., Farmington, NH 03835, or the Catholic Charities of NH, PO Box 686, Manchester, NH 03105.

Chairmen and Vice Chairmen will meet on Tuesday, April 20, at 9:00 a.m. in Room 201, LOB.

Speaker Gene G. Chandler

NOTICE

There will be a Republican Caucus on Thursday, **April 22** at 9:15 a.m. in Representatives Hall.
Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Thursday, **April 22** at 9:00 a.m. in Rooms 306-308 of the Legislative Office Building.
Rep. Peter H. Burling, Democratic Leader

NOTICE

Members should please take note of the listing in the House Calendar of “House Bills Amended by the Senate.” This listing is provided to make you aware of Senate amendments and to give you a chance to review them in advance of House floor action. The House has three options in response to Senate amendments. The House can vote to: concur with the Senate amendment; non-concur with the Senate amendment; or non-concur with the Senate amendment and request a committee of conference. The committee chairman or a committee member will explain from the podium the committee recommendation and reasoning before you will be asked to vote.

NOTICE

The House class photo will be taken in Representatives Hall at 10:00 a.m. at the beginning of session on Thursday, April 22nd. Class photos (approx. 6 x 18 in. on a 13 x 19 in. sheet) are available for purchase at \$30.00 each. Members who know that they would like a class photo are encouraged to pre-order with Danielle in the Speaker's Office to ensure timely delivery. Payment by cash or check is required at the time of order. Checks should be made payable to Bill Finney.

Speaker Gene G. Chandler

THURSDAY, APRIL 22 CONSENT CALENDAR

COMMERCE

SB 301-FN, relative to liquor licenses. OUGHT TO PASS WITH AMENDMENT

Rep. Leo W. Fraser, Jr. for Commerce: This bill, relative to liquor licenses and the sale of alcoholic beverages, was introduced at the request of the New Hampshire Liquor Commission to correct unintended consequences in the first section of the bill relating to non-profits. The second section of the bill grants to the commission the authority to close down a licensee for a short period of time under certain high-risk situations and as a last resort, i.e. after sporting events bringing on riots in Durham. An adoption of rules will implement the process. The amended bill also redefines "beverage vendor" to include all manufacturers which sell beverages to wholesale distributors. The bill as amended also repeals RSA 178:16, V concerning the interest or control of wholesale distributors. **Vote 13-0.**

SB 368, relative to reinsurance. OUGHT TO PASS WITH AMENDMENT

Rep. Leo W. Fraser, Jr. for Commerce: This legislation was introduced in the Senate at the request of the NH Insurance Department. The legislation is patterned after a model bill produced by the National Association of Insurance Commissioners (NAIC). The bill does several things in order to protect the interests of insured claimants, ceding insurers and the public generally. It allows credit to a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance. It is allowed only when the reinsurer meets certain requirements such as 1) the assuming insurer is licensed to transact this type of business in New Hampshire; 2) the reinsurer makes certain filings in New Hampshire; 3) maintenance of a surplus for policyholders of not less than 20,000,000; 4) maintenance of a trust fund in a qualified financial institution in the United States; 5) certain filings regarding the trust are made with the Insurance Commissioner; and 6) the form of the trust has been approved in the state in which the trust is domiciled. **Vote 11-0.**

SB 369, relative to examinations of insurance companies by the insurance department. OUGHT TO PASS

Rep. Donald H. Flanders for Commerce: The bill was introduced to amend the existing law (RSA 400-A: 37) concerning the conduct of examinations by the insurance department in order to conform to the National Association of Insurance Commissioner's (NAIC) model. The insurance department testified that the second part of the bill provides for confidentiality resulting from the examination with Paragraph 3 providing for immunity for any contractors engaged by the insurance department. **Vote 11-0.**

SB 370, relative to the insurance rating law. OUGHT TO PASS WITH AMENDMENT

Rep. Leo W. Fraser, Jr. for Commerce: The bill makes certain technical changes in New Hampshire's insurance rating laws. These corrections were made at the request of the New Hampshire Insurance Department. As amended, a large commercial policyholder who is required to certify its eligibility under RSA 412: 2, II (e) will no longer be required to use a state approval form. This change is made in both Sections 3 and 4 of the bill. Further, the bill deletes the word "accident" from the law as "accident" is a term used in motor vehicle filings which is covered elsewhere in the law. Due to other safeguards already in the law, the department recommends that large commercial insurers would be eligible to qualify with premiums of \$30,000, whereas the law today requires premium of \$100,000. **Vote 11-0.**

SB 498-FN, relative to the regulation of debt adjustment services. OUGHT TO PASS WITH AMENDMENT

Rep. Paul D. Spiess for Commerce: Over the past several years, the banking department has been methodically going through the statutes to update laws that regulate non-bank financial activities. We have recently passed updated regulations covering mortgage bankers, mortgage brokers and small loan companies. This bill updates RSA 399-D regulating debt adjustment services. The bill, as amended, provides for a licensing scheme, requires the posting of a bond, requires application and renewal fees, prescribes certain business practices, and grants to the Bank Commissioner the right to suspend and revoke licenses and

to assess fines for non-compliance with the statute. The bill also grants rulemaking authority to the Commissioner. **Vote 11-0.**
SB 500-FN, relative to certain procedures of financial institutions. **OUGHT TO PASS WITH AMENDMENT**
 Rep. Paul D. Spiess for Commerce: This bill was introduced in the Senate at the request of the banking department. It updates the language of several statutes pertaining to supervision and regulation of banks. These changes bring the statutes into conformity with current banking practices. The bill also updates language concerning the disposal of records and makes a modest change in the law concerning attendance at meetings by directors. **Vote 11-0.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

SB 318, relative to the applicability of driving while intoxicated prohibitions. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill would amend RSA 265:144 by adding a new paragraph: Riding on Bicycles; Influence of Drugs or Alcohol. The sponsor related to the committee a case where an individual was so charged; however, the Driving Under the Influence laws were vague in this particular instance. The individual in that particular case pled to a lesser charge of reckless conduct. The bill would exclude operation of a wheelchair under the influence which could have the same unsafe consequences of riding a bicycle. The committee felt that a charge of reckless conduct may be the appropriate charge in these situations. **Vote 16-1.**

SB 320-FN, relative to penalties for damaging emergency vehicles. **INEXPEDIENT TO LEGISLATE**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill would have made damaging an emergency vehicle a class B felony. Additionally, it would have removed from current law the requirement that the owner of a private vehicle containing emergency equipment, damaged under the criminal mischief statute, receive full restitution for the damage. In a state where often the reliance is on volunteers, who respond in personal vehicles, the bill would remove the protection afforded to those volunteers under current law, as amended in 2001. It was submitted in response to a single incident where the air pressure was reduced in the private vehicle tires thus making the vehicle unsafe. This action can be chargeable under other statutes that already exist. The committee felt strongly that elevating the offense to a felony and removing the protection already afforded those who utilize their vehicles as volunteers would be inappropriate. **Vote 15-1.**

SB 372, relative to the definition of necessary shelter for dogs. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy N. Robertson for Criminal Justice and Public Safety: This bill tried to find a simple solution to a complicated problem. The committee felt that it would create more problems than it would solve. Strict interpretation by law enforcement and dog owners might lead to unnecessary confrontations. As one example, huskies and dachshunds have very different shelter needs. Additionally, the requirements would rule out certain commercially available animal shelters. The bill was not supported by six of the eight witnesses, one of whom was an animal control officer. **Vote 15-1.**

HB 388-FN, relative to proof of successful completion of an impaired driver intervention program. **OUGHT TO PASS**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill corrects a flaw that was discovered after HB 521 was passed in 2003. It deals with the payment of program costs and fines prior to license revocation for DWI. It also addresses the so-called "RED FLAG" hearing that is currently mandated if additional treatment/counseling is required after the initial program completion. Currently the Department of Safety must schedule a hearing when there is a recommendation for further treatment, even though the person may agree with the recommendation. Under this bill the hearing would still be required if the person requests it. This allows the clinician and the person to avoid an unnecessary hearing but still preserves the person's right to challenge the requirement of additional treatment/counseling that they feel is not needed. **Vote 17-0.**

SB 417, relative to vicious dog assaults. **INEXPEDIENT TO LEGISLATE**

Rep. Bob M. Fesh for Criminal Justice and Public Safety: This bill would require medical personnel treating the victim of a dog attack to report the attack to the animal control officer or the town clerk. There was an increase in fines on the first offense and repeal of the penalty for a second offense. The proposed changes to RSA 466:31, II-a and RSA 466-31-a, III, could result in homeowners being denied insurance and having the dog in question sent to a shelter and euthanized. The committee felt the current law is balanced and fair to all, particularly if it is properly enforced. Immediate court proceedings may be initiated currently and a vicious dog may be ordered to be put down. The additional language in this bill could force the dog owner to be treated unfairly where in instances the dog had been defending itself, its owner, or its property. **Vote 17-0..**

SB 521-FN, increasing the penalty for identity fraud. **OUGHT TO PASS WITH AMENDMENT**

Rep. Beth Rodd for Criminal Justice and Public Safety: This bill increases the penalty for all identity fraud crimes to a Class A felony. It leaves to the discretion of the court whether a sentence is to be consecutive or concurrent with any sentence imposed as a result of a conviction that is factually related to the identity fraud conviction. **Vote 16-1.**

ELECTION LAW

CACR 27, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States. **INEXPEDIENT TO LEGISLATE**

Rep. Charles F. Weed for Election Law: The hearing regarding whether the State Constitution needed to be changed to prevent an alien from voting in an election in New Hampshire convinced the bipartisan majority that this was a non-problem. The committee wondered whether the old saying "If it ain't broke, don't fix it", might apply to this constitutional resolution. New

Hampshire RSAs include requirements of US citizenship to vote and define domicile as requiring US citizenship. This constitutional amendment might require separate voting lists for federal and for state office, and that more problems would be created than solved. **Vote 10-4.**

SB 490-FN, relative to the Help America Vote Act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Steve Vaillancourt for Election Law: This bill came to the committee as a collection of items under the heading “relative to the Help America Vote Act” (HAVA), that much publicized nationwide effort set forth in the wake of the disputed 2000 election. To deal with the disparate parts of the bill, a subcommittee was formed, and it was decided to eliminate certain sections, which neither have anything to do with HAVA nor are essential for immediate passage. For example, gone is a provision for the Secretary of State to provide the statewide voter database to officials to use in jury selection. This matter can be revisited in a few years when the statewide database is ready. Also gone is a call for the Secretary of State to delete from the first in the nation Presidential Primary Ballot the slot for Vice President should no one file for that office. In other words, we would be denying voters a write-in option, despite the fact that history tells us that vice-presidential write-ins have proven significant in the past (Nixon in 1956, Agnew in 1972, for example). Should the Legislature wish to make such a change, something the current committee does not support, there’s plenty of time to introduce a separate bill next year, not under the HAVA cover. So here’s what this bill does in fact do as amended. It provides for a nonpublic voter listing for those whose identity needs to remain secret (battered women, for example). It allows a person who is unable to mark a ballot to receive assistance of his or her choice in the voting booth. The bill allows an absentee voter to prove domicile by providing a note from a nursing home facility in which he or she resides. The bill addresses how ballots shall be marked, and the committee amendment clarifies a confusing situation in regard to Manchester ward lines, allowing lines as enumerated in the City Charter. This vitally important measure passed the House last year (HB 829), but is mysteriously currently sitting on the table in the Senate. **Vote 17-0.**

MUNICIPAL AND COUNTY GOVERNMENT

SB 357, authorizing municipalities to adopt quarterly billing of taxes. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: This bill authorizes any city or town which has adopted an optional fiscal year to institute a system of quarterly billing and collection of taxes as provided in RSA 76:15-b. For those cities or towns that are currently on a calendar year, this bill addresses the transition to a fiscal year system and a quarterly billing method by adding another method of funding an 18 month budget instead of only “raising and appropriating” in one year or by borrowing in anticipation of taxes. The funding of how the municipalities will transition to the optional fiscal year will be determined by the municipalities wishing the change. **Vote 16-0.**

SB 359, relative to construction of buildings on certain pre-existing streets. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: This bill allows for the construction of buildings on certain pre-existing streets that were approved by a municipality before the municipality authorized the planning board to regulate the subdivision of land. RSA 674:41 covers the different ways in which a building permit may be issued for the construction of buildings and additions to buildings. The RSA provides for seven different ways that a lot qualifies for the issuance of building permits after the municipality grants planning board authority for approval or disapproval of plats. RSA 674:41 failed to address the lots that were located on streets that were in existence prior to the establishment of a local planning board. This bill allows for the issuance of building permits for lots that are served by a street shown on a subdivision plat that was approved either by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats. **Vote 15-0.**

SB 391, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert W. Brundige for Municipal and County Government: This bill clarifies that the issuance of bonds can either be by a 2/3 or 3/5 vote in a municipality that has adopted an optional form of government through the charter process as long as the charter specifies the percentage. If the charter is silent then a 2/3 majority will be required. This change in law was needed since there was only one optional form of government – the official ballot town meeting as described in RSA 49-D: 3, II-a – that had been given this opportunity. Now there is the same option to all the municipalities that have adopted a charter for their specific form of government. Section 4 of the amendment allows the Claremont School District to coordinate their school elections with the timetable that governs in RSA 40:13 (SB 2) for a municipality or in RSA 671:2 that governs school district officers. Section 6 of the amendment sets up the same coordination of elections for the union school district of Keene as the district needs and the referendum process as required. **Vote 17-0.**

SB-414-FN, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. **OUGHT TO PASS WITH AMENDMENT**

Rep. Thomas J. Gillick for Municipal and County Government: Currently there are different interpretations regarding the definition of vesting rights, active and substantial development and substantial completion of the improvements by the municipal planning boards and developers during the approval process. A study committee was established to study the relationship between vesting rights, active and substantial development and substantial completion. The study was expanded

to include capital improvement impact fees, off-site exactions and a process for the planning board and developers to reach agreement prior to approval so there is predictability for both the planning board and the developer. SB 414 defines developers “vesting” rights, active and substantial, development, and substantial completion and makes clear when impact fees are assessed and when they are collected. This bill also emphasizes the clarification and restoration of Planning Board authority to impose “exactions” for off-site infrastructure improvements that had been removed by the Court as in the case of Simonsen vs Derry. **Vote 16-0.**

SB 467, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry. **OUGHT TO PASS WITH AMENDMENT**

Rep. David L. Buhlman for Municipal and County Government: This bill allows important municipal sanitary sewer lines to be constructed to service new municipal structures in Derry, while granting waivers to abutters within 125 feet of the sanitary sewer lines so that those abutters do not have to tie into the new sanitary sewer lines until their alternative disposal systems (e.g. septic tanks) fail. When these alternative systems fail, the abutters will have to tie into these new sanitary sewer lines. Officials of Derry and the Department of Environmental Services spoke in favor of this bill. Should other municipalities desire a similar waiver in the future, they will have to seek the permission of the legislature to do so. **Vote 18-0.**

SB 508-FN, relative to grant-funded programs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: This bill is the second attempt to address the same topic in the last two years. The topic deals with authorization of programs funded by grants. Last year, HB 639 was introduced relative to receiving voter approval through warrant articles before a municipality may continue a program initiated under a grant. Now we have SB 508, which authorizes programs funded by federal grants that were initially approved by the voters to continue without further voter approval. RSA 31:95-b provides for a municipality at an annual meeting to vote to allow the selectmen to apply for, accept and expend unanticipated money from a state, federal, or other governmental unit or a private source which becomes available during the fiscal year. The selectmen then shall hold a public hearing prior to taking action and at no time shall such action require the expenditure of other town or village district funds except those funds lawfully appropriated for the same purpose. The committee unanimously feels there is not need for any part of RSA 32:6-a due to the fact that the issue is thoroughly addressed in RSA 31:95-b. **Vote 18-0.**

PUBLIC WORKS AND HIGHWAYS

SB 518, establishing a commission to study railroad matching funds and authorizing an expenditure for a certain feasibility study. **INEXPEDIENT TO LEGISLATE**

Rep. Edmond D. Gionet for Public Works and Highways: The majority of the committee feels that taking monies out of the special railroad fund will erode the already scarce dollars and will have an adverse effect upon existing railroad operations, a small but important resource that the N.H. Railroad operators are dependant upon. Maintaining the integrity of the Railroad Fund is important and is funded by the tourist industry, allowing the short line railroad operators to draw from the fund to perform the necessary maintenance and upgrades on a 50/50 basis. **Vote 12-2.**

SB 529, making a technical correction to the eminent domain procedure act. **OUGHT TO PASS**

Rep. James E. Holland for Public Works and Highways: The technical change in date of notice would provide a more clearly defined date of action to the property owner. Many changes have been made to the eminent domain statute and the problem addressed here surfaced while the Attorney General's office and DOT tried to follow the statute. **Vote 14-0.**

SB 532-FN, exempting biodiesel from the road toll. **INEXPEDIENT TO LEGISLATE**

Rep. Saghir A. Tahir for Public Works and Highways: The concept for obtaining a fuel that will burn cleaner than what currently exists is well worth investigating. The funding of this bill is one of the major stumbling blocks. The Highway Fund is under increasing pressure for many projects. The committee encourages use of alternative fuels, however, the cost to the Highway Fund was too high. Further, education on the use of Bio Fuels by the major fuel companies would be more effective. **Vote 12-2.**

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

SCR 5, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard A. McCann for State-Federal Relations and Veterans Affairs: This Resolution commends the U.S. Congress for passing the National Defense Authorization Act of 2004. The committee also recommended that the U.S. Congress continue to support passage of full concurrent receipt legislation in the future. **Vote 11-0.**

WAYS AND MEANS

SB 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Shawn N. Jasper for Ways and Means: The amendment essentially restores the bill to its original form with the addition of a study committee passed by the Senate. The intent of the amendment is to close a loop hole in the Master Settlement

Agreement which allows non-participating tobacco manufacturers to sell their product at about \$4 less per carton, because they are receiving most of their contribution to the escrow fund back. This happens because they are not selling their product on a nationwide basis and therefore their total proportional share of tobacco sales, on a national basis, is miniscule. The purpose of the escrow fund is to provide a source of funding should there be successful suits against the non-participating manufacturers, which may or may not have adequate resources to pay damages. The nationwide market share of the non-participating manufacturers has risen in 5 years from less than 1 percent to more than 6 percent. The effect of this has been that New Hampshire received approximately \$4.3 million less from the tobacco settlement than it otherwise would have. Over the 5-year period we have lost about \$11.3 million. **Vote 15-0.**

SB 505-FN-A-L, authorizing CROP zone tax credits for taxpayers within the town of Whitefield. **INEXPEDIENT TO LEGISLATE**

Rep. Jeffrey D. Gilbert for Ways and Means: This bill as passed by the Senate would have extended the tax incentives for new job creation enacted in 2003 retroactively to 2001, specifically for the benefit of an employer in the town of Whitefield. Generally, the committee is supportive of the intent of the bill's sponsors to use tax policy to stimulate the creation of quality new jobs in the most economically-depressed areas of our state and in particular appreciates the creative and substantial efforts made by DRED to address the committee's concerns. However, absent compelling circumstances (which were not demonstrated in this instance) making tax policy retroactive after its enactment is unwise. Further, the committee could not support the legislative targeting of tax credits to a single taxpayer. **Vote 18-0.**

THURSDAY, APRIL 22

REGULAR CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

SB 513, relative to the death penalty. **WITHOUT RECOMMENDATION**

JUDICIARY

SB 452, relative to testimony of expert witnesses. **WITHOUT RECOMMENDATION**

RESOURCES, RECREATION AND DEVELOPMENT

SPECIAL ORDER

SB 525-FN-A, relative to land and community heritage investment program administration. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. H. Charles Royce for the **Majority** of Resources, Recreation and Development: This bill would not serve the LCHIP program well at this time. The Resources, Recreation & Development Committee took the LCHIP legislation at its formation stage through to it becoming law. The Resources, Recreation & Development Committee has strongly supported LCHIP. It was felt by the Committee that we should look very closely at dedicated funding for LCHIP in Interim Study and start fresh with positive non-partisan cooperation in our next session. **Vote 14-1.**

Rep. Judith T. Spang for the **Minority** of Resources, Recreation and Development: LCHIP is one of the New Hampshire's most popular programs, with support from municipalities representing 75% of the state population. It now has no money for projects. The minority introduced an amendment that would have provided a means of funding LCHIP.

WAYS AND MEANS

SB 303-FN, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kurt J. Roessner for Ways and Means: This bill, as amended, adds reporting requirements for qualified investment companies and strengthens the Dept. of Revenue Administration's ability to oversee compliance, and eliminates the tax exempt status of qualified investment capital companies. The amended bill does not eliminate the business profits tax exemption for qualified investment companies. Testimony before the committee explained the tax loophole associated with the Qualified Investment Capital Company (QICC). For example, a business could take \$1 million dollars profit and invest it into a QICC and pay no business profits tax on the \$1 million dollars. If this \$1 million is withdrawn from the QICC by the business after three years, then there will be no state tax on the withdrawal. This amended bill removes the tax exempt status of the QICC. There was no testimony received by the Ways and Means Committee in opposition to the removal of the tax exempt status for the QICC's. The bill, as passed by the Senate, also enabled the Legislative Budget Assistant Office, in the performance of its duties, to access confidential information maintained by the Dept. of Revenue Administration. The enabling language, which was identical to that of SB 350, was removed from the bill by the Ways and Means Committee amendment since SB 350 was referred by the House to the Legislative Administrative Committee for interim study. **Vote 18-0.**

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. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Vivian R. Clark for the **Majority** of Ways and Means: This bill was intended to relieve a tax problem experienced by communities in which a new electricity generating plant goes on-line, at which time it becomes subject to the state utility tax instead of the statewide property tax. The committee amendment restricts the statewide tax impact of a new generating plant to 105% of the tax rate that would have been established without the plant. In addition, a second public hearing was held on a non-germane amendment that added sections to relieve two additional problems. One is the prospective loss of approximately \$14 million per year in estate taxes, caused by the federal phase-out of the “sponge” tax credit. New Hampshire has had an estate tax for over 70 years, but the changes imposed by Congress which reduce the Federal tax at the same time reduced the credit allowed for state taxes from an average of 8% to nothing in only three years. This has already reduced our estate tax revenue to only half of what it historically would have been. The amendment fixes the New Hampshire estate tax at 4% of the estate remaining after Federally-allowed exclusions, which is essentially where we are now. It eliminates the Federal graduation of tax rate, which is contrary to the NH Constitution. Included in the exclusions are the \$1.5 million exemption which is in current Federal law, and the increase to a \$2 million in exemption which will occur in 2006. The existing NH estate tax, which is not a new tax, will therefore be decoupled from the Federal tax, but will retain essentially the same rate as currently exists, and all of the Federal exclusions up until 2009. Finally, the amendment prevents the attempt by some developers who construct modular houses (called “pre-site housing” under the law) to use the initial sale exemption for mobile houses (called “manufactured housing”) to avoid real estate transfer taxes and specifically limits the transfer tax exclusion to the initial sale of a house that meets the state definition of “manufactured housing”. **Vote 15-4.**

Reps. Peyton B. Hinkle and Peter S. Espieffs for the **Minority** of Ways and Means: This bill, as it came from the Senate, originally pertained to the calculation of the commissioner’s warrant for the statewide-enhanced education tax. A non-germane amendment was proposed in committee that would continue the estate tax at a fixed rate to help replace the state’s share of the federal estate tax that is being phased out. A motion was made and passed 8 to 7 to strip the estate tax part of the amendment from the bill. This would have allowed the estate tax to come back on a separate bill so that it could receive full consideration by the legislature and the public. A subsequent motion to reconsider was approved and a second vote to remove the estate tax part of the bill failed. A suggestion to send the amendment to interim study was made but not acted on. This would have allowed another opportunity to gain further information on the effect of this tax on the state. As finally passed by the committee, provision 3 of the bill provides for a 4% tax and a \$1.5 million dollar exemption for any decedent where death occurs before January 1, 2006. After that, the exemption goes to \$2 million. Minority members of the committee believe this represents a new tax being levied on the people of New Hampshire. In addition the minority opposes the estate tax because a). it denies the citizens of New Hampshire the benefit of the established federal tax policy to abolish the taxation of estates. b). it is inconsistent with this state’s own public policy of not levying death taxes which was established by this legislature’s 2002 repeal of the Legacy and Succession Taxes. c). this tax replaces the former federal progressive tax with a regressive flat tax, and is, in fact, a new tax.

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.)

HB 1425, relative to food safety in restaurants. (Pending question is the adoption of the committee amendment.)

HOUSE BILLS 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 133-L, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district. (House Concurred 4/15/04)

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 403, requiring a person found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender. (House Concurred 4/15/04)

HB 440, relative to the discharge of firearms on or across highways in pursuit of wild birds or animals. (House Concurred 4/15/04)

HB 444, relative to summoning witnesses from another state in certain actions involving children. (House Concurred 4/15/04)

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 520, relative to maintaining records of greyhounds used in pari-mutuel racing. (House Concurred 4/15/04)

HB 532, relative to notice and filing of divorce petitions. (SJ 4/1/04)

HB 551, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools. (SJ 4/1/04)

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 622-FN, clarifying certain exemptions from the right-to-know law. (House Concurred 4/15/04)

HB 652-FN, relative to qualified wellness or disease management programs. (House Concurred 4/15/04)

HB 730-FN-L, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases. (SJ 4/1/04)

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners. (House Concurred 4/15/04)

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

HB 1161, relative to solicitation and marketing of insurance products. (House Concurred 4/15/04)

HB 1227, relative to land assessed for current use which is taken by eminent domain. (SJ 4/8/04)

HB 1254-FN, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program. (SJ 3/11/04)

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or Silver Star. (SJ 4/8/04)

HB 1293, relative to emission control equipment for certain vehicles. (SJ 4/8/04)

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations. (SJ 4/8/04)

HB 1311, establishing a committee to study decreasing the insurance premium tax. (SJ 3/17/04)

HB 1355, changing the name of the sweepstakes commission to the lottery commission. (SJ 4/8/04)

HB 1363, establishing a policy for naming state highways, bridges, and buildings. (SJ 3/17/04)

HB 1370, establishing a committee to study property tax relief. (SJ 3/11/04)

HB 1408-FN, relative to reporting requirements for certain nonprofit organization, including health care charitable trusts. (SJ 4/1/04)

HB 1410, relative to the release of information to persons receiving a child for placement. (SJ 4/1/04)

HB 1414, establishing a commission to study issues regarding the women's prison facility. (House Concurred 4/15/04)

COMMITTEE MEETINGS

MONDAY, APRIL 19

COMMISSION TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT (HB 1390, Chapter 114:2, Laws of 2000), Room 205, LOB
10:00 a.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. Subcommittee work session on ***SB 478-FN***, relative to penalties for DWI offenses.

ECONOMIC DEVELOPMENT REVIEW FUND REVIEW (RSA 12-A:2-f), Room 103, State House

3:00 p.m. Regular meeting.

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

3:00 p.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. Full committee work and executive session on pending legislation.

FINANCE (DIVISION IV), Rooms 210-211, LOB

Work session on the following bills:

10:00 a.m. ***SB 302***, making technical corrections to the education funding formula.

SB 411-FN-L, relative to liability for special education transportation costs.

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

1:30 p.m. Ad hoc committee on resident hours and medical errors.

TUESDAY, APRIL 20

COMMERCE, Room 302, LOB

9:00 a.m. Subcommittee work session on ***SB 482-FN***, relative to captive insurance companies and reciprocal insurers.

9:30 a.m. Subcommittee work session on ***SB 367***, relative to the New Hampshire Insurance Guaranty Association Act of 2004.

10:00 a.m. Subcommittee work session on ***SB 389***, relative to certain insurance contracts.

11:00 a.m. Subcommittee work session on ***SB 442***, relative to manufactured housing installation standards.

12:30 p.m. Subcommittee work session on ***SB 314***, relative to access to medical records.

1:00 p.m. Subcommittee work session on ***SB 461***, relative to the regulation of gift certificates under the consumer protection act.

1:15 p.m. Executive session on pending legislation

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

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

EDUCATION, Room 207, LOB

9:00 a.m. Subcommittee work session on ***SB 421***, relative to charter schools.

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

ENVIRONMENT AND AGRICULTURE, Room 305, LOB (Please note room change.)

9:30 a.m. Subcommittee work session on ***SB 481-FN-L***, establishing a sewer and other water-related purposes district for Great Bay.

10:30 a.m. **Rescheduled** executive session on pending legislation.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:00 a.m. Public hearing on proposed amendment to ***SB 445***, relative to the regulation of dietitians by the board of licensed dietitians. The proposed amendment is relative to food safety in restaurants. Copies of the amendment are available from the Sergeant-at-Arms Office.

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

9:30 a.m. Subcommittee work session on ***SB 375***, relative to the regulation of physician assistants.

10:00 a.m. Subcommittee work session on ***SB 153***, adopting the nurse licensure compact.

11:00 a.m. Subcommittee work session on ***SB 484***, establishing the Collaborative Practice for Emergency Contraception Act.

1:00 p.m. Full committee work and executive session on pending legislation.

FINANCE – (DIVISION I), Room 209, LOB

Work and executive session on the following bills:

10:00 a.m. ***SB 329-FN***, relative to the recovery by the retirement system of the overpayment of benefit amounts.

SB 338-FN, relative to the purchase of prior service credit by certain political subdivision employee members.
SB 436-FN-LOCAL, relative to the Claremont and Newport district courts.

FINANCE – (DIVISION II), Room 212, LOB

Work and executive session on the following bills:

- 10:00 a.m. **SB 333-FN**, establishing a unique pupil identification system.
SB 352-FN-L, relative to computing school building aid grant amounts.
SB 409-FN, revising the vocational school licensing statutes.

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

Work and executive session on the following bill:

- 10:00 a.m. **SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

FINANCE (DIVISION IV), Rooms 210-211, LOB

Work and executive session on the following bills:

- 1:00 p.m. **SB 302**, making technical corrections to the education funding formula.
SB 411-FN-L, relative to liability for special education transportation costs.

FISH AND GAME, Room 307, LOB

- 10:00 a.m. Full committee work session on **SB 487**, relative to lead sinkers.
10:30 a.m. Executive session on pending legislation, if needed.

JUDICIARY, Rooms 206-208, LOB

- 10:00 a.m. Executive session on **SB 427**, relative to the definition of marriage and any other pending legislation.

MUNICIPAL AND COUNTY GOVERNMENT, Room 308, LOB (Please note room change.)

- 10:00 a.m. Full committee work session on **SB 449**, relative to fluoridation of municipally-owned public water systems.
1:00 p.m. Executive session on pending legislation, if needed.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

- 10:00 a.m. Full committee work session on **SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies.

WAYS AND MEANS, Room 202, LOB

- 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.
Full committee work session on Interim Study Bills and Revenues.

WEDNESDAY, APRIL 21

CHILDREN AND FAMILY LAW, Room 206, LOB

- 10:00 a.m. **SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.
3:00 p.m. Subcommittee work session on **SB 406**, relative to adoption procedures.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 9:00 a.m. Full committee work and executive session on pending legislation.

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

- 9:00 a.m. Regular business.
9:30 a.m. Audit: State of New Hampshire home care for children with severe disabilities performance audit April 2004.

HOUSE FACILITIES, Room 205, LOB

Will meet immediately following Joint Legislative Facilities.

JOINT LEGISLATIVE FACILITIES (RSA 17-E:2), Room 205, LOB

- 3:30 p.m. Regular meeting.

JUDICIARY, Room 208, LOB

- 9:30 a.m. Executive session on pending legislation.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

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

LEGISLATIVE ADMINISTRATION, Room 307, LOB

10:00 a.m. Interim study subcommittee work session on ***SB 350***, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.

11:00 a.m. Subcommittee work session on ***SB 526***, relative to sexual harassment complaint procedures for public employees.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

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

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

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

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Full committee work session on ***SB 443***, relative to rural electric cooperatives.

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

THURSDAY, APRIL 22

COMMISSION TO STUDY CHILD SUPPORT AND RELATED CHILD CUSTODY ISSUES (HB 310, Chapter 277:1, Laws of 2003), Newbury Town Office Building, 937 Route 103, Newbury

6:00 p.m. Public hearing for the purpose of obtaining testimony on the fairness and adequacy of New Hampshire’s child support guidelines.

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.

MONDAY, APRIL 26

COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2), NH Higher Education Assistance Foundation, 4 Barrell Court, Concord

10:00 a.m. Regular meeting.

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

1:00 p.m. Regular meeting.

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), Room 303, LOB

9:30 a.m. Research subcommittee meeting.

TUESDAY, APRIL 27

CHILDREN AND FAMILY LAW, Room 206, LOB

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

WEDNESDAY, APRIL 28

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

1:00 p.m. Interim study subcommittee work session on ***HB 681-FN-LOCAL***, relative to the allocation of a municipality’s share of county taxes.

MONDAY, MAY 3

DEVELOPMENTAL DISABILITY WAITLIST OVERSIGHT COMMITTEE (RSA 171-A:1-c), Room 205, LOB
10:00 a.m. Regular meeting.

TUESDAY, MAY 4

COMMISSION TO STUDY CHILD SUPPORT AND RELATED CHILD CUSTODY ISSUES (HB 310, Chapter 277:1, Laws of 2003), Room 206, LOB
3:00 p.m. Regular meeting.

LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB
1:00 p.m. Regular meeting.

MEDICAID PRESCRIPTION DRUG BENEFITS MANAGEMENT PROGRAM OVERSIGHT COMMITTEE (HB 1218, Chapter 281:9, Laws of 2002), Room 205, LOB
3:30 p.m. Regular meeting.

FRIDAY, MAY 7

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.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB
9:00 a.m. Ad hoc committee to study the creation of an integrated criminal justice informational system and any issues related to the privacy, security and dissemination of such criminal justice information.

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, MAY 10

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 201, LOB
1:00 p.m. Public hearing for proposed rules MAN 100-400.
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.

WEDNESDAY, MAY 12

CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2), Room 201, LOB
9:30 a.m. Regular meeting.

THURSDAY, MAY 13

COMMISSION TO STUDY CHILD SUPPORT AND RELATED CHILD CUSTODY ISSUES (HB 310, Chapter 277:1, Laws of 2003), Plymouth Regional Senior Center, 8 Depot Street, Plymouth
6:00 p.m. Public hearing for the purpose of obtaining testimony on the fairness and adequacy of New Hampshire’s child support guidelines.

FRIDAY, MAY 14

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.

MONDAY, MAY 17

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

2:00 p.m. **Rescheduled** regular meeting.

FRIDAY, MAY 21

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.

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, MAY 28

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

10:00 a.m. Regular meeting.

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

1:00 p.m. Regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Belknap County Delegation will meet **May 3** at 7:00 p.m. at the County Complex to hear a report from Gunstock on their year.

Rep. Gordon E. Bartlett, Chairman

Belknap County Delegation

NOTICE

The House Clerk's Office has a number of extra copies of Permanent House Journals from 2001 and 2002. These copies are available for anyone interested in obtaining a copy on a first-come, first-served basis.

A complimentary copy is available for anyone who was a member of either the House or Senate in 2001 and/or 2002 and has not already received a copy, and for agencies that have not already received a copy.

Each volume costs \$40.00 plus shipping and handling (if necessary) for all others interested.

If you would like to receive a copy of one or both journals, please contact the House Clerk's Office.

Eric W. Fowler, Assistant Clerk

REVISED FISCAL NOTES

The following HBs have revised fiscal notes: HBs 85, 243, 258, 369, 444, 511, 516, 612, 618, 620, 622, 640, 643, 645, 651, 656, 698, 712, 713, 727, 729, 730, 781, 803, 1153, 1188, 1202, 1207, 1213, 1225, 1241, 1254, 1248, 1251, 1276, 1290, 1308, 1311, 1317, 1325, 1339, 1344, 1345, 1348, 1352, 1353, 1365, 1378, 1387, 1388, 1399, 1401, 1411, 1416, 1418, 1421, 1423, 1424, 1426, 1428 and 2004. SBs 126, 205, 312, 348, 361, 367, 383, 401, 407, 430, 433, 442, 448, 450, 463, 478, 494, 498, 500, 503, 505, 509, 510, 525 and 532.

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 as requested.

Joseph D. Harris, 43 Ridge Avenue, Claremont, New Hampshire 03743-3166.

Benjamin E. Moore, 81 Railroad Avenue, Apt. 307, Seabrook, New Hampshire 03874-4273.

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

Members, staff and friends of Representative Sandy Harris may bring cards and notes of good wishes to the Speaker's office where they will be collected for delivery to her.

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:

First Report of the Governor's Commission on Child Protection: Strengthening Child Protection Services in NH
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

Legislative Prayer Group will meet on the first and third Thursdays of the month from 8:00 to 9:00 a.m., beginning the third Thursday in April in Room 306, LOB

Rep. G. Michael Gilman

April is Autism Awareness Month: Autism is a developmental disorder that has grown significantly during the past several years. While research is ongoing, the cause of this disorder is still unknown. This disorder affects an estimated 1,200 families in New Hampshire alone. Please take the time to review the website of the Autism Society of New Hampshire (ASNH): <http://www.autism-society-nh.org/>

Rep. John DeJoie

The Legislative Caucus for Young Children (LCYC) will meet Monday, **April 19** at 1:30 p.m. in Room 206, LOB. The agenda will include an update on Legislation that LCYC is monitoring. In addition, Nancy Rollins, Director, DCYS will speak on the status of the accreditation process. All members of the House and Senate are welcome.

Rep. Deanna S. Rollo

The Merrimack County Democrats will hold their monthly meeting on Tuesday, **April 20** at 7:00 p.m. The meeting will be held at the SEA building on North State Street. The agenda will include a review of the proposed 2004 Democratic platform. The

NHDP Platform Committee will be in attendance. All Merrimack County democrats are welcome.

Rep. John DeJoie

The Healthcare Decisions Coalition has scheduled several meetings to discuss the End-of-Life Care bill being drafted for presentation to the legislature in 2005. The meetings will take place in Room 205, LOB on Friday, **April 23** from 9:00 a.m. to noon; Friday, May 14 from 9:00 a.m. to 11:00 a.m. and Friday, June 4 from 9:00 a.m. to 11:00 a.m.

Rep. Hilda W. Sokol

UNH President Ann Weaver Hart invites all legislators to Legislators Day on Wednesday, **April 28** from 8:30 a.m. – 4:00 p.m. at the Elliot Alumni Center – UNH.

Rep. Marjorie K. Smith

All legislators are cordially invited to attend the First Annual Profile Award Ceremonies. The Profile Award is given to individuals and communities that best represent the spirit of the Old Man Of The Mountain. The awards will be given on the first anniversary of the falling of the Old Man during a reception on Monday, **May 3** at 5:00 p.m. at the Center of New Hampshire.

Gene G. Chandler, Speaker

The Annual Osteoporosis Education and Prevention celebration will take place on **May 5** in Room 105A, State House from 11:30 a.m. to 1:30 p.m. All kinds of great lunch snacks will be available. Everyone is welcome to attend.

Rep. Barbara C. French

On Thursday, **May 6**, during the noon break from the legislative session, members are invited for lunch at the Upham Walker House. The Task Force on Deafness and Hard of Hearing will present brief presentations to inform members about current developments and dilemmas facing the deaf and hard of hearing community.

Rep. James R. MacKay

On Monday, **May 10** at 10:00 a.m. in Room 302, LOB there will be an informational meeting related to the use of Constitutional money (gold and silver, sound money). This meeting will present the reasons why New Hampshire would benefit from using gold and silver as a form of currency in parallel to dollars. Both the legal and economic rationale for adopting this policy will be identified in this educational forum with an overview on the practical aspects of once again using gold and silver as currency. The primary speaker will be Mr. James Turk, former banker and currently an internationally known gold and precious metals consultant.

Reps. Henry W. McElroy, Jr. and John B. Hunt

All are welcome to attend the Annual GO-NH, Inc. Legislative Firearms Orientation Day which will be held at Country Pond Fish and Game Club in Newton. The date is **May 10** and all members are invited to visit and see the operation of one of the finest fish and game clubs in southern New Hampshire. The orientation will begin at 9:00 a.m. and continue into the afternoon. Directions and further details will be in the next calendar.

Rep. David A. Welch

The Annual Governor's Conference on Volunteerism will be Wednesday, **May 19** at the NH Technical Institute, Concord. The theme is "Volunteerism, the Spirit and Heritage of New Hampshire." This conference is sponsored by Volunteer NH! and

planned by a committee of volunteers, chaired by Rep. Carolyn Gargas. Lewis Feldstein, co-author of “Better Together” and President of the New Hampshire Charitable Foundation is the main speaker. The conference offers numerous workshops to learn, enhance and develop skills and increase understanding of the volunteer network throughout NH. The Peg McGarity Award for outstanding volunteer management will be presented. To nominate an individual for the award or to obtain registration information contact Volunteer NH! www.volunteernh.org or call 271-7200.

Rep. Carolyn Gargas

The Department of Transportation will hold the following meeting:
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.
May 5 – Portsmouth City Hall, 1 Jenkins Avenue, Portsmouth, 10:00 a.m. Advisory Committee meeting, Portsmouth, US Route 1 Bypass Study.

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 **April** 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
4-19-04	10:00 to 12:00 SH/SC	Riddlebrook – Bedford	4/50
4-19-04	9:00	Bow Elementary	4/25
4-19-04	12:45	St. John’s Regional School – Concord	4/30
4-20-04	9:30 & 11:00 SH/HM	Garrison School – Dover	4/50
4-20-04	12:30	Bow Elementary	4/25
4-20-04	2:00	Hollis Women’s Club	Adults/12
4-21-04	9:00	Broken Ground School – Concord	4/23
4-21-04	9:30 & 11:00 SH/HM	Garrison School – Dover	4/50
4-21-04	1:00	Kimball School - Concord	4/16
4-22-04	8:45 & 10:30 SH/HM	Belmont Middle School	5/50
4-22-04	9:00	Broken Ground School – Concord	4/23
4-23-04	9:00 & 10:30 SH/HM	No. Londonderry Elem	4/60
4-23-04	12:00	Antrim Elementary School	4/32
4-26-04	9:30 & 11:00 SH/SC	Lancaster Elementary School	4/52
4-27-04	9:00	UNH Social Work Department – Durham	College/32
4-27-04	9:30 & 11:00 SH/HM	Towle Elem – Newport	4/60
4-28-04	9:30 & 11:00 SH/HM	Towle Elem – Newport	4/40
4-28-04	11:00	Lafayette Regional School -Franconia	4/15
4-28-04	2:00	Nashua Technical College	College/15
4-29-04	10:00 & 11:15 SH/HM	Ray School – Hanover	3/85
4-30-04	9:30 & 11:00 SH/HM	Seminary Hill Elementary School- West Lebanon	4/76
4-30-04	10:00 & 11:30 SH/SC	Hanover Street School - Lebanon	4/75

NOTICE

The 31st Annual Bill White Memorial Legislative Golf Tournament is scheduled for Monday, **June 7**, 2004 at Canterbury Woods Country Club, Canterbury, NH. The entry fee for this annual tournament is \$75.00 per person which includes greens fee, cart, barbecue dinner and prizes.

A shotgun start is scheduled for 9:00 a.m. The format is “Captain and Crew”.

Sign-up as a foursome or sign-up by yourself in order to be placed in a foursome.

A maximum of 120 players will be allowed. Please note that payment must be made upon registration. There will be no exceptions to this rule!

Return your entry and payment no later than May 20th to Sandy Anderson at the LOB Lobby Desk. Checks should be made payable to Sandy Anderson.

Gene G. Chandler, Speaker of the House

!
31st Annual Bill White Memorial Golf Tournament
Canterbury Woods Country Club
Canterbury, NH

Name: 1. _____
2. _____
3. _____
4. _____

Telephone: _____ Amount Enclosed: _____

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.

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

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AGENCY/BUSINESS _____
CONTACT _____

PHONE/EXT. _____

ADDRESS _____

CITY/STATE/ZIP _____

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SIGNED _____

THURSDAY, APRIL 22
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2004-0985h

Amendment to SB 301-FN
Proposed by the Committee on Commerce - C

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

AN ACT relative to liquor licenses and relative to sales of alcoholic beverages.

Amend the bill by replacing all after section 2 with the following:

3 Alcoholic Beverages; Definitions; Beverage Vendor. Amend RSA 175:1, X to read as follows:

X. "Beverage vendor" means an individual, partnership, limited liability company, or corporation, including any subsidiaries thereof, which sells beverages [~~manufactured in the United States~~] to wholesale distributors.

4 Repeal. RSA 178:16, V, relative to interest or control of wholesale distributor, is repealed.

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

AMENDED ANALYSIS

This bill:

I. Authorizes the liquor commission to suspend a liquor license temporarily during an emergency.

II. Clarifies the applicability of training requirements to one-day liquor license applicants.

III. Clarifies the definition of beverage vendor.

IV. Repeals limitations on ownership and control of wholesale distributors of alcoholic beverages.

2004-1228h

Amendment to SB 303-FN
Proposed by the Committee on Ways and Means - R

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

AN ACT relative to the strengthening the requirements for qualified investment company status and the resulting exemption from business taxes, and eliminating the tax-exempt status of qualified investment capital companies.

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

1 Taxation of Incomes; Who Taxable. Amend RSA 77:3, I (a) to read as follows:

(a) Individuals who are inhabitants or residents of this state for any part of the taxable year whose gross interest and dividend income from all sources, ***including income from a qualified investment company pursuant to RSA 77:4, V,*** exceeds \$2,400 during that taxable period.

2 Business Profits Tax; Definition of Business Organization. Amend RSA 77-A:1, I to read as follows:

I. "Business organization" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other form of organization; organized for gain or profit, carrying on any business activity within the state, except such enterprises as are expressly made exempt from income taxation under the United States Internal Revenue Code as defined in RSA 77-A:1, XX. Each enterprise under this definition shall be subject to taxation under RSA 77-A:2 as a separate entity, unless specifically authorized by this chapter to be treated otherwise, such as, but not limited to, combined reporting. Trusts treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their owners, and such owners shall be subject to the tax thereon to the extent such owners would be considered a business organization hereunder notwithstanding the existence of the trust. The use of

consolidated returns as defined in the United States Internal Revenue Code as defined in RSA 77-A:1, XX is not permitted. Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a business organization and shall be excluded from taxation at the entity level if it ~~[is a]~~ ***elects to be treated as a*** qualified investment company as defined in RSA 77-A:1, XXI ~~[that is not taxable under RSA 77-A:2-e]~~. A partnership, limited liability company, estate, trust except grantor trusts pursuant to section 671 of the United States Internal Revenue Code, “S” corporation, real estate investment trust, or any other such entity, other than ~~[a]~~ ***an organization electing to be treated as a*** qualified investment company as defined in RSA 77-A:1, XXI ~~[that is not taxable under RSA 77-A:2-e]~~, whose net income is reportable by the true owners either directly or indirectly shall be subject to tax at the entity level, and no part of such earnings or loss shall be included in the calculation of the gross business profits of the owners of such entity.

③ Business Profits Tax; Definition of Qualified Investment Company. Amend RSA 77-A:1, XXI to read as follows:

XXI.(a) “Qualified investment company” means:

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-A:1, XX;

(2) An organization that is an investment company under the Investment Company Act of 1940 as amended; ***or***

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act; ~~or~~

~~(4) A qualified investment capital company as defined in RSA 77-A:1, XXIV].~~

(b) A qualified investment company shall limit its activities to investment or other activities consistent with its organizational purpose and those incidental to or in support of such activities ~~[and shall submit certification that it satisfies the requirements to be classified as a qualified investment company to the commissioner no later than 9 months subsequent to commencement of its investment activities, and]~~ provided ~~[further]~~ that any such exception from investment company status by reason of section 3(c)(7) is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) or any order, regulation or interpretation thereunder not to require protection under the provisions of the Investment Company Act by reason of their size, nature, status, or sophistication. ~~[Upon petition, the commissioner may accept an untimely submission of such certification, which acceptance shall not be unreasonably withheld.]~~ ***A business organization seeking qualified investment company status shall file an election pursuant to RSA 77-A:5-b.***

④ Business Profits Tax; Additions and Deductions. Amend RSA 77-A:4, XV to read as follows:

XV. In the case of a business organization that is a holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI, an addition to gross business profits of an amount equal to the holder’s proportional share of profits of the qualified investment company, computed as if the qualified investment company were a business organization subject to tax under RSA 77-A. ~~[Such a holder shall deduct from gross business profits that]~~ ***No*** portion of ***any*** actual distributions made to such holder by such qualified investment company that would otherwise be part of taxable business profits ***shall be included in such holder’s gross business profits.***

⑤ Election and Reporting for Qualified Investment Companies. RSA 77-A:5-b is repealed and reenacted to read as follows:
77-A:5-b Election and Reporting for Qualified Investment Companies.

I. Business organizations shall file an election with the commissioner to be a qualified investment company with respect to any taxable period on a form prescribed by the commissioner at any time on or before the fifteenth day of the third month of such taxable period. Such an election shall be effective for the taxable period of the qualified investment company for which it is made and for all succeeding taxable periods until such election is terminated as provided in this section.

II. Every business organization electing treatment as a qualified investment company shall, with respect to each taxable period, file a report, in accordance with such rules or forms as the commissioner may prescribe, setting forth the following:

(a) The aggregate amounts of funds invested in the qualified investment company.

(b) The names, addresses, and federal taxpayer identification numbers of the holders of such qualified investment company and the amount, if any, of their proportional share of the income required to be included in such holder’s New Hampshire tax return under RSA 77:4, V and RSA 77-A:4, XV.

(c) The name, address, and federal taxpayer identification number of the manager of such qualified investment company.

(d) The amount of the income received and expenses incurred by the qualified investment company for the tax period.

(e) Notwithstanding any other provision of this section, a qualified investment company shall be deemed to have satisfied the reporting requirements of this section if it files with the commissioner a copy of its federal income tax return, as filed with the Internal Revenue Service.

III. Such report or copy of the federal income tax return shall be filed at any time on or before 30 days following the filing of the federal income tax return with the Internal Revenue Service. Any qualified investment company which fails to timely file the report as required by this section shall pay a penalty equal to \$100 for each day such report is not filed, unless an

extension has been granted by the commissioner. In no event shall the monetary fine imposed by this paragraph exceed \$5,000. A qualified investment company notified by the department that such report is overdue by more than 50 days shall have 30 days from the date of such notification to file the delinquent report. If the delinquent report is not filed within 30 days after notification, the commissioner shall disallow the business organization qualified investment company status for the tax periods for which a timely report is not filed.

IV. The qualified investment company shall be subject to the provisions of RSA 77-A:11 and RSA 77-E:10. The commissioner is authorized to audit and enforce such provisions with any of the powers granted under this chapter and RSA 77-E.

V. The election provided for in paragraph I may be terminated as follows:

(a) By revoking said election by consent of the majority of the members, partners, or shareholders of the qualified investment company, or by determination of the manager of the qualified investment company. Such revocation must be filed with the department on or before the fifteenth day of the third month of the taxable period to be effective for such period. Any revocation filed after the fifteenth day of the third month of the taxable period shall be effective for the following tax period; or

(b) Whenever the company ceases to satisfy the requirements for qualification as a qualified investment company as provided in RSA 77-A:1, XXI.

6 Business Enterprise Tax; Definition of Qualified Investment Company. Amend RSA 77-E:1, XIV to read as follows:

XIV.(a) "Qualified investment company" means:

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-E:1, XVII;

(2) An organization that is an investment company under the Investment Company Act of 1940, as amended; **or**

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act; ~~or~~

~~(4) A qualified investment capital company as defined in RSA 77-A:1, XXIV].~~

(b) A qualified investment company shall limit its activities to investment or other activities consistent with its organizational purpose and those incidental to or in support of such activities ~~[and shall submit certification that it satisfies the requirements to be classified as a qualified investment company to the commissioner no later than 9 months subsequent to commencement of its investment activities, and]~~ provided ~~[further]~~ that any such exception from investment company status by reason of section 3(c)(7) is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) or any order, regulation or interpretation thereunder not to require protection under the provisions of the Investment Company Act by reason of their size, nature, status, or sophistication. ~~[Upon petition, the commissioner may accept an untimely submission of such certification, which acceptance shall not be unreasonably withheld.]~~ **A business organization seeking qualified investment company status shall file an election pursuant to RSA 77-A:5-b.**

7 New Section; Business Enterprise Tax; Election of Qualified Investment Company Status. Amend RSA 77-E by inserting after section 5 the following new section:

77-E:5-a Election of Qualified Investment Company Status. Business organizations that have elected qualified investment company status pursuant to RSA 77-A:5-b shall be qualified investment companies for the purposes of this chapter for the tax period or periods corresponding to the election.

8 Repeal. The following are repealed:

I. RSA 77:4, VI, relative to interest and dividend taxation of qualified investment capital company income.

II. RSA 77:4-f, relative to adjustments for contributions and distributions with respect to qualified investment capital companies.

III. RSA 77-A:1, XXIV and XXV, relative to the definitions of "qualified investment capital company" and "investment company manager" for the purposes of the business profits tax.

IV. RSA 77-A:4, XVII and XVIII, relative to additions and deductions for qualified investment capital companies concerning the business profits tax.

9 Transition Provisions. The provisions of RSA 77:4, VI, RSA 77:4-f, II, RSA 77-A:1, XXI (a)(4), RSA 77-A:1, XXIV and XXV, RSA 77-A:4, XVIII, RSA 77-A:5-b, and RSA 77-E:1, XIV(a)(4) shall remain in effect as enacted prior to the effective date of this act for companies that qualified for qualified investment capital company status and submitted a valid election therefor prior to the effective date of this act.

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

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for a business organization to elect qualified investment company status.

II. Exempts business organizations that qualify for and have elected qualified investment companies from the business profits tax.

III. Eliminates the tax-exempt status of qualified investment capital companies

2004-1177h

Amendment to SB 324-FN-LOCAL

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 relative to the real estate transfer tax, the New Hampshire estate tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.

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

1 Statewide Enhanced Education Tax; Commissioner's Warrant. Amend RSA 76:8, I to read as follows:

I. **(a)** The commissioner of revenue administration shall annually calculate the proportion of statewide enhanced education tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

(b) The commissioner shall adjust a municipality's total equalized value for the preceding year by subtracting therefrom the value in such preceding year of any property currently non-taxable under RSA 76:3 whenever the commissioner determines that the following criteria exist:

(1) The municipality's total equalized value for the preceding year includes the value of property not taxable under RSA 76:3 in the current tax year; and

(2) The total equalized value of property for the preceding year including such non-taxable property would result in the municipality's portion of the statewide enhanced education tax for the current tax year exceeding 105 percent of the amount of the statewide enhanced education tax that would be due for the current tax year if the municipality's total equalized value for the preceding year were adjusted by subtracting the preceding year's value of such non-taxable property.

2 Real Estate Transfer Tax; Manufactured Housing. Amend the introductory paragraph of RSA 78-B:4, IV to read as follows:

IV. Notwithstanding any other provision of this chapter to the contrary, the following subparagraphs shall govern payment of transfer taxes where the real estate consists of manufactured housing, **as defined by RSA 674:31:**

3 Estate Tax; Tax Imposed. Amend RSA 87:1 to read as follows:

87:1 Tax Imposed.

I. **For decedents whose death occurred on or after July 1, 2004 and before January 1, 2006**, an estate tax is hereby imposed upon the transfer of the estate of every decedent leaving an estate which is subject to an estate tax under the provisions of the United States Internal Revenue Code of 1986, as amended, and who has property within this state.

II. **For decedents whose death occurred on or after January 1, 2006, an estate tax is hereby imposed upon the transfer of the estate of every decedent leaving an estate which would have been subject to an estate tax in 2006, under the provisions of the United States Revenue Code of 1986, as amended, and who has property within this state.**

III. The amount of the New Hampshire estate tax shall be ~~[equal to the maximum federal estate tax credit allowable for state death taxes with respect to property subject to this state's jurisdiction to impose a tax]~~ **4 percent of the federally taxable estate.**

~~III.] IV.~~ If only a portion of a decedent's estate is located in this state, ~~[such maximum tax credit]~~ **the New Hampshire estate tax** shall be determined by multiplying **4 percent of** the entire amount of the ~~[credit allowable]~~ **estate**, by the percentage **by** which the gross value of the portion of the decedent's estate located in this state bears to the gross value of the entire estate.

~~[IV. This tax shall be imposed in every case in which the credit for state death taxes paid is available as a credit on the decedent's federal estate tax return.]~~

4 Repeal. The following are repealed:

I. RSA 87:7, relative to intent of chapter.

II. RSA 87:9, relative to chapter void, when.

5 Penacook Defined As Municipality; Commissioner's Warrant; Statewide Enhanced Education Tax. The term "municipality" as used in RSA 76:8, I shall be defined to include the Penacook section of the city of Concord.

6 Effective Date.

I. Sections 1 and 5 of this act shall take effect July 1, 2004 at 12:01 a.m. and shall apply to all tax years beginning on or after April 1, 2004.

II. Sections 3-4 of this act shall take effect upon its passage and shall apply to decedents dying after June 30, 2004.

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

AMENDED ANALYSIS

This bill:

I. Requires the commissioner of revenue administration, when determining the amount of statewide enhanced education tax

to be raised by a municipality, to make an adjustment to the municipality's total equalized value by subtracting the value of certain property which was taxable in the prior year but is currently non-taxable.

II. Changes criteria for taxability of transfers of manufactured housing under the real estate transfer tax.

III. Changes the rate of the New Hampshire estate tax to 4 percent of the federally taxable estate. The bill also caps the exemption amount under the New Hampshire estate tax at \$2,000,000, which is the federal estate tax exemption amount for 2006.

IV. Defines the Penacook section of Concord to be a municipality for purposes of calculation of the commissioner's warrant for the statewide enhanced education tax.

2004-1208h

Amendment to SB 324-FN-LOCAL

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

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

AN ACT relative to the real estate transfer tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.

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

1 Statewide Enhanced Education Tax; Commissioner's Warrant. Amend RSA 76:8, I to read as follows:

I.(a) The commissioner of revenue administration shall annually calculate the proportion of statewide enhanced education tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

(b) The commissioner shall adjust a municipality's total equalized value for the preceding year by subtracting therefrom the value in such preceding year of any property currently non-taxable under RSA 76:3 whenever the commissioner determines that the following criteria exist:

(1) The municipality's total equalized value for the preceding year includes the value of property not taxable under RSA 76:3 in the current tax year; and

(2) The total equalized value of property for the preceding year including such non-taxable property would result in the municipality's portion of the statewide enhanced education tax for the current tax year exceeding 105 percent of the amount of the statewide enhanced education tax that would be due for the current tax year if the municipality's total equalized value for the preceding year were adjusted by subtracting the preceding year's value of such non-taxable property.

2 Real Estate Transfer Tax; Manufactured Housing. Amend the introductory paragraph of RSA 78-B:4, IV to read as follows:

IV. Notwithstanding any other provision of this chapter to the contrary, the following subparagraphs shall govern payment of transfer taxes where the real estate consists of manufactured housing, **as defined by RSA 674:31**:

3 Penacook Defined As Municipality; Commissioner's Warrant; Statewide Enhanced Education Tax. The term "municipality" as used in RSA 76:8, I shall be defined to include the Penacook section of the city of Concord.

4 Effective Date.

I. Sections 1 and 3 of this act shall take effect July 1, 2004 at 12:01 a.m. and shall apply to all tax years beginning on or after April 1, 2004.

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

AMENDED ANALYSIS

This bill:

I. Requires the commissioner of revenue administration, when determining the amount of statewide enhanced education tax to be raised by a municipality, to make an adjustment to the municipality's total equalized value by subtracting the value of certain property which was taxable in the prior year but is currently non-taxable.

II. Changes criteria for taxability of transfers of manufactured housing under the real estate transfer tax.

III. Defines the Penacook section of Concord to be a municipality for purposes of calculation of the commissioner's warrant for the statewide enhanced education tax.

2004-1188h

Amendment to SB 357

Proposed by the Committee on Municipal and County Government - C

Amend the bill by replacing section 1 with the following:

1 New Section; Quarterly Collection of Taxes. Amend RSA 76 by inserting after section 15-a the following new section:

76:15-aa Quarterly Billing of Taxes in Certain Towns and Cities. Any city or town which has adopted an optional fiscal year may adopt a system for quarterly billing and collection of taxes as provided in RSA 76:15-b.

I. In a city or town that adopts the provisions of RSA 76:15-b, III, the first quarterly bill shall be due and payable on April 1 during the 6-month conversion period prior to the fiscal year beginning on July 1. This bill shall be an amount based on

1/4 of the total previous year's complete city or town, school, and county levy. The entire amount collected on April 1, except for the county portion, shall be credited to the city or town to fund the 6-month conversion period budget as adopted by the legislative body.

(a) For the purposes of RSA 80:19, the assessment date for the tax bills due and payable on April 1 of the year of conversion to quarterly tax billing shall be that same date of April 1.

(b) Thereafter, beginning with the newly adopted fiscal year beginning July 1, tax payments shall be due as provided in paragraph II.

II. In any city or town which has adopted both an optional fiscal year and quarterly billing, taxes shall be collected in the following manner:

(a) Tax payments shall be due July 1, October 1, January 2, and March 31 of each fiscal year to fund the optional fiscal year budget which is the basis upon which the tax rate shall be established by the department of revenue administration.

(b) A quarterly billing of the taxes to be due in any tax year shall be computed by taking the previous year's assessed valuation times the previous year's tax rate, as determined by the department of revenue administration, divided by 4; provided, however, that whenever it appears to the assessors that certain individual properties have changed in valuation, they may use the current year's appraisal times the previous year's tax rate divided by 4 to compute the quarterly payment. Quarterly payments of taxes assessed under this section shall be due and payable on July 1 and October 1. For the purpose of the quarterly payments, a list of assessed property shall be committed by the board of assessors with warrants under their hands and seal directed to the collector no later than May 15. The collector shall mail all the bills for the 2 quarterly payments no later than 30 days before their due dates. The collector shall receive such payments and credit the amount paid towards the amount of the taxes eventually assessed against the property.

(c) Payments of the remainder of the taxes, minus the 2 quarterly payments due on July 1 and October 1 of that year, shall be due and payable in 2 equal billings on January 2 and March 31. For the purpose of these final remaining quarterly payments, the assessor shall commit warrants to the collector. The collector shall mail all the bills for the 2 remaining tax payments no later than 30 days before their due dates. For purposes of RSA 76:16, RSA 76:16-a, and RSA 76:17, the "notice of tax" shall mean the date the board of tax and land appeals determines to be the last date of mailing of the January 2 quarterly tax bill, which bill is based on the current year's tax rate and assessments.

(d) For the purpose of establishing the real estate tax lien under the provisions of RSA 80:59, for the tax bills due and payable each year after the adoption of quarterly tax billing, the real estate of every person or corporation may be subject to the tax lien procedure by the collector, in case all taxes against the owner shall not be paid in full on or before April 1 next after its assessment.

III. If, subsequent to the collector issuing quarterly bills, the assessors are made aware of a change in ownership in a parcel so billed, the assessors shall amend the tax list and notify the collector, who, upon the request of the new owner, shall cause to be mailed to the new owner a statement of account showing the balance due on the current quarterly billing.

IV. Interest at the rate of 12 percent per annum shall be charged on all taxes not paid on or before their due dates or 30 days after mailing, whichever is later.

Amend RSA 72:1-d, I(d) as inserted by section 2 of the bill by replacing it with the following:

(d) Notwithstanding subparagraph (c), in municipalities that bill quarterly, pursuant to RSA 76:15-aa, the date the municipality mails the final tax bill to the taxpayers.

Amend RSA 76:1-a, I(d) as inserted by section 3 of the bill by replacing it with the following:

(d) Notwithstanding subparagraph (c), in municipalities that bill quarterly, pursuant to RSA 76:15-aa, the date the municipality mails the final tax bill to the taxpayers.

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

5) Applicability. The provisions of this act shall not apply to the city of Concord while 1994, 203 as amended by 1997, 115 remains in effect.

2004-1189h

Amendment to SB 359

Proposed by the Committee on Municipal and County Government - C

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

1) Grammar Change. Amend RSA 674:41, I(d) (3) to read as follows:

(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; **or**

2) New Subparagraph; Planning and Zoning; Building on Certain Pre-existing Streets. Amend RSA 674:41, I by inserting after subparagraph (d) the following new subparagraph:

(e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with RSA 674:35, if one or more buildings have been

erected on other lots on the same street.

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

AMENDED ANALYSIS

This bill allows for the construction of buildings on certain pre-existing streets which were approved by a municipality before the municipality authorized the planning board to regulate the subdivision of land.

2004-1084h

Amendment to SB 368

Proposed by the Committee on Commerce - C

Amend RSA 405:48, II and III as inserted by section 1 of the bill by replacing them with the following:

II. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

III. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

2004-1135h

Amendment to SB 370

Proposed by the Committee on Commerce - C

Amend RSA 412:2, II(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Title insurance, ***except as otherwise provided in RSA 416-A:17 and RSA 416-A:17-a.***

Amend the bill by inserting after section 6 the following and renumbering the original sections 7 and 8 to read as 8 and 9, respectively:

6 New Section; Filing of Forms. Amend RSA 416-A by inserting after section 17 the following new section:

416-A:17-a Filing of Forms. Every insurer and advisory organization shall file policy forms, endorsements, and other contract language covered by this chapter within 30 days of the effective date of this section.

2004-1193h

Amendment to SB 391

Proposed by the Committee on Municipal and County Government - C

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

AN ACT relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene.

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

1 Town or District Bonds or Notes. Amend RSA 33:8 to read as follows:

33:8 Town or District Bonds or Notes. Except as otherwise specifically provided by law, the issue of bonds or notes by any municipal corporation, except a city or a town which has adopted a charter pursuant to RSA 49-B, without a budgetary town meeting, and except a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13 shall be authorized by a vote by ballot of 2/3, and the issue of tax anticipation notes, by a vote of a majority, of all the voters present and voting at an annual or special meeting of such corporation, called for the purpose. The issue of notes or bonds by a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13 shall be authorized by a vote of 3/5. ***The issue of notes or bonds by a municipality that has adopted an optional form of legislative body under RSA 49-D:3, I-a or RSA 49-D:3, II-a shall be authorized by either a 2/3 or 3/5 vote as adopted and provided for in the charter. If such charter does not specify which majority vote is required, then the required majority vote shall be 2/3.*** Only votes in the affirmative or negative shall be included in the calculation of any majority. No such action taken at any special meeting shall be valid unless a majority of all the legal voters are present and vote at such special meeting, unless the governing board of any municipality shall petition the superior court for permission to hold an emergency special meeting, which, if granted, shall give said special meeting the same authority as an annual meeting. The warrant for a special meeting shall be published once in a newspaper having a general circulation in the municipality within one week after the posting of such special meeting. The warrant for any such annual or special meeting shall be served or posted at least 14 days before the date of such special meeting. Every warrant shall be deemed to have been duly served or posted, if the return on the warrant shall so state, and it shall be certified by the officer or officers required to serve or post the same. All bonds or notes, authorized in accordance with this chapter, shall be signed by the governing board, or a majority of the governing board, and countersigned by the treasurer of the municipality, and shall have the corporate seal, if any, affixed to it. The discretion of fixing the date, maturities, denominations, the interest rate, or discount rate in the case of notes, the place of payment, the form and other details of said bonds or notes and of providing for the sale of such bonds or notes, may be delegated to the governing board or to the treasurer and shall, to the extent provision therefor shall not have been made in the vote authorizing the same, be deemed to have been delegated to the governing board.

2 Municipal Bonds; Town Charters. Amend RSA 49-B:3, I-a to read as follows:

I-a. Official ballot town council shall be a variation of the town council which provides for voting on some or all matters that general law requires to be addressed at the annual or a special meeting of a town, by official ballot. In such event, the town council shall be vested only with the limited authority to vote on all matters not voted on by official ballot. When an official ballot town council is included in any charter, the provisions of RSA 49-D:3, I, relative to town councils, shall apply in all respects, except with respect to those matters to be voted on by official ballot. When a charter provides for an official ballot town council it shall also specify with precision the budgetary items to be included on the official ballot, a finalization process for the annual budget, the process for public hearings, debate, discussion, and amendment of questions to be placed on the official ballot, the procedures for the transfer of funds among various departments, funds, accounts, and agencies as may be necessary during the year, and the applicability of the official ballot procedure to special elections. ***The majority vote required to approve bonds or notes shall be either 2/3 or 3/5 as adopted and provided for in the charter. If a charter does not specify which majority vote is required, than the required majority vote shall be 2/3.*** All voting by official ballot shall be in accordance with the procedures established in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours. Nonbudgetary items may be placed on the official ballot pursuant to this section notwithstanding the provisions of RSA 40:4-e and RSA 39:3-d.

3 Repeal. 1969, 618, relative to Claremont school district elections, is repealed.

4 Claremont School District; Terms of Office. The Claremont school district shall commence regular district elections in March 2005 in accordance with RSA 40:13 or RSA 671:2, as applicable. Each Claremont school district officer shall remain in office until a replacement is elected at the next election following the expiration of his or her term of office established prior to the repeal of 1969, 618.

5 Repeal. 1967, 566:2, relative to elections conducted by the union school district of Keene, is repealed.

6 Preparation of School District Ballot; Removal of Coordination of School District Ballot With City Election. Amend 1967, 566:4 as amended by 1977, 229:1; 1995, 40:1; and 1998, 258:4 to read as follows:

566:4 Declarations of Candidacy; Ballots. A candidate for school district office shall file a declaration of candidacy for the office with the district clerk during the same filing period as is established for a non-partisan town election. ~~[The district clerk and the city clerk of the city of Keene shall coordinate the preparation of ballots for the election of said officials with such other voting materials as are in use for the election and may combine school district and city ballots. The costs of the preparation of such combined ballots shall be divided as the city and school district clerks shall determine. If the clerks do not coordinate the preparation of a combined city and school ballot, then the school district clerk shall prepare ballots for the election of school district officials in an appropriate form as will enable city election officials to handle the ballots and count them efficiently. The district clerk shall deliver said ballots to the city clerk of the city of Keene, who shall deliver the same to the election officials in the several wards at the same time the ballots for the election of city or state officials are delivered.]~~

7 Union School District of Keene; Terms of Office. The union school district of Keene shall commence regular district elections in accordance with RSA 40:13 or RSA 671:2, as applicable. Each school district officer shall remain in office until a replacement is elected at the next election following the expiration of his or her term of office established prior to the repeal of 1967, 566:2.

8 Referendum. The clerks of the union school district of Keene and the city of Keene shall prepare referendum ballots for use by the voters at the municipal election of the city of Keene to be held in November, 2004, upon which shall be printed the question: "Are you in favor of amending the charter of the union school district of Keene to withdraw the school district's permission to conduct November biennial elections, and adopting the provisions of sections 6, 7, and 8 of senate bill 391 of the 2004 legislative session, an act entitled, "An act relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene?" Beneath this question shall be printed the word "Yes" and the word "No" with an oval immediately opposite each such word in which the voter may indicate his or her choice. If a majority of the voters present and voting on the question shall signify their approval thereof, this act shall be declared adopted. Ballots cast on said question shall be counted and the results announced by the city election officials in the manner prescribed in RSA 659. Ward moderators shall forthwith certify the results of said vote in their respective wards to the district clerk; and the district clerk shall within 10 days after said election certify to the secretary of state the result of the vote on said question.

9 School District Election Dates. Amend RSA 671:2 to read as follows:

671:2 Election Dates. School district officers shall be elected either at the town meeting as provided in RSA 671:22-26 or at an annual meeting of the district held between the dates set forth in RSA 197:1. Notwithstanding any other provision of law ~~[including the provisions of 1969, 618 relative to the time for holding school district elections in the city of Claremont]~~, no election for school district officers shall be held in conjunction with the biennial election. The prohibition in this section against holding an election for school district officers in conjunction with the biennial election shall not apply to the election of the board of education members of the Concord union school district as provided in 1961, 355 as amended by 1983, 123, to the election of the Laconia board of education members as provided in section 9:01 of the city charter of Laconia as amended by 1975, 357, or to the election of the school board members of the union school district of the city of Keene, as provided in 1967, 566.

10 School District Election Dates. Amend RSA 671:2 to read as follows:

671:2 Election Dates. School district officers shall be elected either at the town meeting as provided in RSA 671:22-26 or at an annual meeting of the district held between the dates set forth in RSA 197:1. Notwithstanding any other provision of law ~~[including the provisions of 1969, 618 relative to the time for holding school district elections in the city of Claremont]~~, no election for school district officers shall be held in conjunction with the biennial election. The prohibition in this section against holding an election for school district officers in conjunction with the biennial election shall not apply to the election of the board of education members of the Concord union school district as provided in 1961, 355 as amended by 1983, 123, ~~or~~ to the election of the Laconia board of education members as provided in section 9:01 of the city charter of Laconia as amended by 1975, 357~~;~~ ~~or to the election of the school board members of the union school district of the city of Keene, as provided in 1967, 566].~~

11 Contingency.

I. If the voters of the union school district of Keene do not approve sections 5-7 of this act in accordance with the referendum under section 8 of this act, then section 9 of this act shall take effect 60 days after its passage and section 10 shall not take effect.

II. If the voters of the union school district of Keene approve sections 5-7 of this act in accordance with the referendum under section 8 of this act, then section 10 of this act shall take effect 60 days after its passage and section 9 shall not take effect.

12 Effective Date.

I. Sections 5, 6, and 7 of this act shall take effect as provided in section 8.

II. Sections 9 and 10 of this act shall take effect as provided in section 11.

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

AMENDED ANALYSIS

This bill:

I. Clarifies the authority to approve municipal bonds by either a 2/3 or 3/5 vote in towns with a municipal charter.

II. Repeals the law that allows the Claremont school district to conduct elections in November, provides for a March 2005 school board election, and extends the terms of office of school board officers.

III. Repeals the law that allows the union school district of Keene to conduct elections in November, provides for a school board election at a regular annual meeting, and extends the terms of office of school board officers.

2004-1201h

Amendment to SB 414-FN

Proposed by the Committee on Municipal and County Government - C

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

☐ **Four-Year Exemption; Impact Fee Exception Added.** RSA 674:39 is repealed and reenacted to read as follows:

674:39 Four-Year Exemption.

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 4 years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 12 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the 4-year exemption described in paragraph I. The planning board may, for good cause, extend the 12-month period set forth in paragraph I(a).

2] Innovative Land Use Controls; Impact Fees. RSA 674:21, V(d) is repealed and reenacted to read as follows:

(d) All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

3] New Subparagraph; Innovative Land Use Controls; Off-site Exactions. Amend RSA 674:21, V by inserting after subparagraph (i) the following new subparagraph:

(j) The failure to adopt an impact fee ordinance shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, "off-site improvements" means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement. Whenever the calculation of an exaction for an off-site improvement has been predicated upon some portion of the cost of that improvement being borne by the municipality, a refund of any collected exaction shall be made to the payor or payor's successor in interest upon the failure of the local legislative body to appropriate the municipality's share of that cost within 6 years from the date of collection. For the purposes of this subparagraph, failure of local legislative body to appropriate such funding or to construct any necessary off-site improvement shall not operate to prohibit an otherwise approved development.

Amend the bill by replacing section 5 with the following:

5] Effective Date.

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

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

2004-1158h

Amendment to SB 453

Proposed by the Committee on Ways and Means - C

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

AN ACT establishing a committee to study the tobacco master settlement agreement revenue stream to the state, and changing requirements for tobacco manufacturers not participating in the tobacco Master Settlement Agreement.

Amend the bill by replacing section 6 with the following:

6] Master Settlement Agreement; Non-participating Tobacco Manufacturers; Escrow Requirement. Amend RSA 541-C:3, II(b) to read as follows:

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow ***on account of units sold in the state*** in a particular year was greater than the ~~[state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment)]~~ ***Master Settlement Agreement payments, as determined pursuant to section IX(i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold*** had it been a

participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

7 Master Settlement Agreement; Non-participating Tobacco Manufacturers; Escrow Requirement. RSA 541-C:3, II(b) is repealed and reenacted to read as follows:

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

8 Severability; Contingency. If RSA 541-C:3, II(b) as inserted by section 6 of this act is held by a court of competent jurisdiction to be unconstitutional, then subparagraph II(b) as inserted by section 6 shall be deemed to be repealed and section 7 of this act shall take effect. If RSA 541-C:3, II(b) is not held to be unconstitutional, section 7 of this act shall not take effect. Neither any holding of unconstitutionality nor the repeal of RSA 541-C:3, II(b) shall affect, impair, or invalidate any other portion of RSA 541-C:3, or the application of such section to any other person or circumstance, and such remaining portions of RSA 541-C:3 shall at all times continue in full force and effect.

9 New Paragraph; Master Settlement Agreement; Non-participating Tobacco Manufacturers; Escrow Requirement. Amend RSA 541-C:3, I by inserting after paragraph I the following new paragraph:

I-a. The payments required by subparagraph I(b) shall be made in quarterly installments during the year in which the sales covered by such deposits are made.

10 Effective Date.

I. Sections 1-5 of this act shall take effect upon its passage.

II. Section 7 of this act shall take effect as provided in section 8 of this act.

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

AMENDED ANALYSIS

This bill establishes a committee to study the tobacco master settlement agreement revenue stream to the state.

The bill also changes requirements regarding escrow of funds by tobacco manufacturers not participating in the tobacco Master Settlement Agreement.

2004-1020h

Amendment to SB 467

Proposed by the Committee on Municipal and County Government - C

1 Town of Derry; Exemption From Public Sewer Requirement.

I. Notwithstanding RSA 147:8, the town of Derry may grant waivers to the requirement of connection to the public sewer for properties with adequate alternative sewage disposal systems, regardless of the date installed, which comply with applicable state and local regulations and which lie within 125 feet of the following:

(a) The new sewer running from Route 102 to the site of the Barkland Acres school.

(b) The new sewer running from Sunnyside Lane, Map 117 – Lot 0539 to the South Range school and along Bradford Street to Silver Street.

II. When an alternative sewage disposal system fails, as determined by local municipal health officials or the department of environmental services, the waiver shall terminate and the property shall connect to the public sewer.

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

2004-1198h

Amendment to SB 490-FN

Proposed by the Committee on Election Law - C

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

AN ACT relative to voting procedures and relative to ward boundaries in Manchester.

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-11 to read as 1-9, respectively.

Amend the bill by replacing section 3 with the following:

3 Absentee Registration Affidavit. Amend RSA 654:17, I to read as follows:

I. The absentee registration affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Affidavit (Absence from town)

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the election to be held in said town on _____, _____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said

election;

3) That I am temporarily residing in _____ (city and state or city, province, and country);

4) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows ~~[the]~~ **my** name and address ~~[of the voter]~~; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, ~~[or]~~ other government document that shows ~~[the]~~ **my** name and address, ~~[of the voter]~~ **or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;**

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

Affidavit (Physical Disability)

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on _____, ____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows ~~[the]~~ **my** name and address ~~[of the voter]~~; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, ~~[or]~~ other government document that shows ~~[the]~~ **my** name and address, ~~[of the voter]~~ **or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;**

4) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

Amend the bill by replacing section 6 with the following:

6) Preparation of Voting Materials; Squares. Amend RSA 656:8 to read as follows:

656:8 Squares. Directly at the right of the name of each candidate there shall be a square~~[-except that, in the case of president and vice-president of the United States, one square shall suffice which shall be placed opposite the designation "President and Vice-President of the United States"]~~, **box, oval, or other appropriate symbol for directing voters where to make the appropriate mark.**

Amend the bill by deleting section 7 and renumbering the original sections 8-9 to read as 7-8, respectively.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8) Manchester; Ward Boundaries. For purposes of elections for state senator and state representative conducted after the effective date of this act in districts established by the supreme court in Below v. Gardner, No. 2002-0243 (June 24, 2002) and Burling v. Chandler, No. 2002-0210 (July 26, 2002), ward boundaries for senate and representative districts in Manchester shall be the ward boundaries established by the city of Manchester in its charter.

AMENDED ANALYSIS

This bill:

- I. Requires that civil penalties for voter fraud be deposited in the election fund.
- II. Permits a person registering as an absentee voter to use a letter from the administrator of a nursing home or similar facility as proof of identity and domicile.
- III. Clarifies certain requirements for maintaining checklists, preparing voting materials, and assisting disabled voters.
- IV. Requires that state senate and representative elections in Manchester be conducted in accordance with the ward lines established in its city charter.

2004-1046h

Amendment to SB 498-FN
Proposed by the Committee on Commerce - C

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

- Regulation of Debt Adjustment Services. RSA 399-D is repealed and reenacted to read as follows:

CHAPTER 399-D

DEBT ADJUSTMENT SERVICES

399-D:1 Scope. For purposes of this chapter, debt adjustment services are conducted in this state whenever services are performed in this state or on behalf of a person located in this state.

399-D:2 Definitions. In this chapter:

- I. "Branch office" means a business location within this state of a person required to be licensed under this chapter. Branch office does not include a person's principal office location.
- II. "Commissioner" means the bank commissioner.
- III. "Creditor" means a person who regularly extends credit that is subject to an interest or other charge or is payable, by written agreement, in more than 4 installments.
- IV. "Debt adjustment" means receiving, for a fee or compensation and as agent of a debtor, money or evidences thereof for the purpose of distributing such money or evidences thereof among creditors in full or partial payment of obligations of the debtor.
- V. "Debtor" means a person who owes or is obligated to another or others.
- VI. "Licensee" means a person duly licensed by the commissioner under the provisions of this chapter.
- VII. "Person" means an individual, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, or any other entity.
- VIII. "Principal office" means the main office location of a person required to be licensed under this chapter.

399-D:3 License Required.

I. Any person that, in its own name or on behalf of other persons, engages in the business of debt adjustment in this state or with persons located in this state shall be required to obtain a license from the banking department. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, and branch offices.

II. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

399-D:4 Exceptions. The provisions of this chapter shall not apply to the following:

- I. Any attorney admitted to the practice of law in this state, when engaged in such practice.
- II. Any bank, fiduciary or financing or lending institution authorized to transact business in this state, which performs debt adjustment in the regular course of its principal business.
- III. Any title insurance or abstract company authorized to transact business in this state, while doing an escrow business.
- IV. Any person acting pursuant to any law of this state or of the United States or acting under the order of a court.
- V. Any employee of a licensee when acting in the regular course of employment.

399-D:5 License Application; Requirements; Investigation.

I. No person shall engage in the business of debt adjustment without a license issued in accordance with the provisions of this chapter. Any person desiring to obtain such license shall file with the commissioner a verified application in writing, under oath, setting forth, if a sole proprietorship, the name and address of the person, the name under which he or she is doing business and the exact location and address of his or her office; if a corporation, partnership, association, limited liability company or other entity, the name, exact office location and address of the corporation, partnership, association, limited liability company or other entity, the exact office location of each of its New Hampshire branch offices, and the names and addresses of all officers, directors, partners, and owners thereof.

II. To be considered for licensing, each person, firm or corporation desiring to obtain such a license shall file with the banking department one verified application prescribed by the bank commissioner. At a minimum, the application shall be in writing, setting forth the primary business address of the applicant, the address of its principal office and all branch offices

located or to be located within the state, and a list of the principal owners, officers, and directors of the applicant. Each application shall designate the name and address of the manager or person in charge at each licensed location and shall contain other information required by rules under this chapter. The applicant shall submit any other information that the bank commissioner may require. In addition:

- (a) Each application shall be accompanied by a current financial statement, certified to by a certified public accountant or a public accountant, a nonrefundable license fee of \$100 for each office, and an investigation fee of \$50.
- (b) Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, consumer credit administration division.
- (c) Each licensee shall furnish with his application a blank copy of the contract intended for use between the licensee and the debtor and shall notify the commissioner of all changes and amendments thereto.
- (d) Each license issued under this chapter shall expire on December 31 next following its issuance unless sooner surrendered, revoked or suspended, but may be renewed as provided in this chapter.
- (e) The application shall state that the names provided under paragraph I of this section include all persons, firms, or corporations who have a financial interest, directly or indirectly, in such business.

III. Every applicant for licensing under this chapter shall file with the commissioner, in such form as the commissioner prescribes by rule, irrevocable consent appointing the commissioner to receive service of any lawful process in any non-criminal suit, action or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or under any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. When any person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or by any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

- (a) The plaintiff, who may be the attorney general in a suit, action, or proceeding instituted by him or her, immediately sends a notice of the service and a copy of the process by registered mail to the defendant or respondent at the person's last address on file with the commissioner; and
- (b) The plaintiff's affidavit of compliance with this paragraph is filed in the case on or before the return day of the process or within such further time as the court allows.

IV. Upon the applicant's filing of the complete application and payment of the required fee, the commissioner shall have, in accordance with RSA 541-A:29, up to 120 days to investigate and determine whether the applicant's financial resources, experience, personnel, and record of past or proposed conduct warrant the public's confidence and the issuance of a license.

399-D:6 Bond of Applicant.

I. Each applicant shall submit to the commissioner, with his or her application for a license, a bond, in such form as the commissioner shall prescribe, in the amount of \$25,000. The applicant shall be the obligor in such bond and an insurance company authorized to transact the business of fidelity and surety insurance in this state shall be the surety.

II. The bond shall run to the state of New Hampshire for the use of the state and of any person or persons who may have a cause of action by virtue of the activities of the applicant in debt adjustment. The bond shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this chapter and any regulation, order or directive issued hereunder, and he or she will well and faithfully perform the obligations and duties of all debt adjustment contracts into which he or she may enter, and will well and faithfully account for all funds entrusted to him or her by a debtor.

III. Each bond shall remain in effect until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Any surety may cancel a bond upon 30 days' written notice to the commissioner, but no such cancellation shall affect any liability which arises prior to the termination of such 30-day period. Upon the cancellation of a bond by a surety, the licensee shall file a new bond with the commissioner or the license shall be automatically suspended at the end of such 30-day period.

IV. Any debtor who may be damaged by the neglect, default, or wrongful act of a licensee or his or her agent may proceed on such bond against the obligor or surety thereon, or both, to recover damages. Any licensee, upon his or her own motion, may be made a party to any such action.

399-D:7 License Grant.

I. If the commissioner determines that the applicant meets the requirements of this chapter, the commissioner shall issue a license or licenses permitting the applicant to engage in the business of debt adjustment in accordance with the laws of this state.

II. No license shall be issued to any person whose principal place of business is located outside of this state, unless the person designates an agent residing within this state for service of process.

III. Any license fee required by this chapter shall be paid before a license shall become effective.

IV. Each license issued under the provisions of this chapter shall state the name and address of the principal office of

the licensee and, if the license is a branch office license, the name and address of the branch office location for which the license is issued.

V. If a licensee is a person other than a natural person, the license issued to it shall entitle all officers, directors, members, partners, trustees, and employees of the licensed corporation, partnership, entity, or trust to engage in the business of debt adjustment; provided that one officer, director, member, partner, employee, or trustee of such person shall be designated in the license application as the individual to be contacted under the provisions of this chapter.

VI. If the licensee is a natural person, the license shall entitle all employees of the licensee to engage in the business of debt adjustment. For purposes of this paragraph, employee shall not include an independent contractor.

VII. A license issued under this chapter shall not be transferable or assignable between persons without the prior approval of the commissioner.

399-D:8 License Denial; Appeal.

I. Applicants may appeal a license denial in accordance with RSA 541-A and rules of the commissioner adopted thereunder.

II. Applicants may petition the banking department for a rehearing in accordance with RSA 541 if the decision in an appeal conducted pursuant to paragraph I affirms a denial of a license application.

399-D:9 License Term; Renewal.

I. Each license shall remain in force until it has been surrendered, revoked, suspended, or expires in accordance with the provisions of this chapter. Each license shall expire on December 31 of each calendar year.

II. If a person holds a valid license under this section and is in compliance with this chapter and the rules thereunder, the licensee may renew the license by paying the required fee to the banking department on or before December 1 for the ensuing year that begins on January 1. Failure to renew the license shall result in the license terminating on December 31.

III. A renewal fee of \$100 for the principal office license and for each branch office license shall be submitted with the application for license renewal.

IV. No application for renewal shall be denied without reasonable cause and the right of appeal pursuant to RSA 541-A and RSA 541.

399-D:10 License Posting; Change of Location.

I. It shall be unlawful to engage in the business of debt adjustment without a conspicuously posted license in the licensee's principal place of business within this state and in each of the licensee's branch offices within this state.

II. No licensee shall change his or her location unless authorized by the commissioner.

399-D:11 Advertising.

I. No person shall advertise, print, display, publish, distribute, broadcast, or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for debt adjustment under the provisions of this chapter which is false, misleading, or deceptive. Any reference to the amount of a debt shall refer to the original principal amount. Any statement of the amount of an installment, or the rate or amount of interest charges required for any debt, shall comply with the provisions of the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq.

II. The banking department may review advertising files during the course of any examination or investigation undertaken in accordance with this chapter.

399-D:12 Trade Name. No licensee shall conduct the business of a debt adjuster under a trade name or other name which is different from the name stated in its principal office license or branch office license without immediately notifying the commissioner, who shall amend the license accordingly.

399-D:13 License Denial, Revocation, or Suspension.

I. The commissioner may issue an order requiring a person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that it has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. If the person fails to request a hearing or respond to the show cause order within 30 calendar days of receipt of the order, the person shall be deemed to be in default, and the penalties requested shall be imposed. The commissioner may by order, after notice and opportunity for hearing, assess penalties and deny, refuse to renew, suspend, or revoke a license if it is in the public interest and the applicant or licensee, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

- (a) Has violated any provision of this chapter or rules thereunder;
- (b) Has not met the standards established in this chapter;
- (c) Has filed an application for licensing which as of its effective date, or as of any date after the filing in the case of

an order denying of the filing, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(d) Has made a false or misleading statement to the commissioner or in any reports to the commissioner;

(e) Has made fraudulent misrepresentations, or has circumvented or concealed, through whatever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to a person under the provisions of this chapter;

(f) Has failed to supervise its agents, managers, or employees;

(g) Is the subject of an order entered within the past 5 years by this state, any other state, or federal regulator denying, suspending, or revoking licenses or registration;

(h) Is permanently, preliminarily, or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of debt adjustment or collection activities;

(i) Is not qualified on the basis of such factors as experience, knowledge, and financial integrity;

(j) Has engaged in dishonest or unethical practices in the conduct of the business of debt adjustment;

(k) Has violated applicable federal laws or regulations thereunder;

(l) Has been convicted of a crime involving moral turpitude;

(m) Has maintained a continuous course of unfair conduct;

(n) Is insolvent, or has filed in bankruptcy or receivership, or made assignments for the benefit of creditors; or

(o) For other good cause shown.

II. The banking department may, upon due notice and opportunity for a hearing, suspend any license for a period not exceeding 30 days, pending investigation by the banking department.

III. Any license revocation, license suspension, or unfavorable action by the banking department on a license shall comply with the provisions of RSA 541-A:30.

IV. An aggrieved licensee may, pursuant to RSA 541-A:30 and RSA 541, appeal unfavorable action by the banking department.

V. The banking department may take action for immediate suspension of a license, pursuant to RSA 541-A:30, III.

VI. If a licensee is a partnership, association, corporation, or entity however organized, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership has so acted or failed to act on behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for supervision of its branch offices and for the acts of any or all of its employees while acting as its agent if such licensee, after actual knowledge of said acts, retained the benefits, proceeds, profits, or advantages accruing from said acts or otherwise ratified said acts.

VII. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a debt adjuster, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application. The commissioner may deem abandoned and withdraw any application for licensure made pursuant to this chapter, if the applicant fails to respond in writing within 180 days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.

399-D-14 Fees of Licensee.

I. The fees of the licensee shall be agreed upon in advance and stated in the contract, and provision for settlement in case of cancellation or prepayment shall be clearly stated in the contract. Fees shall be amortized equally each month over the length of the contract and no licensee shall be entitled to any fee until the contract has been in full force for 30 days and thereafter the monthly amortized amount may be applied to charges at 30-day intervals, while the contract is in full force and effect, except in the event of prepayment or cancellation. No licensee shall be entitled to any fee against the debtor, upon any contract, until the debt adjustment program is arranged and approved by the debtor. A contract shall not be effective until a debtor has made a payment to the licensee for distribution to his creditors. The licensee may request a deposit not to exceed \$25 upon the signing of the contract. Said deposit shall be held in escrow by the licensee. In the event that the debtor fulfills the conditions of the contract, the deposit shall be returned. In the event that the debtor fails to make payment in accordance with the contract for a period in excess of 60 days, the deposit shall be forfeited.

II. A licensee shall not receive any fee unless he or she has the written consent of such number of creditors as hold obligations representing at least 25 percent of the total amount of indebtedness and 25 percent of the total number of the creditors listed in the licensee's contract with the debtor, or unless a like number of creditors have accepted a distribution of payment. Creditors or their attorneys shall have access to all records relative to such consent for verification.

III. The fees received by a licensee shall be based on the amount required to pay indebtedness and shall not exceed:

(a) 10 percent when the plan of payment is for a period of 10 months or less;

(b) 12 ½ percent when the plan of payment is for a period of more than 10 months but less than 18 months; and

(c) 15 percent when the plan of payment is for a period of 18 months or more.

IV. In the event of prepayment of the listed debts, or cancellation by the debtor upon 30 days' written notice to the

licensee, or cancellation by the licensee after willful default for more than 30 days by the debtor, and if the licensee has performed all of the services required by this chapter and by the terms of the contract, the licensee shall be entitled to a cancellation charge which is 5 percent of that portion of the agreed service charge which is due and unpaid for the unexpired term of the contract as of the time of such prepayment or cancellation, but in no event more than \$50. Within 10 days of cancellation, the licensee shall notify the creditors of the debtor or their attorneys in writing of the cancellations.

399-D:15 Licensee's Duties.

I. Each licensee shall:

(a) Keep complete and adequate records during the term of the contract and for a period of 7 years from the date of cancellation or completion of the contract with each debtor. The records shall contain complete and accurate information regarding the contract, payments, disbursements and charges, and shall be open to inspection by the commissioner and the commissioner's duly appointed agents during normal business hours.

(b) Make remittances to creditors within 10 days after receipt of any funds, less prorated fees, unless the reasonable payment of one or more of the debtor's obligations requires that such funds be held for a longer period to accumulate a sum certain.

(c) Furnish the debtor with a written statement of his or her account every 90 days, and at the termination or cancellation of the contract and with a verbal accounting at any time the debtor may request it during normal business hours.

II. No licensee shall accept an account unless a written and thorough budget analysis indicates that the debtor can reasonably meet the requirements indicated by the budget analysis.

III. No licensee shall enter into a contract for a longer period of time than is reasonable and consistent with the budget analysis, unless a written statement by the debtor specifically indicates the debtor's desire to make lower payments over the extended period, at a greater fee, as provided in RSA 399-D:14, III.

IV. If a compromise of a debt is arranged by the licensee with any one or more creditors, the debtor shall have the full benefit of such compromise.

V. A licensee shall submit written notification to the banking department of the name and address, and such other information as the commissioner may require by rule, of each new stockholder or other person owning 10 percent or more of the licensee, and of each new member, partner or trustee of the licensee, no later than 30 days after the change.

VI. Licensees shall provide written notice to the commissioner of any proposed change in location or proposed closing of any licensed office no later than 10 business days before the effective date of such change of location or closing.

VII. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that required the filing of the amendment.

VIII. Persons subject to or licensed under this chapter shall abide by applicable federal laws, and regulations including the federal Truth in Lending Act, and the laws, orders, and rules of this state. Any violation of such law, rule, or order shall be a violation of this chapter.

399-D:16 Prohibited Acts. No licensee shall:

I. Purchase from a creditor any obligation of a debtor.

II. Operate as a collection agent and as a licensee for the same debtor's account.

III. Execute any contract or agreement to be signed by the debtor unless the contract or agreement is fully and completely filled in and finished.

IV. Receive or charge any fee in the form of a promissory note or other promise to pay, or receive or accept any wage assignment, mortgage or other security for any fee, either as real or personal property.

V. Pay any bonus or other consideration to any person for the referral of a debtor to his or her business or accept or receive any bonus, commission or other consideration for referring any debtor to any person for any reason.

VI. Advertise, display, distribute, broadcast or televise, or permit to be displayed, advertised, distributed, broadcasted or televised, his or her services, rates or terms in any manner whatsoever which makes any false, misleading, or deceptive statement or representation with regard to the services to be performed by the licensee or the charges to be made therefore.

399-D:17 Licensee not to Perform Legal Services or be Associated with Attorney. Nothing contained in this chapter shall be construed to authorize any licensee to engage in and no licensee shall engage in the practice of law; offer to perform or perform any legal service; or offer to give, or give any legal advice. No licensee shall by any means represent or imply that he or she is authorized or competent to furnish legal advice or perform legal services; assume authority on behalf of any creditor or debtor or accept a power of attorney authorizing him or her to employ or terminate the services of an attorney or to arrange the terms of or compensate for such services; communicate with any debtor or creditor or any other person in the name of an attorney or upon the stationery of an attorney; prepare any form or instrument which only an attorney is authorized to prepare; be associated, directly or indirectly, with any attorney, borrow money from or pledge assets to any attorney, or refer any debtor to any particular attorney.

399-D:18 License Surrender.

I. A licensee who ceases to engage in the business of a debt adjuster at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the bank commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The bank commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

II. Failure to comply with the provisions of this chapter and rules or orders adopted under this section, shall be cause for denial of future license applications and the imposition of penalties under RSA 399-D:24.

III. Withdrawal of the surrendered license shall become effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, the withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and the withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 399-D:13 within one year after the withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was effective.

399-D:19 Consumer Inquiries.

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 30 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the banking department. Not later than 60 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

(a) Make appropriate corrections in the account of the consumer and transmit to the consumer and the banking department written notification of such corrections, including documentary evidence thereof; or

(b) Transmit a written explanation or clarification to the consumer and the banking department which sets forth, to the extent applicable, the reasons why the licensee believes its actions are correct, including copies of documentary evidence thereof.

II. A licensee who fails to respond to consumer complaints within the time prescribed by this section shall pay to the commissioner the sum of \$50 for each day such response is overdue. For purposes of this section, the date of transmission shall be the date such response is received by the commissioner.

III.(a) Licensees which, because of extenuating circumstances beyond the control of the licensee, are unable to comply with the time limits prescribed in this section, may make written request to the commissioner for a waiver of such time frames. Waivers shall not be granted or considered unless the request for the waiver:

(1) Is received by the banking department within 50 days following the licensee's receipt of the complaint.

(2) Specifies the reason for the request.

(3) Specifies a date certain by which the licensee shall comply with the provisions of this section.

(b) Requests for waivers shall be either granted or denied within 5 days of receipt by the banking department.

IV. In any investigation to determine whether a person has violated or is about to violate this chapter or any rule or order under this chapter, upon the commissioner's finding that the person violated this chapter or a rule or order under this chapter, or that the person charged with the violation is in default, the commissioner shall be entitled to recover the cost of the investigation, in addition to any other penalty provided for under this chapter.

399-D:20 Contract with Debtor. Each licensee shall make a written contract with a debtor, and immediately furnish the debtor with a true copy thereof. Such contract shall set forth the complete list of the debtor's obligations to be adjusted, a complete list of the creditors holding such obligations, the total charges agreed upon for the services of the licensee and the beginning and expiration date of the contract. No licensee shall enter into a contract in which the debtor's obligations will not be discharged within 24 months, exclusive of contractual debts which exceed the 24-month period.

399-D:21 Separate Bank Account for Benefit of Creditors; Books and Records.

I. Each licensee shall maintain a separate bank account for the benefit of debtors in which all payments received from debtors for the benefit of creditors shall be deposited within 24 hours of receipt thereof and in which all payments shall remain until a remittance is made to either a debtor or a creditor.

II. Books and Records:

(a) Every licensee shall keep and use in his business, books, accounts, and records which will enable the commissioner to determine whether such licensee is complying with the provisions of this chapter and with the regulations of the commissioner.

(b) Every licensee shall preserve such books, accounts, and records for at least 7 years after making the final entry on any transaction recorded therein.

399-D:22 Examinations and Investigations.

I. The commissioner shall examine the condition and affairs of each licensee at least every 18 months.

II. The banking department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this chapter and the rules adopted under it and with the federal acts and regulations to which it is subject, including the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq. In determining compliance, the banking department may examine the books, accounts, records, files, and other documents or matters of any licensee or person. The banking department shall have the power to subpoena witnesses and administer oaths in any adjudicative proceedings, and to compel, by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to its investigation.

III. For the purpose of discovering violations of this chapter, the banking department may examine, the records of any licensee and of any person by whom a debt adjustment contract is made, whether such person shall be licensed to act, or claim to act, as principal, agent, or other representative, or under, or without the authority of this chapter; and for that purpose, the banking department shall have access to the books, papers, records, files, and vaults of all such persons. The banking department shall also have authority to examine, under oath, all persons whose testimony it may require relative to such contracts or business.

IV. The licensee shall maintain such records as will enable the banking department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted under it, with the provisions of applicable federal laws and regulations. The affairs and records of every licensee shall be subject at any time to such periodic, special, regular, or other examination by the banking department, with or without notice to the licensee. All books, papers, files, related material, and records of assets of the licensee shall be subject to the banking department's examination. Such records shall be maintained and made available for examination at the licensee's principal office or its branch office location or the office of its New Hampshire agent for a period of at least 7 years, the last 3 years of which must be in a readily accessible location.

V. Licensees that maintain their files in another state are required to return such files to their New Hampshire office or if there is no office in New Hampshire, to the office of their New Hampshire agent as named in the license application as amended. Such licensees are required to return all files and records no later than 21 calendar days after being requested to do so by the banking department.

VI. Any agent of the banking department may make a thorough examination into the business affairs of each licensee and shall report any violations of law, rule, or standard business practice to the banking department.

VII. The expense of such examination shall be chargeable to and paid by the licensee. The procedure for such payment shall be the same as for payments by institutions for the cost of examinations under RSA 383:11.

VIII. Every person being examined and all of the officers, directors, employees, agents, and representatives of such person shall make freely available to the commissioner or his or her examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination.

IX. Upon receipt of a written report of examination, the licensee shall have 30 days or such additional reasonable period as the commissioner for good cause may allow, within which to review the report, recommend any changes and set forth in writing the remedial course of action which the licensee will pursue to correct any reported deficiencies outlined in the report.

X. If so requested by the person examined, within the period allowed in paragraph IX, or if deemed advisable by the commissioner without such request, the commissioner shall hold a closed hearing relative to the report and shall not file the report in the department until after such closed hearing and issuance of his or her order thereon. If no such closed hearing has been requested or held, the examination report, with such modifications, if any, as the commissioner deems proper, shall be accepted by the commissioner and filed upon expiration of the review period provided for in paragraph IX. The report shall be accepted and filed within 6 months after the final hearing thereon.

XI. All reports pursuant to this section shall be absolutely privileged and although filed in the department as provided in paragraph X shall nevertheless not be for public inspection. The comments and recommendations of the examiner shall also be deemed confidential information and shall not be available for public inspection.

399-D:23 Violations.

I. The banking department may issue and serve upon any licensee or person over whom it has jurisdiction a complaint setting forth charges whenever the department is of the opinion that the licensee or person is violating or has violated any provision of this chapter or any rule or order under this chapter.

II. The banking department may issue a cease and desist order against any licensee or person who it has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter. Delivery of such order shall be by hand or registered mail at the principal office of the licensee or other person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner within 20 days after the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent. All hearings shall comply with RSA 541-A. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be found in default, and the proceeding may be determined

against him or her upon consideration of the cease and desist order, the allegations of which may be found to be true. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be found in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until modified or vacated by the commissioner, for good cause shown.

399-D:24 Penalty.

I. A person who violates any provision of this chapter shall be guilty of a misdemeanor for each violation if a natural person, or guilty of a felony if any other person.

II. Any person who knowingly violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to suspension or revocation of any registration or license, or imposition of an administrative fine not to exceed \$2,500 for each violation in lieu of or in addition to suspension or revocation. Each of the acts specified shall constitute a separate violation.

III. Any person who negligently violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$1,500 for each violation, in lieu of or in addition to suspension or revocation. Each of the acts specified shall constitute a separate violation.

IV. Any person who, either knowingly or negligently, violates any provision of this chapter may, upon notice and opportunity for hearing, and in addition to any such other penalty provided for by law, be subject to suspension, revocation or denial of any registration or license, including forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and each such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

V. Every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

399-D:25 Rulemaking.

I. Pursuant to RSA 541-A, the commissioner may adopt rules necessary to the administration and enforcement of this chapter. Such rules shall be consistent with the provisions of this chapter, and may include, but shall not be limited to, the following:

- (a) The application form for licensees.
- (b) The form of license issued to licensees.
- (c) Annual reports.
- (d) Personal disclosure statements.

II. The commissioner may prepare, alter, or withdraw such forms as are necessary to comply with the provisions of this title.

III. The commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of this chapter.

IV. The commissioner may, for good cause shown, abate all or a portion of delinquency penalties assessed under this chapter.

V. All actions taken by the commissioner pursuant to this chapter shall be taken only when the commissioner finds such action necessary or appropriate to the public interest or for the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title.

399-D:26 Reference to Bond or State Approval Prohibited. No licensee shall use, attempt to use, or make reference to, either directly or indirectly, any word or phrase which states or implies that he or she is bonded, approved, bonded by the state, or approved by the state.

399-D:27 Records and Filings.

I. A document is filed when it is received by the commissioner. If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday.

II. Electronic filings are filed when received by the commissioner, are prima facie evidence that a filing has been duly authorized and made by the signatory on the application or document, are admissible in any civil or administrative proceeding

under this chapter, and are admissible in evidence in accordance with the rules of superior court in any action brought by the attorney general under this chapter.

III. A licensee may maintain its records in electronic format if, upon request, the licensee provides the commissioner with:

(a) A full explanation of the programming of any data storage or communications systems in use.

(b) Information from any books, records, electronic data processing systems, computers or any other information storage system in the form requested by the commissioner.

399-D:28 Reporting and Recordkeeping Requirements.

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before February 1 of each year concerning its business and operations for the preceding calendar year or license period ending December 31 in the form prescribed by the commissioner. A separate annual report shall be filed for each type of license held by the licensee.

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report, as required in paragraph I(a), notwithstanding the fact that such person is not licensed on the date that the report is due.

(c) Each licensee shall also file, under oath, its financial statement with the commissioner within 60 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

II. The commissioner shall publish an analysis of the information required in the licensee's annual report as part of the commissioner's annual report.

III. Any licensee failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue up to a maximum penalty of \$2,500 per report or statement, and shall be subject to suspension or revocation of its license.

IV. In addition to the annual report and financial statement required by this section, the commissioner may require such regular or special reports as the commissioner deems necessary to the proper supervision of licensees under this chapter.

V. A licensee who files an annual report under this section which fails to disclose or materially misstates debt contracts made during the reporting year may, in addition to any other penalty provided by law and after notice and opportunity for hearing pursuant to RSA 541-A, be subject to a fine of not more than \$1,000 and to license revocation or suspension.

VI. Each licensee shall keep and use such books and accounting records as are in accord with sound and accepted accounting practices and which enable the commissioner to determine whether the licensee is complying with this chapter.

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

2004-1007h

Amendment to SB 500-FN Proposed by the Committee on Commerce - C

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

1 Change in Control of Financial Institution; Application Fee. Amend RSA 383:9-h to read as follows:

383:9-h Change in Control of Nondepository Financial Institution. No change in control of a nondepository financial institution shall occur without the prior approval of the bank commissioner. The term "change of control" shall mean the direct or indirect acquisition by a person or group of persons acting in concert of 10 percent or more of the beneficial ownership or control of the voting shares. The person or group seeking to acquire control of the nondepository financial institution shall submit an application **and a \$500 application fee** to the bank commissioner for approval which shall contain such financial, business, experience, and other information as the bank commissioner shall require to determine whether such person or group is suitable to exercise control of a nondepository financial institution. Upon receipt of a complete application, the bank commissioner may hold a hearing on such application and shall make a decision within 60 days after receipt of the application.

2 Trustees, Directors, and Officers; Limitation; Credit Union Added. Amend RSA 384:5-a, I(f) to read as follows:

(f) Mutual savings and guaranty savings banks[-];

(g) Credit union.

3 Removal by Bank Commissioner; Financial Institution. Amend RSA 384:6 to read as follows:

384:6 Removal by Bank Commissioner. Whenever, in the opinion of the bank commissioner, any officer, trustee, or director of a ~~[savings bank, state bank, guaranty savings bank or trust company]~~ **financial institution or financial institution holding company** shall have continued to violate any law relative thereto, or shall have continued unsafe or unsound practices in conducting the business of said ~~[bank]~~ **financial institution or financial institution holding company**, after having been warned in writing by the commissioner to discontinue such violations of law or such unsafe or unsound practices, he may cause notice to be served upon such officer, trustee, or director to appear before him to show cause why he should not be removed from office. A copy of such order shall be sent by registered mail to each trustee or director of the ~~[bank]~~ **financial**

institution or financial institution holding company affected. If, after granting such officer, trustee, or director a reasonable opportunity to be heard, the commissioner finds that he has continued to so violate the law, or has continued unsafe or unsound practices after having been warned, the commissioner may, with the approval of 2 persons of good standing in the banking business, to be named by the governor upon the request of the bank commissioner, order that such officer, director, or trustee be removed from office. A copy of such order shall be served upon such officer, trustee, or director and upon the ~~[bank]~~ **financial institution or financial institution holding company** of which he is an officer, trustee, or director whereupon he shall cease to be an officer, trustee, or director of such ~~[bank]~~ **financial institution or financial institution holding company**: Provided that such order and the findings of fact upon which it is based shall not be made public or disclosed to any one except the officer, trustee, or director involved and the trustees or directors of the ~~[bank]~~ **financial institution or financial institution holding company** affected, otherwise than in connection with proceedings for a violation of this section. No such officer, trustee, or director removed from office as herein provided shall, without the consent of the bank commissioner, participate in any manner in the management or operation of said ~~[bank]~~ **financial institution or financial institution holding company**. Any person so removed from office may, with the approval of the trustees or directors of the ~~[bank]~~ **financial institution or financial institution holding company** affected expressed by majority vote in which he shall not participate, appeal by petition to the supreme court within 30 days from the date of the order of removal. Upon hearing, after such notice as the court may order, the burden of proof shall be upon the petitioner to show that the order of removal is clearly unreasonable or unlawful, and all findings of the bank commissioner upon all questions of fact properly before him shall be deemed to be prima facie lawful and reasonable and the order shall not be set aside or vacated except for errors of law unless the court by a clear preponderance of the evidence before it finds that such order is unjust or unreasonable. Pending decision of the supreme court, the order of removal shall continue in effect.

4 Interest on Escrow Accounts; "Regular" Added. Amend RSA 384:16-c to read as follows:

384:16-c Interest on Escrow Accounts. Any bank which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on property secured by real estate mortgages shall credit each such escrow account with interest at a minimum rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year which shall be one percent below the mean interest rate paid by New Hampshire chartered banks on **regular** savings accounts. The commissioner shall announce such rate to applicable New Hampshire trade associations. Each bank subject to the provisions of this section shall inform itself of such rate by contacting applicable New Hampshire trade associations or the banking department.

5 Escrow Accounts of Mortgage Companies; "Passbook" Removed. Amend RSA 384:16-e to read as follows:

384:16-e Escrow Accounts of Mortgage Companies. Any company which is in the business of or customarily makes loans for the purpose of financing the acquisition of single family homes and which is not subject to the requirements of RSA 384:16-c and which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on single family homes secured by real estate mortgages on property located in New Hampshire shall credit each such escrow account with interest on all existing and future escrow accounts at a rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year which shall be one percent below the mean interest rate paid by New Hampshire chartered banks on regular ~~[passbook]~~ savings accounts. The commissioner shall announce such rate to applicable New Hampshire trade associations. Each company subject to the provisions of this section shall inform itself of such rate by contacting applicable New Hampshire trade associations or the banking department.

6 Annual Audit; Engagement Letter Requirement Removed. Amend RSA 384:43, IV to read as follows:

IV. Each financial institution shall direct its auditor to provide the bank commissioner with a copy of its ~~[engagement letter, and the subsequent]~~ audit report, within 60 days after each is made available to the financial institution. Reports on the review of internal audit program shall be submitted in a format prescribed by the commissioner in a rule adopted pursuant to RSA 541-A. All such reports, memoranda, and correspondence remain the property of the individual financial institution.

7 Branch Offices; Board Replaced by Commissioner. Amend RSA 384-B:2 to read as follows:

384-B:2 Branch Offices. No bank or officer, director, agent, or employee thereof shall transact any part of its usual business of banking at any branch office except as follows:

I. With the approval of the ~~[board]~~ **commissioner**, any bank with its principal office within the state of New Hampshire may establish and operate one or more branch offices in any town within the state. The ~~[board]~~ **commissioner** shall not grant any application for a branch office if the dollar volume of the total deposits, time, savings, and demand of the applicant bank is greater than 30 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing the application; nor if the applicant bank is an affiliate of a bank holding company which with all its affiliates then holds a dollar volume of total deposits, time, savings, and demand greater than 30 percent of the dollar volume of total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing of the application.

I-a. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more mobile branch offices. A mobile branch office shall consist of a motor vehicle specifically designed to conduct a banking business which is moved to one or more predetermined locations in any town or towns within or without the state on a predetermined schedule. A mobile branch office may conduct any banking business that is permitted for a stationary branch. A mobile branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation, location, and schedule of mobile branch offices.

I-b. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more defined service branch offices. A defined service branch office shall consist of an office designed to conduct a banking business which may be operated on a predetermined schedule for fewer than the normal hours of operation of the bank or for designated days and times. A defined service branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation and schedule of defined service branch offices.

I-c. For purposes of this section "bank" shall mean:

(a) A "bank" or "national bank" as defined in this chapter; and

(b) An "out-of-state bank" as defined in RSA 384:57, V which has merged with such a bank or a national bank pursuant to RSA 384:59.

II. With the approval of the ~~[board]~~ **commissioner**, the resulting bank, after a consolidation as herein defined, may operate as a branch office or offices the business of any other bank acquired in such consolidation, at any location in the same town or towns in which such business was formerly carried on, wherever in the state such town or towns may be; provided, however, that the dollar volume of the total deposits, time, savings, and demand of the remaining bank at the time of filing its application for such branch office or offices does not exceed 30 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing of the application.

III. Written applications for branch offices shall be submitted by the bank, in the first instance, to the commissioner and shall be verified under oath and made upon forms which may be prescribed by the commissioner for the purpose with all the information required by such form fully set forth thereon, including the types of service to be offered at such branch office. Each application shall be accompanied by a fee of \$1,500 in the case of a new branch and one single fee of \$1,500 for the composite of all branches. The ~~[commissioner]~~ **department** shall investigate and examine each application ~~[and if the commissioner finds that it is duly completed, the commissioner shall then refer the application to the board for consideration]~~. A notice stating the date before which objections may be filed shall then be published by the petitioner in such form as the ~~[board]~~ **commissioner** may order. Any interested person or corporation may, within the time specified, file with the board a statement of objection to the granting of such application. The ~~[board]~~ **commissioner** may, upon request of any interested person or corporation, or at the ~~[board's]~~ **commissioner's** own discretion, order a public hearing, or may approve said application without a hearing. If a public hearing is to be held, the petitioners shall cause to be published such notices as the ~~[board]~~ **commissioner** may order. Said hearing shall be held at the time and place fixed by the ~~[board]~~ **commissioner**. The ~~[board]~~ **commissioner** shall keep a permanent verbatim record of all such evidence. ~~[The commissioner shall serve as chairperson of the board.]~~ The ~~[board]~~ **commissioner** may prescribe reasonable procedural rules to govern the proceedings ~~[and it may be convened to consider any pending business on call of the commissioner]~~. There shall be no refund allowed on any application fee once it has been filed. In addition to the application fee, each applicant for a branch office shall be obligated to pay the reasonable cost of processing, hearing and deciding each such application, as assessed by the ~~[board]~~ **commissioner**, which cost may be collected by the commissioner in an action of debt unless paid within 30 days after demand. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

IV. In making the decision on each application, the ~~[board]~~ **commissioner** shall take into consideration the following factors:

- (a) The financial history and condition of the bank or banks concerned including the adequacy of its or their capital funds;
- (b) Its or their prospects; and
- (c) The character of the management.

V. The ~~[board]~~ **commissioner** shall render a decision granting or denying each application in writing and shall maintain a file of all such approvals or denials ~~[at the banking department]~~ and shall forthwith furnish a certified copy thereof to the applicant bank. ~~[No application shall be granted except upon the affirmative vote of a majority of members of the board.]~~ Full power is delegated to the ~~[board]~~ **commissioner** to grant a particular application upon such reasonable conditions, including limitations on the scope of service which may be offered and given, consistent with the general purposes of this chapter and sound banking principles as the ~~[board]~~ **commissioner** may determine and set forth in the decision. The authority

derived from an application which has been granted in whole or upon conditions shall lapse and terminate unless business is actually commenced thereunder not later than one year after the date of the ~~[board's]~~ **commissioner's** decision; provided, however, that the ~~[board]~~ **commissioner**, for good cause shown, may extend the time after which such authority shall lapse. Rehearings of and appeals from decisions of the ~~[board]~~ **commissioner** shall be governed by RSA 541.

8 Limited Liability Company. Amend RSA 386-A:1-a to read as follows:

386-A:1-a Limited Liability Company. Notwithstanding RSA 304-C:7, I or any other provision of law to the contrary, a guaranty savings bank may be organized as a limited liability company. A bank organized as a limited liability company shall be subject to the provisions of state law applicable to such type of entity, provided, however, any filing required to be made with the secretary of state shall be made instead with the bank commissioner. Any reference to a corporation in the banking statutes shall also include a limited liability company. A bank organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a bank organized as a corporation. ~~[Any manager or senior executive officer of a bank organized as a limited liability company who exercises significant influence over, or participates in, major policymaking decisions shall be subject to the same duties and liabilities as pertain to directors, trustees, and senior executive officers of a bank organized as a corporation.]~~ **All managers and employees of a bank organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a bank organized as a corporation. Any reference to corporations, directors, officers, stockholders or other like terms used to describe corporations in the banking statutes shall be construed to apply in the same manner to limited liability companies, managers, employees, members or other like terms used to describe limited liability companies unless the context otherwise requires. The organizational instruments of a bank either chartered or operating as a limited liability company shall satisfy the requirements of the Federal Deposit Insurance Corporation in order to be deemed "incorporated" for purposes of federal deposit insurance.**

9 Name and Charter Powers. Amend RSA 388:14 to read as follows:

388:14 Name and Charter Powers. The bank resulting from a consolidation under the provisions of this chapter may adopt the charter of either of the consolidating banks with such change of name as may be desirable. Any proposal for such adoption of charter and change of name shall be set forth in the petition filed under RSA 388:1 and 388:8 and shall become effective upon approval thereof by the bank commissioner ~~[and the attorney general or assistant attorney general]~~, and filing in the office of the secretary of state together with the payment of a fee of \$5.

10 Record of. Amend RSA 386-A:15 to read as follows:

386-A:15 Record of. Thereupon the certificate shall be filed in the office of the secretary of state, who, upon payment of a fee ~~[equal to 1/10 of one percent of the authorized capital debentures, special deposit, or capital stock of the corporation as set forth in the articles of agreement]~~ **equal to the fee charged by the secretary of state to business corporations under RSA 293-A** shall cause the certificate with the indorsement thereon, to be recorded.

11 Approval of Petition; Filing With Secretary of State. Amend RSA 386-A:29, II to read as follows:

II. If the board of trust company incorporation finds that the proposed amendment satisfies the requirements of RSA 386-A:26 and was adopted in accordance with RSA 386-A:27, and that the public convenience and advantage and the interest of the petitioning institution, its members, stockholders and depositors will be promoted by the proposed amendment, it shall so certify, and shall endorse its approval on one of the certified copies of the amended articles of agreement or amended charter. The petitioning savings bank shall thereupon file the same in the office of the secretary of state, accompanied by a fee ~~[equal to 1/10 of one percent of any increase in its authorized capital debentures, capital stock or special deposits provided for by such amendment]~~ **equal to the fee charged by the secretary of state to business corporations under RSA 293-A**. The secretary of state shall thereupon cause said amended articles of agreement or amended charter, with the endorsement thereon, to be recorded, and shall issue a certificate of amended incorporation, and thereafter such savings bank shall have all the powers and privileges provided for by said amended articles of agreement or amended charter. The fee for recording with the secretary of state any amended articles of agreement or amended charter, which does not embody any increase of the authorized capital debentures, capital stock or special deposits, shall be \$25.

12 New Section; Limited Liability Company. Amend RSA 392 by inserting after section 2 the following new section:

392:2-a Limited Liability Company. Notwithstanding RSA 304-C:7, I or any other provision of law to the contrary, a trust company subject to the regulation of the bank commissioner may be organized as a limited liability company. A trust company organized as a limited liability company shall be subject to the provisions of state law applicable to such type of entity; provided, however, any filing required to be made with the secretary of state shall be made instead with the bank commissioner. Any reference to a corporation in the statutes governing trust companies shall also include a limited liability company. A trust company organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a trust company organized as a corporation. All managers and employees of a trust company organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a trust company organized as a corporation. Any reference to corporations, directors, officers, stockholders or other like terms used to describe corporations in the statutes governing trust companies shall be construed to apply in the same manner to limited liability companies, managers, employees, members or other like terms used to describe limited liability companies unless the context otherwise

requires. The organizational instruments of a trust company chartered as a limited liability company shall satisfy the requirements of the Federal Deposit Insurance Corporation in order to be deemed “incorporated” for purposes of federal deposit insurance.

13 Record of. Amend RSA 392:17 to read as follows:

392:17 Record of. Thereupon said certificate shall be filed in the office of the secretary of state, who, upon payment of a fee ~~[equal to 1/10 of one percent of the capital stock of said corporation as set forth in said articles]~~ **equal to the fee charged by the secretary of state to business corporations under RSA 293-A**, shall cause the same, with the indorsement thereon, to be recorded.

14 Disposal of Papers; Holding Period Removed. Amend RSA 383:17 to read as follows:

383:17 Disposal of Papers. The commissioner may destroy~~[, at the end of 6 years from the time of filing,]~~ any records, reports, or miscellaneous papers filed in his office which, in his opinion, are no longer of any value to the state.

15 Participation in Meetings; “Trust Company” Changed to “Financial Institution”. Amend RSA 384:7-b to read as follows:

384:7-b Participation in Meetings. Unless the charter or bylaws provide otherwise, a board of directors or trustees may permit any or all directors or trustees to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all of the directors or trustees participating may simultaneously hear each other during the meeting. A director or trustee participating in a meeting by this means is deemed to be present in person at the meeting. However, a director or trustee shall be physically present at a majority of the meetings such director or trustee attends. If any member of the board of directors of a nondepository ~~[trust company]~~ **financial institution** resides outside of the state of New Hampshire, the board may permit such out-of-state director to be physically present at a lesser number of meetings, if such arrangement is approved in writing by the bank commissioner, based upon a finding that the safety and soundness of such ~~[trust company]~~ **financial institution** will not be impaired by such less frequent physical presence.

16 Repeal. The following are repealed:

I. RSA 386-B:9, VII, relative to an exemption for the directors or trustees of certain financial institutions from the responsibilities of directors, trustees and officers.

II. RSA 387:19, relative to safe deposit business buildings.

III. RSA 392:21, relative to the payment of par value and surplus before the issue of trust company stock .

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

2004-1095h

Amendment to SB 508-FN

Proposed by the Committee on Municipal and County Government - C

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

1 Repeal. RSA 32:6-a, relative to the continuation of grant-funded programs, is repealed.

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

AMENDED ANALYSIS

This bill repeals the requirement to seek legislative body approval to continue grant-funded programs in a municipality.

2004-1185h

Amendment to SB 521-FN

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

Amend RSA 638:26, II as inserted by section 1 of the bill by replacing it with the following:

II.~~(a)~~ Identity fraud is[:

~~(1) A class A felony if the value of the property or services obtained exceeds \$1,000.~~

~~(2) A class B felony in all other cases.~~

~~(b) The value may be determined according to the provisions of RSA 637:2, V.]~~ **a class A felony.**

2004-1066h

Amendment to SB 525-FN-A

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

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

AN ACT relative to the electricity consumption tax and the land and community heritage investment program.

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

1 Electricity Consumption Tax; Definition of Consumer. Amend RSA 83-E:1, II to read as follows:

II. “Consumer” means any person, including governmental units, receiving electrical energy for consumption in **or out of** this state and includes any person receiving electrical energy for the use of such person's tenants.

2 Electricity Consumption Tax; Liability for Tax. Amend RSA 83-E:4, I to read as follows:

I. Except as provided in paragraph III, every consumer **of New Hampshire generated electricity, whether located in New Hampshire or not**, shall be liable for the tax and such liability shall not be extinguished until the tax has been paid to the state, except that payment to a provider required to collect the tax pursuant to RSA 83-E:3 is sufficient to relieve the

consumer from further liability for the tax.

3 Operating Budget Footnote Deleted; Land and Community Heritage Investment Program Trust Fund. Amend 2003, 318.1. 01, 08, 06 to read as follows:

01 GENERAL GOVERNMENT

08 TREASURY DEPARTMENT

06 LCHIP

90 LCHIP [x] 1,000,000 500,000

[x]

THE AMOUNTS APPROPRIATED SHALL ONLY BE USED FOR LAND PRESERVATION PURPOSES. LAND PRESERVATION PURPOSES SHALL INCLUDE, BUT NOT BE LIMITED TO, LAND ACQUISITIONS AND LAND EASEMENTS.]

TOTAL 1,000,000 500,000

ESTIMATED SOURCE OF FUNDS FOR LCHIP

GENERAL FUND 1,000,000 500,000

TOTAL 1,000,000 500,000

4 Administrative Fund. Amend RSA 227-M:7-a, I to read as follows:

I. There is established in the office of the state treasurer a fund to be known as the land and community heritage investment program administrative fund into which the state treasurer shall credit any revenue generated pursuant to RSA 261:97-b, I-a. [For the biennium ending June 30, 2005] There shall also be deposited, on a monthly basis, interest income generated on appropriations made to the land and community heritage investment program trust fund pursuant to RSA 227-M:7. The total revenues generated to the administrative fund from these 2 sources for each year [of said biennium] shall not exceed \$335,000.

5 Program Administration; Financial Assistance. Amend the introductory paragraph of RSA 227-M:8, III to read as follows:

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

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

AMENDED ANALYSIS

This bill extends the application of the electricity consumption tax to out-of-state consumers of New Hampshire generated electricity.

The bill deletes a footnote in the operating budget restricting the use of funds appropriated in the land and community heritage investment program trust fund to land preservation purposes.

This bill also permits interest income generated on appropriations made in any biennium to the land and community heritage investment trust fund to be deposited, on a monthly basis, in the land and community heritage investment program administrative fund. The bill also allows loans to be made to eligible applicants for financial assistance under the land and community heritage investment trust program.

2004-1153h

Amendment to SCR 5

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

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

A RESOLUTION commending the United States Congress for supporting concurrent receipt of disability and retirement benefits by disabled veterans.

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

Whereas, the National Defense Authorization Act of Fiscal Year 2004 was passed by the United States House of Representatives on November 7, 2003 and by the United States Senate on November 12, 2003; and

Whereas, included in this important legislation was an agreement on a landmark provision, providing concurrent receipt of military disability and military retirement benefits to the most disabled veterans; and

Whereas, this historic compromise remedies a problem which has existed for 100 years and provides hundreds of thousands of veterans with full disability payments for the first time ever; and

Whereas, this agreement on concurrent receipt represents monumental progress toward ensuring that the men and women who are injured in service to our country receive fair and equitable compensation; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the New Hampshire general court commends the members of the United States Congress who invested their time and hard work in reaching this agreement and urges them to continue their support for passage of full concurrent receipt legislation

in the future; and

That copies of this senate concurrent resolution be sent by the senate clerk to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and all members of the United States Congress.

AMENDED ANALYSIS

This senate concurrent resolution commends the United States Congress for supporting concurrent receipt of disability and retirement benefits by disabled veterans.