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

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Contains: Committee of Conference Procedures, Governor's Veto Message, Reports and Amendments for May 5,
Order Form for the 2003 and 2004 Permanent Journals, Hearings and Notices

A MESSAGE FROM THE SPEAKER

MEMBERS OF THE HOUSE:

The House will meet in session on **Wednesday, May 5**, Thursday, May 6, Thursday, May 13, Tuesday, May 25 and Wednesday, May 26 at 10:00 a.m.

The **General Court will meet in Joint Convention on Wednesday, May 5**, at 10:00 a.m. for the purpose of attending to an address by the Honorable Secretary of Veterans' Affairs Anthony Principi.

Thank you to all members for your diligence in meeting the reporting deadline for all bills. I very much appreciate your continued effort, as there is still much work to do before we are done with committees of conference and final action on bills.

Chairmen and Vice Chairmen will meet on Tuesday, May 4, at 9:00 a.m. in Room 201, LOB.

Speaker Gene G. Chandler

HOUSE CALENDAR

NOTICE

There will be a Republican Caucus on Wednesday, **May 5** at 9:00 a.m. and **May 6** at 9:15 a.m., if necessary, in Representatives Hall.

Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Wednesday, **May 5** at 9:00 a.m. in Rooms 306-308 of the Legislative Office Building and **May 6** at 9:00 a.m. in Rooms 305-307 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.

Speaker Gene G. Chandler

WEDNESDAY, MAY 5 CONSENT CALENDAR

CHILDREN AND FAMILY LAW

SB 415-FN, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings. **OUGHT TO PASS WITH AMENDMENT**

Rep. Carolyn M. Gargasz for Children and Family Law: This bill is the result of the oversight committee's review of the pilot program in Grafton County. The bill as amended expands the pilot to Rockingham County with the potential to go statewide in the future. **Vote 14-0.**

COMMERCE

SB 366-FN, relative to the Interstate Insurance Product Compact. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This is an effort to streamline the sale of insurance products by standardizing rules and regulations of states that subscribe to an interstate compact. An interstate compact is a contract between states that allows states to cooperate on multi-state or national issues while retaining state control. They are specifically mentioned in the U.S. Constitution. The Compact will be an agreement among member states to create a streamlined system of product regulation. The new system would allow insurers to more quickly market certain type of insurance products nationally and to reduce the number of variations of the same product that a company must produce to meet state specific product standards. The Compact would create a multi-state commission to receive, review and quickly make regulatory decisions on insurance product filings according to national uniform standards. The modernization efforts, as outlined in the National Association of Insurance Commissioners' (NAIC's) Statement of Intent adopted in March of 2000, include a "speed to market" initiative which focuses on making more efficient the process by which insurance products are reviewed and approved by state insurance regulators. As distinguishable from health and property/casualty insurance products, many products sold by life insurers have evolved to become primarily investment products. The Compact would allow insurers competing on a regional or national scale to file their products in one central filing place (i.e., the multi-state commission). The Compact would have jurisdiction over four product lines: life insurance, annuities, disability income, and long-term care insurance. The Compact would create a multi-state commission, which will include one member from each member state. The commission would adopt a set of bylaws to govern its activities. A management committee of 14 members would oversee the day-to-day activities of the Compact. States participating in the Compact would create uniform product standards through a rulemaking process. In order to be adopted, a uniform standard must receive approval by two-thirds of the Management Committee and two-thirds majority of the states participating in the Compact. A state can opt-out of uniform product standards in two ways. First, it may enact legislation opting out of any uniform standard at any time. Second, it may also opt-out by regulation. The compact model act directs the Commission to establish an advisory committee for consumer representatives. It directs a similar advisory committee for insurance industry representatives. This group would participate in the process of creating uniform standards and serve as a formal mechanism for consumer representatives. The state insurance commissioner would continue to oversee market regulation activities. The Compact would come into existence when two states enact the compact model act. The Compact would become operational when 26 states or states representing 40 percent of the premium volume for life insurance, annuities, disability income and long-term care insurance join the Compact. Joining the Compact would have no fiscal impact on states. A member state could withdraw from the Compact at any time by repealing the statute that enacted the Compact into law. **Vote 15-0.**

SB 367, relative to the New Hampshire Insurance Guaranty Association Act of 2004. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation, as amended, updates the New Hampshire Insurance Guaranty Association; the current law has been in place since 1970. The law was amended in 1975. This legislation is a new statute in that it would cover insolvencies that may occur on or after the effective date. The current law, RSA 404: B will continue only for any insolvency that occurs before the effective date. The proposed new legislation does several things. First of all, it deletes the \$50 deductible to all claims for payment from Guaranty Funds. The bill also creates a 36-month cut off in which to file a claim. Last year the law was changed so that a claimant could not have assets worth more than \$25,000,000. This bill adds the inclusion of affiliates when calculating the net worth of the disallowed claimant. The new law also allows for recoupment through subrogation. The amendment deletes any reference to state guarantees from the statute. Further, if the 2%

assessment that is currently in place is inadequate, the bill allows the fund to borrow money from traditional sources as well as other insurers. Currently twenty existing liquidations are on going in the United States to which the new law would not be applicable. The NH Guaranty Association, however, will continue to administer to the old and the new law. **Vote 15-0.**
SB 430-FN, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers. **OUGHT TO PASS WITH AMENDMENT**
 Rep. Leo W. Fraser, Jr. for Commerce: Every session the legislature receives bills, which propose new mandated benefits to health insurance policies. These proposed benefits require careful consideration, as they will result in some level of increase in the cost of insurance premiums. The original intent of this bill was to provide a legislative process to obtain a third party analysis of the costs and benefits of a proposed mandate. The committee has amended the bill to grant direct authorization to the Commissioner of Insurance to contract for an external review and evaluation of mandated benefits. The bill also allows the committee of jurisdiction in either the House or Senate to refer a proposal for review. The results of any such reports shall be reported to the standing committee(s), which have oversight of the proposed mandate. The cost of these third party reviews is assessed to the insurance licensees as part of the general costs of the department. The bill provides for a sunset of the Commissioner's authority on January 1, 2010. **Vote 11-0.**

SB 441, relative to the operation of dental clinics by healthcare charitable trusts. **OUGHT TO PASS WITH AMENDMENT**
 Rep. Leo W. Fraser, Jr. for Commerce: This bill is an effort to improve access to dental services for New Hampshire citizens by clarifying that health care charitable trusts may own, lease, maintain or create dental clinics under state law. It is important to note that the foregoing will be helpful, provided that the trust complies with the state community benefits reporting law, ensures that the practice of dentistry is conducted under the supervision of a dentist licensed in New Hampshire, and that the Board of Dental Examiners is notified of the name and location of dental clinics. The amendment is necessary to clarify that dentists and dental hygienists are both regulated under the new provisions. **Vote 11-0.**

SB 442, relative to manufactured housing installation standards. **OUGHT TO PASS WITH AMENDMENT**
 Rep. Charles L. Clark for Commerce: This bill was introduced in the Senate in response to a federal law that passed in December of 2000 requiring the development of installation standards for manufactured housing that also includes licensing for installers, inspection of installations and a dispute resolution program. The federal law allowed each state to implement its own installation program before December 2005. If a state program is not implemented the federal program will control. The state program to be established under SB 442, as amended, will address the unique regional aspects of installing a manufactured house in New Hampshire and will be attentive to cost issues in order to maintain the affordability of these houses. The most important aspect of this bill, however, is that it is a consumer protection bill that will ensure the quality and safety of the manufactured houses being installed in New Hampshire. If a house is not properly installed the consumer will have an effective recourse. The bill establishes an Installation Standards Board under the Department of Safety comprised of technical experts and consumers to develop appropriate standards for licensing, installation and inspections. Manufactured house dealers, installers, park owners, and tenants uniformly support this bill. **Vote 18-0.**

SB 482-FN, relative to captive insurance companies and reciprocal insurers. **REFER FOR INTERIM STUDY**
 Rep. Leo W. Fraser, Jr. for Commerce: This bill was introduced on behalf of the New Hampshire Insurance Department. The intent is to establish laws governing captive insurance companies and reciprocal insurers. A captive insurance company is defined as any legal association of individuals, corporations, partnerships or associations that have been in continuous existence for at least one year. A reciprocal insurer is a pool mechanism for a group or individuals that agree to indemnify each other through an attorney-in-fact, common to all such persons. Because of the complexity of possible tax implications of either a captive or a reciprocal, the committee has recommended that the bill be referred to Interim Study. **Vote 11-0.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

SB 478-FN, relative to penalties for DWI offenses. **OUGHT TO PASS WITH AMENDMENT**
 Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: The bill as it came from the Senate contained several increases in penalties for driving while intoxicated and added the requirement of attendance to the State Operated Multiple Offender Program for Aggravated DWI. The committee amendment, while maintaining the increased penalties in many areas, also provides for the ability of the courts to order treatment and supervision while permitting the deferment and/or suspension of jail time based upon satisfactory completion of the ordered treatment and any follow-up treatment/counseling required. It also allows a person who has been sentenced to the Multiple Offender Program to attend an approved private program should a slot in the Multiple Offender Program not be available. First offense DWI has been increased from a violation to a Class B Misdemeanor, which allows only for an increased fine without the possibility of jail with the provision that the charge can be reduced to a violation upon petition to the court after a period of 1 year thus removing a criminal charge from the person's record. The primary direction of the committee amendment is to utilize the carrot and a stick approach with higher penalties imposed if participation in treatment and counseling isn't undertaken and completed. **Vote 15-2.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 153, adopting the nurse licensure compact. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judson K. Dexter for Executive Departments and Administration: This is the second time this committee has dealt with this legislation. Two years ago, the committee and the New Hampshire Board of Nursing felt that it was unclear as to who had the authority to license nurses in New Hampshire, and therefore, could negatively impact the quality of nursing care for the people of New Hampshire. Additionally, the licensing fee structure would penalize New Hampshire nurses that did not want to be included in the compact. SB 153, with amendment addresses those concerns and now has the unanimous support of the New Hampshire Board of Nursing. The amended language continues to grant total autonomy to the New Hampshire Board of Nursing with regard to licensing. And while the Board of Nursing made it clear that the fees for licensing are going to increase independent of this legislation, the language in the bill allows the board to assess an additional licensing fee to those nurses who want an interstate nurse's license under the compact and, therefore, not penalize nurses who want only a New Hampshire license. **Vote 13-6.**

SB 312-FN, establishing a state code of ethics. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael O'Neil for Executive Departments and Administration: This bill establishes a code of ethics in state law for public employees and public officials working in the executive branch. The bill prohibits participation in matters in which employees and officials have a private interest or in which they might personally or financially benefit. The bill requires public disclosure of certain contributions and gifts. It also requires a financial disclosure to be filed with the Secretary of State to ensure that the performance of official duties does not give rise to a conflict of interest. Any person who violates the provisions of the code of ethics shall be guilty of a misdemeanor and may be subject to employment termination. The person shall also be required to make restitution. **Vote 17-1.**

SB 375, relative to the regulation of physician assistants. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill is a melding of HB 1406 and SB 375 and contains the following: (1) A clarification of license renewal. A license shall not expire until the board has taken final action upon the application for renewal that was promptly submitted. The bill allows for renewal of an expired license with double renewal fees if renewed within 90 days. Lapse of license can concur if more than 90 days pass with a reinstatement fee set by the board. Such penalty shall not apply if a licensee is called to active duty. (2) A review of the grounds for discipline and disciplinary options available to the board. (3) An extension of the term of service on the Physicians Assistants Advisory Committee from 2 to 3 years. (4) A provision for a "Good Samaritan" protection. (5) Repeal of temporary licenses and interviews for physician assistant applicants by the advisory committee. **Vote 18-0.**

SB 445, relative to the regulation of dietitians by the board of licensed dietitians. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill adds to the list of duties and rulemaking authority of the board. It establishes various appropriate disciplinary actions available to the board for dealing with licensees involved in violation of the code of ethics and other provisions of this chapter. It establishes fees for licenses, renewals and reinstatement of licenses. The bill also contains a clarification of license renewal: a license shall not expire until the board has taken final action upon the application for renewal that was promptly submitted. The bill finally makes provisions for "providing an opportunity for" a hearing before taking disciplinary action and spells out the appropriate penalty for various infractions. **Vote 17-2.**

FINANCE

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. **OUGHT TO PASS WITH AMENDMENT**

Rep. Fran Wendelboe for Finance: SB 324 remains the same as amended by the House after the estate tax issue was removed. The Finance Committee amendment makes technical corrections to the method of calculating utility property in determining a municipality's tax base for the purpose of the statewide enhanced education tax. This addresses assessment issues with the Londonderry generating plant. **Vote 15-0.**

SB 329-FN, relative to the recovery by the retirement system of the overpayment of benefit amounts. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: This bill is about the recovery by the retirement system of the overpayment of benefit amounts and relative to the medical benefits for disabled group II members. This part of the bill passed ED&A and was unchanged by the Finance Committee. There are sufficient assets in the special accounts of the retirement system to cover its costs with no impact to the general fund. The Finance Committee amendment is relative to judicial retirement and fulfills the requirement that the state must meet in order to be in compliance with Internal Revenue Code 401 and receive the necessary letter of approval from the Department of Treasury. There is no cost to the general fund. **Vote 21-0.**

SB 338-FN, relative to the purchase of prior service credit by certain political subdivision employee members. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill allows political subdivision employees who participated in a local retirement plan to purchase prior service credits in the New Hampshire Retirement System, removes the artificial time barriers to purchase past service, and limits additional contributions to those made prior to July 1, 2004. If this bill passes people who work for the Towns of Bedford, Rye and Merrimack and were members of their local retirement can buy prior service in the New Hampshire

Retirement System. Those who have gone beyond five years from the moment of eligibility to purchase prior service may now purchase that service whenever it becomes convenient. All of these transactions are financially neutral to the New Hampshire Retirement System, the State of New Hampshire and its political subdivisions. **Vote 20-0.**

SB 352-FN-L, relative to computing school building aid grant amounts. **OUGHT TO PASS**

Rep. Robert K. Dodge for Finance: This legislation will exclude funds received from trusts, bequests, gifts and insurance policies, for purposes of eligibility for school building aid when computing building aid grants. Previously they were only ineligible if they were transferred into a capital reserve. Although this may be a rare occurrence it is predicted to save \$65,500 yearly.

Vote 21-0.

SB 409-FN, revising the vocational school licensing statutes. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Finance: The financial aspect of this bill involves changing the licensing fee for career schools from a flat rate to a rate prorated on gross revenue. The Finance Committee approves of this. The bill also changes the requirement that each licensed school maintain a surety bond for reimbursing tuition if the school should close. By creating a fund within the Treasurer's office, initially funded by the schools, there will be long-term savings to all of the schools and an incentive to seek a license. **Vote 21-0.**

SB 411-FN-L, relative to liability for special education transportation costs. **REFER FOR INTERIM STUDY**

Rep. Kenneth L. Weyler for Finance: The purpose of this bill was to ensure reimbursement to districts for transportation costs for special education students. These payments have had a complicated past. Prior to 2003 the adequate education grant included 70% of transportation costs. An audit in 2003 pointed out that schools were accepting transportation costs under adequacy and then billing catastrophic aid for full costs. This caused a double counting and a \$2 million error for special education transportation. Also complicating the payment system are the facts that adequacy grants get paid to towns two years after the cost is incurred while catastrophic aid payments get paid to school districts one year after the cost is incurred. To further confuse this issue is the lack of decision on future school payments and likely formula changes. The Finance Committee would like extra time to settle all the variables in this issue and incorporate the study with HB 612, catastrophic aid, which is also in interim study. **Vote 23-0.**

SB 436-FN-L, relative to the Claremont and Newport district courts. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: As amended, this bill delays the consolidation of the Claremont and Newport district courts until 2006. After hearing testimony the committee was convinced that each court would like to maintain separate facilities and will strive to do so within the given time frame. Both Newport and Claremont are already negotiating and exploring upgrades of their courts. Should the towns fail to meet the deadlines, the required consolidation of these courts will proceed. Separating these courts as a matter of law on July 1, 2004 would have no fiscal impact since amounts are already contained in FY 04, 05 state operating budget for lease payments for two separate court houses. **Vote 22-0.**

SB 504-FN, relative to disbursements from the alcohol abuse prevention and treatment fund. **OUGHT TO PASS**

Rep. Edward D. Densmore for Finance: Current law specifies that one-half of the funds disbursed from the Alcohol Abuse Prevention and Treatment Fund be used for education and prevention activities. This bill suspends that requirement for one year only, and allows the Commission to award funding to the most logical applicant given current fiscal constraints. While for the long term the Committee does not want to abandon current policy, it supports putting the treatment programs ahead of prevention programs when dollars are scarce. **Vote 22-0.**

JUDICIARY

SB 423, relative to confidentiality and workers' compensation. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harry M. Haytayan for Judiciary: This bill grants the Department of Labor statutory authority to protect the confidentiality of the names, addresses and medical records of workers' compensation claimants, while protecting the public's right to know. The bill will protect the claimants from the disclosure of private information. **Vote 13-2.**

SB 509-FN, relative to civil recoveries for false claims paid or approved by the department of health and human services. **OUGHT TO PASS WITH AMENDMENT**

Rep. Gregory M. Sorg for Judiciary: This bill, as amended, would replace Section 61 of the Public Assistance Law, RSA 167, by more specifically defining what constitutes fraud and false claims under the Medicaid program, and prescribing both the procedures for bringing, pursuing and defending against recovery actions, and the penalties for committing them. It would take effect on January 1, 2005, while the present RSA 167:61 would not sunset until January 1, 2010, by which time the statute of limitations for bringing actions for violations under it will have expired. **Vote 14-0.**

MUNICIPAL AND COUNTY GOVERNMENT

SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: The process for adopting a default budget that was implemented for SB 2 towns/school districts has come under attack for a number of years. The committee has tried to find various solutions to the "one size fits all" concept that was envisioned in the original passage of RSA 40:13. The manipulation of the bottom line

figure for the default budget is evident. So the committee has adopted a process, which needs to be implemented by a vote of the SB 2 towns/school district at the local level that will make the default budget math transparent by the Department of Revenue Administration and will mirror what the current budget forms required for an operating budget. This bill clarifies the default budget and requires the development of the default budget to be clearly demonstrated by the governing body, including identifying one-time expenditures on this new form. In addition a new option is made available in official ballot voting municipalities by the legislative body, to authorize the budget committee, if there is one, to develop the default budget. **Vote 14-0.**

SB 531, permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit. **OUGHT TO PASS WITH AMENDMENT**

Rep. David L. Buhlman for Municipal and County Government: This bill permits the State Veterans Advisory Committee to adopt bylaws for their committee. The amendment defines the term “theater of operation medal” for the purposes of the veterans tax credit and gives the verification of those veterans eligible to receive the tax credit to the Director of the State Veterans Council. The Director will then notify the Department of Revenue Administration of the recipient’s eligibility for the tax credit so that the local municipalities have the verification needed. The amendment also adjusts the timing for granting any exemption or tax credit, along with clarifying the date of the “notice of tax” under 72:1,d. **Vote 16-0.**

RESOURCES, RECREATION AND DEVELOPMENT

SJR 2, designating a Purple Heart Trail in New Hampshire. **OUGHT TO PASS**

Rep. Dennis H. Fields for Resources, Recreation and Development: This Senate Joint Resolution designates Route 4 from the Lebanon border due east, southeast to the Junction of Interstate 95 and the entire length of Interstate 95 as the Purple Heart Trail. This connects the Purple Heart Trail with Maine, Vermont and Massachusetts Trails. The military order of the Purple Heart of the USA desires to promote the principles and objectives of patriotism, history and education among the people of New Hampshire. **Vote 12-0.**

WEDNESDAY, MAY 5 REGULAR CALENDAR

CHILDREN AND FAMILY LAW

SB 406, relative to adoption procedures. **OUGHT TO PASS WITH AMENDMENT**

Rep. Margaret D. Hallyburton for Children and Family Law: This bill re-codifies the adoption statute, RSA 170-B. It is the result of a three year effort by the Adoption Protocol Committee with input from all members of the adoption triad. This re-codification brings coherence to a statute that has been “band-aided” over the years. The Protocol Committee intentionally did not address controversial and evolving aspects of adoption law. The Protocol Committee will continue to meet to consider such changes for future legislation. **Vote 10-4.**

SPECIAL ORDER

SB 520, relative to modification of child support obligation. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This bill as amended provides that modification of a child support order shall not be effective prior to the date of notice of the petition. The amendment also defines notice and allows a change in amount of child support to be more closely set when a change in income occurs. It keeps New Hampshire in compliance with federal law while allowing parents to better reflect increases and decreases in income. **Vote 10-0.**

COMMERCE

SB 419, relative to the use of standardized health statements and relative to renewals of certain policies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: In the 2003 Session the General Court adopted the provisions of SB 110 which made dramatic changes in the then existing law. The intent of SB 110 was to bring more competition into the market place for small group insurance. It changed the age banding from 3:1 to 4:1. It changed the definition of the small group market from 1 to 100, employees from 1 to 50. It allows for new rating factors for industry classification, health states and geographic location. The bill went on to add new reporting requirements concerning rating factors, concerning the use of rating factors by the insurers, as well as creating an oversight committee. SB 419, as amended by the Senate had no support from the committee because it creates an unlevel playing field. The committee did vote on eliminating medical underwriting, however the motion failed by a 6-13 vote. The vast majority felt that any changes promulgated in SB 419 was premature, as SB 110 had not had an opportunity to mature. **Vote 18-1.**

EDUCATION

SB 61, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence

for teachers to accept employment at a charter school. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen R. L'Heureux for Education: The amendment adopted by the committee replaced the original bill and makes technical corrections to the charter school law funding section. With the current provision set to expire, a technical correction was needed to reference the correct statute to allow for funding to continue after July 1, 2004. **Vote 10-7.**

ENVIRONMENT AND AGRICULTURE

SB 481-FN-LOCAL, establishing a sewer and other water-related purposes district for Great Bay. **OUGHT TO PASS WITH AMENDMENT**

Rep. Emma L. Rous for Environment and Agriculture: This bill as amended establishes the Estuary Alliance for Sewage Treatment, EAST, potentially made up of 44 towns in the Great Bay watershed to address sewage treatment and discharge in the Great Bay Estuary. The towns will join EAST voluntarily and work cooperatively to implement the recommendations of the SB 70 commission Feasibility Study presently beginning and to access federal funds under the National Estuary Restoration Act of 2000. The bill, in keeping with the SB 70 commission's goals, calls for study of all alternative solutions related to sewage effluent and estuary restoration and requires prior approval of the legislature if the preferred alternative should be a regional sewer outfall pipe. **Vote 12-4.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 362, changing the name of the college for lifelong learning to Granite state college. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Michael O'Neil for the **Majority** of Executive Departments and Administration: This bill changes the name of the college for lifelong learning to Granite State College. After holding a second public hearing, the committee reconsidered its original recommendation of ought to pass at the request of the board of trustees. At the second public hearing, the chairman of the board requested interim study which will enable the board to spend additional time on a restructuring plan. **Vote 14-5.**

Rep. Francis Sullivan for the **Minority** of Executive Departments and Administration: This bill, as amended, was originally passed by a 16-0 vote. The bill was retained on April 14, and after reconsideration, was recommended for interim study. The original bill was amended to guarantee that the name change from School of Lifelong Learning to Granite State College and the school's status could not be changed without legislative authority. The original bill insures that our state college system will remain the same.

SB 434, relative to importing prescription drugs from Canada. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: The amendment changes this bill to provide for the establishment of a commission to study methods for making prescription drugs more affordable for New Hampshire citizens, including, but not limited to, importing drugs from Canada. **Vote 18-1.**

SB 484, establishing the Collaborative Practice for Emergency Contraception Act. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Nelson S. Allan for the **Majority** of Executive Departments and Administration: This bill permits pharmacists to dispense emergency contraception if the pharmacists meet certain criteria established by the board of pharmacy. A pharmacist through a collaborative agreement established with a licensed practitioner would dispense this medication. This emergency contraception pill (ECPs) may help prevent unwanted pregnancy by preventing implantation of a fertilized egg to the lining of the uterus, or delaying release of an egg from the ovary, or preventing egg fertilization from occurring. This medication has a limited time frame of effectiveness, requiring quick ECP access from the pharmacist. The committee heard testimony that the Food and Drug Administration is actively pursuing providing a common prescribed ECP drug "Plan B" over the counter, eliminating the need for this bill. Their decision is expected shortly, and will be possibly influenced by two advisory panels' strong positive recommendations to proceed. Several members of the committee voiced their concern about protecting the employed pharmacist from retaliation by their company if they in good conscience do not want to participate in this program. After much discussion and an amendment, the majority of the committee supported the decision of Inexpedient to Legislate (ITL). **Vote 10-9.**

Rep. Peter F. Bergin for the **Minority** of Executive Departments and Administration: This bill holds great promise for expanding access to emergency contraceptive pills in New Hampshire. It will help to prevent unintended pregnancies, and thus the need for abortion, by establishing a voluntary collaborative therapy agreement between a pharmacist and a prescriber. Emergency Contraceptive pills (ECPs) consist of the same hormones found in ordinary birth control pills and reduce a woman's chance of becoming pregnant by 75 to 89 percent when taken shortly after intercourse. ECPs do not cause abortion; instead, they work to prevent pregnancies. ECPs provide women with an additional method of birth control in the event that their primary method fails or they experience a sexual assault. The bill reports that 50% of all unexpected pregnancies are the result of contraceptive failure. Because ECPs are most effective when taken within 24 hours of intercourse, and because women often struggle to locate and contact prescribers and then find pharmacists to fill their prescriptions in a timely manner, better policies are needed to make ECPs more accessible. SB 484 is one such policy. It would permit collaborative therapy agreements between pharmacists and licensed prescribers that would allow pharmacists to dispense ECPs directly from the pharmacy. Collaborative therapy agreements are voluntary for both pharmacists and licensed prescribers; SB 484 would not affect health-care providers

who do not want to participate. Public testimony stated that 24 or 25 independent pharmacists in New Hampshire are prepared to participate in this program should SB 484 become law. SB 484 does not grant prescriptive authority to pharmacists; rather, pharmacists would dispense emergency contraception under protocols designed by the New Hampshire Board of Pharmacy and remotely supervised by the partnering prescriber. This concept is similar to EMTs administering medication in emergency situations under pre-approved protocols. SB 484 is a good health policy and holds the promise of reducing unintended pregnancy in New Hampshire.

SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael O'Neil for Executive Departments and Administration: This bill shifts certain responsibilities among agencies with the goal of improving the general efficiency of state government. These improvements bring together the administration and enforcement of Bingo and Lucky 7 regulation in one agency, the pari-mutuel Commission (currently these duties are divided between the Sweepstakes Commission and the Department of Safety), moving the Bureau of Environmental and Occupational Health from the Department of Health and Human Services to the Department of Environmental Services, and transferring the New Hampshire Estuaries Project and the Coastal Zone Management Program from the Office of State Planning and Energy Programs to the Department of Environmental Services. The bill also brings the appointing process for unclassified employees in the Department of Environmental Services and the Department of Education in line with other high level appointments. The standard used in other agencies is that the Governor appoints commissioners with the consent of the Executive Council and commissioners nominate division directors for appointment by the Governor and Executive Council. The Senate version of this bill also included a reorganization plan for the Department of Revenue Administration and a transfer of the Division of Public Works from the Department of Transportation to the Department of Administrative Services. The House amendment establishes study committees on these two changes. In addition, the House amendment removes provisions transferring the State Hospital Security Force from the Department of Health and Human Services to the Department of Safety and transferring the responsibility of issuing retail tobacco licenses from the Department of Revenue Administration to the Liquor Commission. The House amendment also establishes an intermediary appeals process for disciplinary actions taken by state boards and commissions. Under this process, an aggrieved party may appeal a board or commission decision to the highest ranking official of the agency to which the board or commission is administratively attached. **Vote 15-0.**

FINANCE

SB 302-FN-L, making technical corrections to the education funding formula. **REFER FOR INTERIM STUDY**

Rep. Joseph E. Stone for Finance: This bill represents the work of the study committee on education funding established under HB 608 of last session. It provides for a one-year transition period in FY 05 in order to grant some relief to communities whose current state education grants are scheduled to decrease significantly under HB 608. Because the study committee did not increase education funding above the budgeted \$428 million, the bill shifts money around. Using a reverse Robin Hood approach, the bill reduces the increases given to property poor communities and transfers them to middle tier communities. No property poor community receives less in FY 05 than it did in FY 04, and no middle tier community receives less than 74% of its FY 04 grant. Finance is working on a different approach to education funding, but needs more time, especially in light of recent gubernatorial statements. Its unanimous recommendation for interim study is designed to provide that time and allow a floor amendment to be considered when the bill is before the House next week. **Vote 22-0.**

SB 333-FN, establishing a unique pupil identification system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert K. Dodge for Finance: The purpose of this bill is to establish a unique pupil identification (UPI) number for each public school pupil. Although the prime impetus for UPI is the reporting required by the federal No Child Left Behind Act (NCLB), there are other useful reasons for this number: 1) better accounting for student transfers between schools; 2) help for administrators to perform gains-based analysis; 3) more accurate tracking of dropout information; 4) aggregating data at the department level by keeping inputs anonymous, which also saves school districts time and labor; 5) and lastly, delivering more accurate and timely data to the people of New Hampshire. After the bill came to Finance, changes were made at the instance of the Education Committee to protect pupils' privacy interests with respect to the UPI and personally identifiable data. The amendment also makes it clear that only federal funds will be used to pay for the program (\$400,000 in FY 05 and \$100,000 each year thereafter) and that any contracts required will go through the approval process of Governor and Council and Fiscal Committee. **Vote 15-7.**

SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Fran Wendelboe for the **Majority** of Finance: The only controversial part of this very complex bill deals with extending the state/county cost-sharing partnership on long-term care established in 1998 with SB 409. The majority amendment extends the SB 409 partnership for another 4 years while implementing the arrangement made when we passed the nursing home bed assessment last year in HB 663. The committee considered and rejected a one-year extension. The majority of the Committee strongly feels it is unfair for one entity at the budget table to have an advantage that creates an uneven playing field as part of the big picture of all state funding programs and needs. Tying the state's hands to only a one year extension of the state/county

partnership would create that unlevel playing field, giving counties a preferential, not equal, place at the budget table. Additionally, SB 376: 1) allows non-profit hospitals the option to participate in a cost-saving state government multi-purchase pool: 2) gives Androscoggin Hospital flexibility in their hospital license to capture over \$2 million in additional federal revenue: 3) makes federally mandated changes to the method that the state uses for the hospital tax from gross to net patient revenue which will reduce state revenues by \$44 million per year in FY 06 and beyond: and 4) makes changes to the nursing home bed assessment to meet requirements for federal approval.. **Vote 15-8.**

Rep. Mary Jane Wallner for the **Minority** of Finance: The minority recognizes that this bill has many important components but feels a crucial element is missing. The counties' statutory obligation to contribute 50% of the non-federal share of Medicaid services should sunset at the end of this biennium and be renegotiated in the next biennium budget. The bill before us has the county obligation locked in until June 30, 2008. The counties are an equal partner with the state in the delivery of services to our elderly citizens. When budget negotiations for the next biennium begin, all parties should come to the table with a level playing field. The minority amendment as printed in the calendar will extend the county delegation for 1 year, not 4 years.

SB 382-FN-L, relative to medical service rates for state prisoners. **OUGHT TO PASS WITH AMENDMENT**

Rep. Larry G. Elliott for Finance: As the bill came to Finance, it extended to state inmates the pricing structure that county governments enjoy for medical service for inmates. The bill limits the state to paying no more than 110% of the cost of Medicare allowable rates for services provided. No one appeared before Division III of the House Finance Committee in opposition to this section. The committee amendment, developed with the Criminal Justice and Public Safety Committee, authorizes medical parole. The state is currently spending just under \$8 million on health care costs for inmates in the state prison system. The state is not eligible for any reimbursement from the federal government for these costs. Medical parole would allow the most medically involved inmates, who are virtually incapacitated and unable to recommit their crimes, to be released for treatment in the community, allowing the state to receive some federal reimbursement for the care of these individuals. There is nothing in this legislation which requires any nursing home to accept an inmate from the state prison system. In addition, the procedures outlined in the legislation require a parole plan to be submitted before medical parole is granted. This insures that no inmate will be released onto the streets without a place to go and clearly defined medical services for the inmate to be in place. It is important that we remember that the state prison is not set up as a hospital or a nursing home and does not have the required infrastructure to provide the care that our elderly inmates are now requiring. The administrative director of forensic and medical services stated that initially approximately 6 inmates would be affected and only one or two inmates annually thereafter. Finally to address concerns of the counties, the amendment requires the state to cover all of the non-federal Medicaid costs for medical parolees. **Vote 13-8.**

FISH AND GAME

SPECIAL ORDER

SB 487, relative to lead sinkers. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert J. L'Heureux for the **Majority** of Fish and Game: This bill had a lot of support during the public hearing. The legislation prohibits the use of lead sinkers or lead jigs in any fresh body of water which includes lakes, ponds, brooks, rivers, and streams. The bill also prohibits the sale of lead sinkers or lead jigs within the state of New Hampshire. There are plenty of alternative sinker types, e.g. steel and sand weighted plastic, that are more environmentally friendly to use. Lead sinkers are sinkers which have a mass of one ounce or less and a lead weighted hook that measures less than one inch along its longest axis. This bill promotes the continued removal of lead in our waters. It is the proper thing to do for the vitality of our water, the fishing industry, sportsmen and the protection of our loons, ducks, fish and all wildlife. The amendment extends the time for the ban of sales until January 1, 2006 to allow the small sporting goods shop to dispose of their inventory and to phase in their new supplies. **Vote 9-5.**

Rep. Thomas A. Varrell for the **Minority** of Fish and Game: The first portion of this bill is self-evident. We must do our best to save the loons. However the second part is absolutely unnecessary. By banning the sale of these lead sinkers throughout New Hampshire, we have put the onus on the seller and not the user and are, in effect, making it a crime to sell something that is legal to use in salt water. Since the Fish and Game Department have difficulty enforcing the existing law they have abrogated their responsibility to an undefined enforcement agency.

JUDICIARY

SB 109, adopting the model Drug Dealer Liability Act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Bette R. Lasky for Judiciary: This bill as amended creates a drug dealer liability act to provide a civil remedy for persons injured as a result of illegal drug use. This act will enable these people to recover economic and non-economic damages from those in the illegal drug market. This bill also intends to hold liable, to the extent possible, those in the drug distribution chain who most profit from this illegal activity. In addition, it is hoped that the creation of this act will be a deterrent to those thinking of entering the illegal drug market by making their activities considerably less profitable. **Vote 11-4.**

MUNICIPAL AND COUNTY GOVERNMENT

SB 449, relative to fluoridation of municipally-owned public water systems. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Thomas J. Gillick for the **Majority** of Municipal and County Government This bill addresses a matter that was raised by the New Hampshire Supreme Court over an issue with the Manchester Water Works. The question was whether municipalities that received their water supply from another municipality must have a say as to using fluoride in the public water supply or not. The New Hampshire Supreme Court stated that RSA 485:14 is unclear in that there is no provision to allow voters outside the municipal boundaries to have a say in whether fluoride is introduced or not. In its ruling the court gave the legislature time to consider amending RSA 485:14. We as a committee felt that given this option, it is our duty to address this issue. Once we researched the issue we uncovered the fact that there are many aspects to this complex issue. There are many multi-municipality agreements that range from large to small population base users, similar to multi-town school districts. For example, in one of the multi-municipality agreements the receiving community consists of only ten users. Previously in RSA 485:14 only single town municipalities were allowed to vote on the issue of using fluoride in their public water supply. We have established a method that enables all municipalities to have their preference counted in the aggregate with respect to the use of fluoride in their public water supply. We accomplished this by expanding the ability of these other municipalities using the water supply to have a voting right by changing the verbiage from singular to plural and revising the referendum process. The amendment further revises RSA 485:14 by defining a municipality as having one hundred or more user connections served by the public water supply. Along with changing the referendum process already in RSA 31:17-a, 44:16 and 52:23 which pertain to single municipality public water supplies, we added RSA 485:14-a which pertains to multi-municipality public water supply referendum process. The Municipal and County Government Committee worked hard to address the issue of the voting rights of the multi-municipality users of public water supplies. **Vote 9-3.**

Rep. Nancy K. Johnson for the **Minority** of Municipal and County Government: The minority does not agree that a municipality should be defined as only those that have more than 100 water connection users. There are no municipalities receiving water from the City of Manchester, Water Works Department with less than 100 connections. The number “100” is arbitrary and unnecessary and could affect other municipalities in the future. The amendment offered by the minority simply eliminates the definition of municipalities to those with 100 or more water connections.

SB 533, relative to licensing requirements for certain recreation and child care programs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Dudley D. Dumaine for Municipal and County Government: This bill clarifies that municipal recreation programs and similar programs offered by the Boys and Girls Club, Girls Inc., YMCA, YWCA, and any school or church group shall continue to be exempt from the childcare licensing requirements under RSA 170-E. The programs offered by these entities provide recreation and youth development opportunities that fill a tremendous community need and are valued by the children and families they serve. Many municipal recreation programs throughout the state are having participants sign in and out when attending the programs to keep track of the children. A problem arises when the Department of Health and Human Services guidelines called “School Age Program Exemptions” kick in. These guidelines for employees set up parameters to show the difference between a recreational or a childcare program. A municipal program instituted a procedure for keeping track of the children that were at the facilities by signing in and out, which the committee endorsed. This procedure did not restrict the child’s ability to come and go, but made the municipal recreational program possibly subject to all childcare licensing requirements. Implementation of childcare rules would force many municipal programs and the clubs that are currently exempt to shut down and greatly limit access for all children to those recreational activities. Testimony was received suggesting a study committee be formed to define “recreation programs”. This subject was studied in depth in SB 580, Chapter 400:1, and Laws of 1994. The definition was so specific in nature as not to include part-time summer camps or recreational programs. The committee felt that another study committee on this subject was not necessary at this time. **Vote 16-0.**

GOVERNOR’S VETO MESSAGE ON HB 503

April 26th, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 503, an Act relative to septic system construction permits.

HB 503 requires municipalities to provide, or assure access to, Department of Environmental Services approved septage storage facilities for residents. While I agree providing for the proper disposal of domestic septage at New Hampshire facilities is becoming increasingly difficult for septage haulers serving residents who continue to rely on septic systems, I do not believe HB 503 is the proper solution.

HB 503 can have unintended consequences which must be considered. The bill prohibits the NH Department of Environmental Services from issuing any new septic system construction permit until a municipality is in compliance with the law. The legislative purpose outlined in the bill states “The act is intended to...further restrict development that generates additional sewage...”. Almost all development generates additional sewage, therefore a municipality could use HB 503 as a tool to limit growth and encourage “snob” zoning. Simply by not complying with the provisions of HB 503 a municipality could prevent any new construction, and place the blame on the State.

In addition, the reference to “a department approved alternative option for its residents” will lead to uncertainty and may provide a loophole for municipalities to circumvent the legislature’s intent.

The State should be looking at financial incentives and disincentives to encourage municipalities and property owners to address the growing concerns of septage storage. Prohibiting new construction will not only limit the State’s economic potential, but could limit individual’s property rights.

For these reasons I have vetoed HB 503.

Respectfully submitted,
Craig R. Benson
Governor

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.)

SB 390, relative to liability of third person under workers’ compensation. (Pending question is Ought To Pass)

HOUSE BILLS AMENDED BY THE SENATE

HB 53, relative to the sale of salvage and rebuilt vehicles. (House Concurred 4/22/04)

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 176, relative to listing candidates on ballots. (SJ 4/22/04)

HB 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A Administrative Procedures Act. (SJ 4/22/04)

HB 243, relative to motor vehicle exhaust noise standards. (House Nonconcurrent; C-of-C 4/22/04)

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

HB 326, relative to establishing a 6-year capital budget. (House Concurred 4/29/04)

HB 384, relative to financial affidavits in domestic relations cases. (House Nonconcurrent; C-of-C 4/22/04)

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 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases. (House Concurred 4/29/04)

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. (House Concurred 4/22/04)

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. (House Nonconcurrent; C-of-C 4/22/04)

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 643-FN, relative to the family division of the courts. (House Nonconcurrent; C-of-C 4/29/03)

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

HB 664-FN, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. (House Nonconcurrent; 4/29/04)

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings. (House Nonconcurrent; C-of-C 4/29/04)

HB 729-FN, relative to the regulation of tanning facilities. (House Concurred 4/29/04)

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 761, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions. (House Concurred 4/22/04)

HB 1131, establishing a committee to study exotic aquatic weeds and species. (House Concurred 4/29/04)

HB 1133, relative to disclosures required prior to a condominium sale. (House Concurred 4/22/04)

HB 1136, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist. (House Concurred 4/29/04)

HB 1155, clarifying alternative budget adoption procedures in school administrative units. (House Concurred 4/22/04)

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

HB 1162, relative to school district policies on bullying. (SJ 4/22/04)

HB 1165, relative to extending domestic violence protection orders. (House Nonconcurrent; C-of-C 4/29/04)

HB 1183, relative to transporting manufactured housing or modular buildings. (SJ 4/22/04)

HB 1202, relative to third-party payment of covered services ordered by the juvenile court. (House Concurred 4/29/04)

HB 1212, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18. (House Concurred 4/22/04)

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district. (SJ 4/22/04)

HB 1227, relative to land assessed for current use which is taken by eminent domain. (House Nonconcurrent; C-of-C 4/22/04)

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. (House Concurred 4/29/04)

HB 1243, prohibiting the collection of biometric data. (SJ 4/22/04)

HB 1254-FN, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program. (House Concurred 4/22/04)

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle. (House Concurred 4/29/04)

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts. (House Nonconcurrent; C-of-C 4/22/04)

HB 1266, relative to the long-term care ombudsman. (House Concurred 4/29/04)

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. (House Nonconcurrent; C-of-C 4/22/04)

HB 1293, relative to emission control equipment for certain vehicles. (House Nonconcurrent; C-of-C 4/22/04)

HB 1295, relative to certain court records. (SJ 4/22/04)

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets and food. (House Nonconcurrent; C-of-C 4/22/04)

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

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. (SJ 4/22/04)

HB 1301, relative to extension to the intent to cut. (House Concurred 4/22/04)

HB 1309, relative to noise pollution from shooting ranges. (House Concurred 4/22/04)

HB 1311, establishing a committee to study decreasing the insurance premium tax. (House Concurred 4/22/04)

HB 1312, relative to the court's discretion to extend child support obligations. (House Concurred 4/29/04)

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks. (SJ 4/22/04)

HB 1348-FN, relative to registration of business organizations. (House Nonconcurrent; C-of-C 4/29/04)

HB 1355, changing the name of the sweepstakes commission to the lottery commission. (House Concurred 4/22/04)

HB 1363, establishing a policy for naming state highways, bridges, and buildings. (House Nonconcurrent 4/22/04)

HB 1370, establishing a committee to study property tax relief. (House Concurred 4/22/04)

HB 1380-FN, relative to unauthorized video surveillance. (House Nonconcurrent; C-of-C 4/29/04)

HB 1408-FN, relative to reporting requirements for certain nonprofit organization, including health care charitable trusts. (House Nonconcurrent; C-of-C 4/22/04)

HB 1410, relative to the release of information to persons receiving a child for placement. (House Concurred 4/22/04)

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

2004 HOUSE COMMITTEE OF CONFERENCE PROCEDURES

- The Chairmen of the policy committees will receive bills amended by the Senate and should check with their committees to determine whether the committee will recommend that the House concur, non-concur, or non-concur and request a Committee of Conference.
- When a committee requests that the bill be sent to a Committee of Conference, the Chairman will recommend members for appointment. If the bill has gone to more than one committee, the members may come from the different committees as determined by the Speaker. Chairmen should recommend only those members from their policy committees. The Speaker shall make the final decision of Conference committee members.
- The **first named House member shall serve as Chairman of the House Conference Committee**. For House bills in Committee of Conference, the House Committee of Conference Chairman shall set the time and place of the first meeting and shall chair each meeting of the Committee of Conference. **Each meeting shall be posted in the Clerk's Office and outside the committee room at least 24 hours in advance.**(House Rule 43[c])
- The House and Senate Committees of Conference on a bill shall meet jointly but vote separately while in conference.
- The Committee of Conference may not change the title of the bill. The Committee also may not add amendments that are not germane to the subject matter of the bill or contain subject matter that has been indefinitely postponed. A non-germane amendment is one in which the subject matter is not contained in either the House or Senate version of the bill.(House Rule 49 [b])
- The sponsor of a bill that is in Committee of Conference shall, upon request, be provided an opportunity to be heard.
- A unanimous vote of both the House and Senate Committees of Conference, voting separately, is necessary for an agreed upon report to be sent to the House and Senate.
- **Reports of all Committees of Conference must be filed with the Office of Legislative Services by the deadline adopted by the House in Rule 64 (Wednesday, May 19, 2004 at 3:00 p.m.).** All Committee of Conference members must sign their reports in the Office of Legislative Services.

- The **first-named House member on all bills in Committee of Conference must prepare an analysis of the report**. This “blurb” should contain a complete explanation of all changes made to the bill since it was passed by the House and must be submitted to the House Clerk for printing in the calendar.
- All Committee of Conference reports shall be distributed in seat pockets to be acted on some subsequent day. (House Rule 49 [a]).
- A Committee of Conference **report** on either a House or Senate bill **may be placed on the House Consent Calendar only upon a unanimous vote of all House conferees. (House Rule 49 [d]).**

COMMITTEES OF CONFERENCE

HB 243, relative to motor vehicle exhaust noise standards. (Reps. Packard, Letourneau, Artz and Ferland)

HB 384, relative to financial affidavits in domestic relations cases. (Reps. Hunt, Holden, Stepanek and DeStefano)

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. (Reps. Itse, Arnold, McRae and Gile)

HB 643-FN, relative to the family division of the courts. (Reps. Mock, Dudley, Wall and Wheeler)

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings. (Reps. Brundige, Gillick, Gould and M. Cooney)

HB 1165, relative to extending domestic violence protection orders. (Reps. Knowles, Robertson, Nedeau and Bicknell)

HB 1227, relative to land assessed for current use which is taken by eminent domain. (Reps. Babson, Ahern, Philbrick and P. Allen)

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts. (Reps. Olimpio, Rous, Patten and Stohl)

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. (Reps. Packard, Letourneau, J. Flanders and Ferland)

HB 1293, relative to emission control equipment for certain vehicles. (Reps. Thomas, Hunt, Artz and Kaen)

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets and food. (Reps. Olimpio, Cernota, P. LaFlamme and Diamond)

HB 1348-FN, relative to registration of business organizations. (Reps. Hunt, Stepanek, Brady and Kopka)

HB 1380-FN, relative to unauthorized video surveillance. (Reps. Tholl, Knowles, Bicknell and Nedeau)

HB 1408-FN, relative to reporting requirements for certain nonprofit organization, including health care charitable trusts. (Reps. Hunt, Spiess, Stepanek and Meader)

COMMITTEE MEETINGS

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.

FINANCE, Rooms 210-211, LOB

3:00 p.m. Work session on making technical corrections to the education funding formula (SB 302).

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

1:00 p.m. Work session on making technical corrections to the education funding formula (SB 302).

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.

PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE (RSA 17-N:1), Room 103, State House

10:30 a.m. Regular meeting.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. DRA Revenue Reviews.

WEDNESDAY, MAY 5

LEGISLATIVE ADMINISTRATION, Room 307, LOB

Immediately following the House session, 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.

THURSDAY, MAY 6

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g), Office of the Secretary of State, Room 204, State House

9:15 a.m. Regular meeting.

FRIDAY, MAY 7

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

9:00 a.m. Continued meeting.

COMMISSION TO IDENTIFY MEDICAL ERRORS AND THEIR CAUSES (HB 287, Chapter 255:6, Laws of 2003), Room 208, LOB

1:00 p.m. Prioritization subcommittee 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.

TUESDAY, MAY 11

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

1:30 p.m. Interim study subcommittee work session on ***HB 653-FN-A***, authorizing the production of industrial hemp.

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

10:00 a.m. Ad hoc committee on resident hours and medical errors.

TASK FORCE ON DEAFNESS AND HEARING LOSS (HB 225, Chapter 117:2, Laws of 2003), Police Standards and Training Council, 17 Institute Drive, Concord

1:00 p.m. Regular meeting.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. Non-DRA Revenue Reviews

WEDNESDAY, MAY 12

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

9:30 a.m. Regular meeting.

MENTAL HEALTH COURT PILOT PROGRAM IN THE KEENE DISTRICT COURT (SB 435, Chapter 72:3, Laws of 2002), Room 209, LOB

10:00 a.m. Regular meeting.

THURSDAY, MAY 13

ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128), NH Employment Security, 32 South Main Street, Concord

1:30 p.m. Regular meeting.

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.

OSTEOPOROSIS ADVISORY COUNCIL (RSA 126-I:3), Room 207, LOB

9:30 a.m. Regular 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.

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.

TUESDAY, MAY 18

WAYS AND MEANS

10:00 a.m. Full committee tour of the Department of Revenue Administration building.

WEDNESDAY, MAY 19

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. Interim study subcommittee work session on **HB 1360-FN**, including “unborn child” in the definition of “another” for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide.

1:00 p.m. Interim study subcommittee work session on **HB 1274**, relative to evidence admissible in sexual assault cases.

2:00 p.m. Interim study subcommittee work session on **HB 276-FN**, relative to protective custody for intoxicated or incapacitated persons.

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

9:00 a.m. Regular business.

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.

LONG-TERM CARE BOARD (RSA 126-L), Rooms 210-211, 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.

MONDAY, MAY 24

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

9:00 a.m. Regular meeting.

FRIDAY, MAY 28

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

COUNTY DELEGATION NOTICE

All members of the **Grafton** County Delegation are requested to meet on **May 5** in Room 207, LOB fifteen minutes after session to review and vote on salaries of our elected county officials for the next biennium.
Rep. John R.M. Alger, Chairman
Grafton County Delegation

COUNTY DELEGATION NOTICE

Rockingham County Delegation will meet on Wednesday, **May 5**, immediately following the House session in Rooms 202-204, LOB, to vote elected officials salaries for the upcoming term of office and to consider petitions to abate interest penalties.
Rep. David A. Welch, Clerk
Rockingham 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 65, 85, 243, 258, 369, 444, 511, 516, 520, 612, 618, 620, 622, 640, 643, 645, 651, 652, 656, 698, 712, 713, 727, 729, 730, 781, 803, 1136, 1153, 1162, 1188, 1202, 1207, 1213, 1225, 1241, 1254, 1248, 1251, 1276, 1290, 1308, 1311, 1317, 1325, 1339, 1344, 1345, 1348, 1352, 1353, 1365, 1378, 1380, 1387, 1388, 1399, 1401, 1411, 1416, 1418, 1421, 1423, 1424, 1426, 1428 and 2004. SBs 126, 205, 303, 312, 329, 338, 348, 361, 367, 376, 383, 401, 407, 419, 429, 430, 433, 442, 448, 450, 463, 478, 494, 498, 500, 503, 505, 509, 510, 525, 532 and 534.

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:

State of NH Home Care for Children with Sever Disabilities Performance Audit

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

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 Legislative Caucus for Young Children (LCYC) will meet on Monday, **May 3** at 10:00 a.m. in Room 206, LOB. The agenda

will be continued progress on bills and discussion regarding assignments, membership, fall activities, ideas for potential legislation and continuing education etc. All members of the House and Senate are welcome.

Rep. Deanna S. Rollo

A meeting of the County Delegation Leadership has been scheduled for Tuesday, **May 4** at 9:00 a.m. in Room 301, LOB.

Rep. Betsey L. Patten

The Secretary of Veterans' Affairs Anthony Principi will meet with the New Hampshire Legislative Military Veterans Organization for a question and answer time on Wednesday, **May 5** at 9:30 a.m. in Room 100, State House.

Rep. Lawrence J. Guay

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

Rep. Susan Almy of Lebanon will receive the NH Women's Lobby and NH Women's Policy Institute Meritorious Service Award at their Spring Celebs Awards Celebration on Tuesday, **May 11**, 4:30 to 6:30 p.m. at the Concord City Auditorium. Other honorees are Jennifer Frizzell of PPNNE (Citizen Award) and Jennifer Skalka of the Concord Monitor (Media Award). The annual event recognizes legislators and citizens making a difference for women and families in NH. Spring Celebs 2004 is dedicated to the memory of domestic violence and sexual assault victim advocate Barry MacMichael. Requested donation is \$10 for Women's Lobby members, \$15 for non-members. Tickets are available from Sen. Sylvia Larsen, Reps. Bette Lasky, Beth Rodd, Deanna Rush and Marjorie Smith; by reservation from the NHWL/WPI office (224-9105); and at the door.

Rep. Beth Rodd

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, **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

The Annual Lilac Luncheon will be held on Monday, **May 17** at 11:00 a.m. at the Center of New Hampshire, Manchester. Honored guest will be former Governor and EPA Director Christy Todd Whitman. Tickets are \$35. See Rep. Gail Barry or call 625-8174.

Rep. J. Gail Barry

There will be an informational program put on by the Rockingham Area Committee on Aging. This program will give an overview on what the new Medicare bill means to you. There will be staff from Health and Human Services to explain where you fit into this newly passed legislation. The date is **May 18** from 10:00 a.m. to noon. Location will be the auditorium at the Rockingham County Nursing home in Brentwood. Light refreshments will be served at this very interesting session. Question and answer session will follow presentation.

Rep. Robert K. Dodge

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:

May 4 – Windham Planning Office, North Lowell Road, Windham, 7:00 p.m. Bike committee meeting, Windham, South Lowell Road improvements to construct bike shoulders (2.1 miles).

May 5 – Portsmouth City Hall, 1 Jenkins Avenue, Portsmouth, 10:00 a.m. Advisory Committee meeting, Portsmouth, US Route 1 Bypass Study.

May 5 – Pembroke Town Hall, 311 Pembroke Street, Pembroke, 6:30 p.m. Bridge design meeting, Allenstown-Pembroke, NH 3 double-decker bridge replacement over Suncook River.

May 6 – Hampton Town Hall, 100 Winnacunnet Road, Hampton, 7:00 p.m. Public officials meeting, Hampton-North Hampton, I-93 southbound off ramp at Exit 2, Toll Lanes.

May 13 – Merrimack Town Hall, 8 Baboosic Lake Road, Merrimack, 7:00 p.m. Public officials/public informational meeting, Nashua- Merrimack, improvements to US 3 from the intersection of US 3 and the Henry Burque Highway north approximately 4 miles to Greeley Street. The work will consist of a 1½" inlay and updating existing guardrail.

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 **May** 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
5-3-04	9:30 & 11:00	Ben Franklin Elem – Keene	4/46
5-3-04	12:30	Greenfield Elementary School	4/25
5-4-04	9:30 to 11:00 SH/HM	Bartlett Elem – Goffstown	4/50
5-4-04	12:30	Salem Christian School	4/12
5-5-04	10:00	Salisbury & Webster Elementary Schools	4/32
5-5-04	11:00 & 12:30 SH/HM	Chesterfield Elem	4/50
5-6-04	9:00	New Hampton Community School	4/40
5-6-04	9:30	Jennie D. Blake Elem School – Hill	4/15
5-6-04	11:00	Campton Elem	4/40
5-7-04*****	Unkwn*****	Fuller Elem School – Keene*****	4/44 *****
5-7-04	9:30	Ed Fenn Elem – Gorham	4/45
5-7-04	11:00 & 12:00 SH/FG	Peterborough Elem	4/75
5-10-04	9:00	Conant Elementary School – Concord	4/24
5-10-04	10:00 & 11:30 SH/FG	Canaan Elem	4/60
5-10-04	12:30	Concord High School	HS/25
5-11-04	9:30 & 11:00 SH/HM	Maple Ave. School – Goffstown	4/75
5-11-04	12:30	Warren Village School	3 & 5 /27
5-12-04	9:30 & 11:00 SH/HM	Maple Ave. School – Goffstown	4/50
5-12-04	12:15 & 1:00 SH/TH	Maple Ave. School – Claremont	4/58
5-13-04	9:30 & 11:00 SH/HM	Epsom Central School	4/50
5-13-04	10:00	Rumford School – Concord	4/35
5-14-04	9:00	Conant Elementary School - Concord	4/24
5-14-04	10:00	St.Elizabeth Seton – Rochester	4/36
5-14-04	1:00	Conway Elem	4/38
5-17-04	9:00 & 10:15 SH/SC	New Boston Elem	4/80
5-17-04	12:30	Mason Elementary School	4/17
5-18-04	9:30 & 11:00 SH/HM	Interlakes School – Meredith	4/90
5-18-04	10:00	Bartlett Elem - Berlin	3/45
5-19-04	10:00 & 11:00 SH/HM	Little Harbor School – Portsmouth	4/60
5-20-04	9:30 & 11:00 SH/HM	DJ Bakie School – Kingston	4/86
5-21-04	9:00	Bow Elementary School	4/25
5-21-04	10:00	Linwood Elem – Lincoln	4/28
5-21-04	10:30	Wentworth Elem School	3,4,5/30
5-21-04	11:00	Stark Village School	4/7
5-21-04	11:00	St. Mary’s School – Claremont	4/16
5-24-04	10:00 & 11:00 SH & ?	Lincoln-Akerman School – Hampton	3&4/45
5-24-04	11:00	Acworth School	4/8
5-24-04	10:00	Russell School – Rumney	4/20
5-25-04	9:30 & 11:00 SH/HM	St. Anthony’s School – Manchester	4/50
5-25-04	10:45	Charlestown Primary School Rescheduled From March 17	4/46
5-26-04	10:30 & 12:00 SH/FG	Enfield Village School	4/40
5-26-04	9:00	Fall Mountain High-Langdon	HS/40
5-26-04	10:30	The Well School - Peterborough	4/11
5-27-04	9:00	Andover Elementary	4/34
5-27-04	10:30	Mtn.Shadows School – Dublin	6/8

5-27-04	10:30 & 12:00 SH/FG	Enfield Village School	4/40
5-28-04	9:30 & 11:00 SH/HM	Gossler Park School – Manchester	4/75
5-28-04	12:30	Bethlehem Elementary School	4/22

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

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

REP/SEN/NAME _____

AGENCY/BUSINESS _____

CONTACT _____

PHONE/EXT. _____

ADDRESS _____

CITY/STATE/ZIP _____

2003 _____ COPY(IES)

2004 _____ COPY(IES)

SIGNED _____

WEDNESDAY, MAY 5
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2004-1249h

Amendment to SB 61
Proposed by the Committee on Education - R

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

AN ACT relative to per pupil funding for charter schools authorized by the state board of education.

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

☐ Charter Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. **(a)** There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district.

(b) For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department.

(c) For any charter school authorized by the state board of education, the pupil's resident district shall pay tuition beginning July 1, 2004 and every fiscal year thereafter, in an amount per pupil equal to the amount determined in RSA ~~198:40~~, ~~☐ 198:40-a, I excluding the calculations set forth in subparagraphs (a)-(d).~~

(d) Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of adequacy grants under RSA 198:42 or on such other terms as are mutually acceptable.

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

AMENDED ANALYSIS

This bill provides that for each of its pupils, a charter school authorized by the state board of education shall receive the targeted per pupil aid amount established in RSA 198:40-a, I.

`2004-1192h

Amendment to SB 109
Proposed by the Committee on Judiciary - R

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

☐ New Chapter; Model Drug Dealer Liability Act. Amend RSA by inserting after chapter 318-B the following new chapter:

CHAPTER 318-C

MODEL DRUG DEALER LIABILITY ACT

318-C:1 Title. This chapter may be cited as the Drug Dealer Liability Act.

318-C:2 Purpose. The purpose of this chapter is to:

I. Provide a civil remedy for damages to persons in a community injured as a result of illegal drug use. These persons

include parents, employers, insurers, governmental entities, and others who pay for drug treatment or employee assistance programs, as well as infants injured as a result of exposure to drugs in utero (“drug babies”). The chapter will enable them to recover damages from those persons in the community who have joined the illegal drug market.

II. Shift, to the extent possible, the cost of the damage caused by the existence of the illegal drug market in a community to those who illegally profit from that market.

III. Establish the prospect of substantial monetary loss as a deterrent to those who have not yet entered into the illegal drug distribution market.

IV. Establish an incentive for drug users to identify and seek payment for their own drug treatment from those dealers who have sold drugs to the user in the past.

318-C:3 Findings. The legislature finds and declares all of the following:

I. Every community in the country is affected by the marketing and distribution of illegal drugs. A vast amount of state and local resources are expended in coping with the financial, physical, and emotional toll that results from the existence of the illegal drug market. Families, employers, insurers, and society in general bear the substantial costs of coping with the marketing of illegal drugs. Drug babies and parents, particularly those of adolescent illegal drug users, suffer significant non-economic injury as well.

II. Although the criminal justice system is an important weapon against the illegal drug market, the civil justice system can and must also be used. The civil justice system can provide an avenue of compensation for those who have suffered harm as a result of the marketing and distribution of illegal drugs. The persons who have joined the illegal drug market should bear the cost of the harm caused by that market in the community.

III. The threat of liability under this chapter serves as an additional deterrent to a recognizable segment of the illegal drug network. A person who has non-drug related assets, who markets illegal drugs at the workplace, who encourages friends to become users, among others, is likely to decide that the added cost of entering the market is not worth the benefit. This is particularly true for a first-time casual dealer who has not yet made substantial profits. This act provides a mechanism for the cost of the injury caused by illegal drug use to be borne by those who benefit from illegal drug dealing.

IV. This chapter imposes liability against all participants in the illegal drug market, including small dealers, particularly those in the workplace, who are not usually the focus of criminal investigations. The small dealers increase the number of users and are the people who become large dealers. These small dealers are most likely to be deterred by the threat of liability.

V. A parent of an adolescent illegal drug user often expends considerable financial resources, typically in the tens of thousands of dollars, for the child's drug treatment. Local and state governments provide drug treatment and related medical services made necessary by the distribution of illegal drugs. The treatment of drug babies is a considerable cost to local and state governments. Insurers pay large sums for medical treatment relating to drug addiction and use. Employers suffer losses as a result of illegal drug use by employees due to lost productivity, employee drug-related workplace accidents, employer contributions to medical plans, and the need to establish and maintain employee assistance programs. Large employers, insurers, and local and state governments have existing legal staffs that can bring civil suits against those involved in the illegal drug market, in appropriate cases, if a clear legal mechanism for liability and recovery is established.

VI. Drug babies, who are clearly the most innocent and vulnerable of those affected by illegal drug use, are often the most physically and mentally damaged due to the existence of an illegal drug market in a community. For many of these babies, the only hope is extensive medical and psychological treatment, physical therapy, and special education. All of these potential remedies are expensive. These babies, through their legal guardians and through court appointed guardians ad litem, should be able to recover damages from those in the community who have entered and participated in the marketing of the types of illegal drugs that have caused their injuries.

VII.(a) In theory, civil actions for damages for distribution of illegal drugs can be brought under existing law. They are not. Several barriers account for this. Under existing tort law, only those dealers in the actual chain of distribution to a particular user could be sued. Drug babies, parents of adolescent illegal drug users, and insurers are not likely to be able to identify the chain of distribution to a particular user. Furthermore, drug treatment experts largely agree that users are unlikely to identify and bring suit against their own dealers, even after they have recovered, given the present requirements for a civil action.

(b) Recovered users are similarly unlikely to bring suit against others in the chain of distribution, even if they know the user. A user is unlikely to know other dealers in the chain of distribution. Unlike the chain of distribution for legal products, in which records identifying the parties to each transaction in the chain are made and shared among the parties, the distribution of illegal drugs is clandestine. Its participants expend considerable effort to keep the chain of distribution secret.

VIII. Those involved in the illegal drug market in a community are necessarily interrelated and interdependent, even if their identity is unknown to one another. Each new dealer obtains the benefit of the existing illegal drug distribution system to make illegal drugs available to him or her. In addition, the existing market aids a new entrant by the prior development of people as users. Many experts on the illegal drug market agree that all participants are ultimately likely to be indirectly related. That is, beginning with any one dealer, given the theoretical ability to identify every person known by that dealer to be

involved in illegal drug trafficking, and in turn each of such others know to them, and so on, the illegal drug market in a community would ultimately be fully revealed.

IX. Market liability has been created with respect to legitimate products by judicial decision in some states. It provides for civil recovery by plaintiffs who are unable to identify the particular manufacturer of the product that is claimed to have caused them harm, allowing recovery from all manufacturers of the product who participated in that particular market. The market liability theory has been shown to be destructive of market initiative and product development when applied to legitimate markets. Because of its potential for undermining markets, this chapter expressly adopts a legislatively crafted form of liability for those who intentionally join the illegal drug market. The liability established by this chapter grows out of, but is distinct from, existing judicially crafted market liability.

X. The prospect of a future suit for the costs of drug treatment may drive a wedge between prospective dealers and their customers by encouraging users to turn on their dealers. Therefore, liability for those costs, even to the user, is imposed under this chapter as long as the user identifies and brings suit against his or her own dealers.

XI. Allowing dealers who face a civil judgment for their illegal drug marketing to bring suit against their own sources for contribution may also drive a wedge into the relationships among some participants in the illegal drug distribution network.

XII. While not all persons who have suffered losses as a result of the marketing of illegal drugs will pursue an action for damages, at least some individuals, guardians of drug babies, government agencies that provide treatment, insurance companies, and employers will find such an action worthwhile. These persons deserve the opportunity to recover their losses. Some new entrants to retail illegal drug dealing are likely to be deterred even if only a few of these suits are actually brought.

318-C:4 Definitions. As used in this chapter:

I. "Illegal drug" means any drug which is a schedule I-IV drug under RSA 318-B.

II. "Illegal drug market" means the support system of illegal drug related operations, from production to retail sales, through which an illegal drug reaches the user.

III. "Illegal drug market target community" is the area described under RSA 318-C:9.

IV. "Individual drug user" means the individual whose illegal drug use is the basis of an action brought under this chapter.

V. "Level 1 offense" means possession of $\frac{1}{4}$ ounce or more, but less than 4 ounces, or distribution of less than one ounce of an illegal drug other than marijuana, or possession of one pound or more or 25 plants or more, but less than 4 pounds or 50 plants, or distribution of more than $\frac{1}{2}$ pound but less than one pound of marijuana.

VI. "Level 2 offense" means possession of 4 ounces or more, but less than 8 ounces, or distribution of one ounce or more, but less than 2 ounces, of an illegal drug other than marijuana, or possession of 4 pounds or more or 50 plants or more but less than 8 pounds or 75 plants or distribution of one pound or more but less than 5 pounds of marijuana.

VII. "Level 3 offense" means possession of 8 ounces or more, but less than 16 ounces, or distribution of 2 ounces or more, but less than 4 ounces, of an illegal drug other than marijuana, or possession of 8 pounds or more or 75 plants or more, but less than 16 pounds or 100 plants, or distribution of 5 pounds or more but less than 10 pounds of marijuana.

VIII. "Level 4 offense" means possession of 16 ounces or more or distribution of 4 ounces or more of an illegal drug other than marijuana, or possession of 16 pounds or more or 100 plants or more or distribution of 10 pounds or more of marijuana.

IX. "Participate in the illegal drug market" means to distribute, possess with an intent to distribute, commit an act intended to facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing and distribution of an illegal drug. "Participate in the illegal drug market" does not include the purchase or receipt of an illegal drug for personal use only.

X. "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or foreign country.

XI. "Period of illegal drug use" means, in relation to the individual drug user, the time of the individual's first use of an illegal drug to the accrual of the cause of action. The period of illegal drug use is presumed to commence 2 years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

XII. "Place of illegal drug activity" means, in relation to the individual drug user, each house of representatives' legislative district in which the individual possesses or uses an illegal drug or in which the individual resides, attends school, or is employed during the period of the individual's illegal drug use, unless the defendant proves otherwise by clear and convincing evidence.

XIII. "Place of participation" means, in relation to a defendant in an action brought under this chapter, each house of representatives' legislative district in which the person participates in the illegal drug market or in which the person resides, attends school, or is employed during the period of the person's participation in the illegal drug market.

318-C:5 Liability for Participation in the Illegal Drug Market.

I. A person who knowingly participates in the illegal drug market within this state is liable for civil damages as provided in this chapter. A person may recover damages under this chapter for injury resulting from an individual's use of an illegal drug.

II. A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or

agency or the state is not liable for participating in the illegal drug market, if the participation is in furtherance of an official investigation.

318-C:6 Recovery of Damages.

I. One or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug:

(a) A parent, legal guardian, child, spouse, or sibling of the individual drug user.

(b) An individual who was exposed to an illegal drug in utero.

(c) An employer of the individual drug user.

(d) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user.

(e) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user.

II. A person entitled to bring an action under this section may seek damages from a person convicted of a drug offense or a person who knowingly distributed, or knowingly participated in the chain of distribution of, the illegal drug that was actually used by the individual drug user and that was the proximate cause of the recoverable losses.

II-a. No governmental entity may bring an action against a person until after that person has been convicted of a criminal act related to the possession, manufacture, or distribution of drugs.

III. A person entitled to bring an action under this section may recover all of the following damages:

(a) Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug use.

(b) Non-economic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other non-pecuniary losses proximately caused by an individual's use of an illegal drug.

(c) Reasonable attorney fees.

(d) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

318-C:7 Limited Recovery of Damages.

I. An individual drug user shall not bring an action for damages caused by the use of an illegal drug, except as otherwise provided in this paragraph. An individual drug user may bring an action for damages caused by the use of an illegal drug only if all of the following conditions are met:

(a) The individual personally discloses to narcotics enforcement authorities, more than 6 months before filing the action, all of the information known to the individual regarding all that individual's sources of illegal drugs;

(b) The individual has not used an illegal drug within the 6 months before filing the action; and

(c) The individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

II. A person entitled to bring an action under this section may seek damages only from a person who distributed, or is in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

III. A person entitled to bring an action under this section may recover only the following damages:

(a) Economic damages, including, but not limited to, the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and any other pecuniary loss proximately caused by the person's illegal drug use.

(b) Reasonable attorney fees.

(c) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

318-C:8 Third Party Cases. A third party shall not pay damages awarded under this chapter, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

318-C:9 Illegal Drug Market Target Community. A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

I. For a level 1 offense, the New Hampshire house of representatives' legislative district in which the defendant's place of participation is situated.

II. For a level 2 offense, the target community described in paragraph I plus all New Hampshire house of representative's legislative districts with a border contiguous to that target community.

III. For a level 3 offense, the target community described in paragraph II plus all New Hampshire house of representatives' legislative districts with a border contiguous to that target community.

IV. For a level 4 offense, the state.

318-C:10 Joinder of Parties.

I. Two or more persons may join in one action under this chapter as plaintiffs if their respective actions have at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

II. Two or more persons may be joined in one action under this chapter as defendants if those persons are liable to at least one plaintiff.

III. A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief demanded. Judgment may be given for one or more plaintiffs according to their respective rights to relief and against one or more defendants according to their respective liabilities.

318-C:11 Comparative Responsibility.

I. An action by an individual drug user is governed by the principles of comparative responsibility. Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally, according to the measure of responsibility attributed to the plaintiff.

II. The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall be shown by clear and convincing evidence.

III. Comparative responsibility shall not be attributed to a plaintiff who is not an individual drug user.

318-C:12 Contribution Among and Recovery from Multiple Defendants. A person subject to liability under this chapter has a right of action for contribution against another person subject to liability under this chapter. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery in accordance with this chapter and existing law against a person whom a defendant has asserted a right of contribution.

318-C:13 Standard of Proof; Effect of Criminal Drug Conviction.

I. Proof of participation in the illegal drug market in an action brought under this chapter shall be shown by clear and convincing evidence. Except as otherwise provided in this chapter, other elements of the cause of action shall be shown by a preponderance of the evidence.

II. A person against whom recovery is sought who has a criminal conviction pursuant to RSA 318-B or other state drug laws or the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, 84 Stat. 1236, codified at 21 U.S.C. 801 et seq., is estopped from denying participation in the illegal drug market. Such a conviction is also prima facie evidence of the person's participation in the illegal drug market during the 2 years preceding the date of an act giving rise to a conviction.

III. The absence of a criminal drug conviction of a person against whom recovery is sought does not bar an action against that person.

318-C:14 Prejudgment Attachment and Execution on Judgments.

I. A plaintiff under this chapter, subject to paragraph II, may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award. If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

II. Any assets sought to satisfy a judgment under this chapter that are named in a forfeiture action or have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

318-C:15 Statute of Limitations.

I. Except as otherwise provided in this section, a claim under this chapter shall not be brought more than 2 years after the cause of action accrues. A cause of action accrues under this chapter when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of the harm.

II. For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery under this chapter or as otherwise provided by law. For a defendant, the statute of limitations under this section is tolled until 6 months after the individual potential defendant is convicted of a criminal drug offense or as otherwise provided by law.

III. The statute of limitations under this chapter for a claim based on participation in the illegal drug market that occurred prior to the effective date of this chapter does not begin to run until the effective date of this chapter.

318-C:16 Representation of Governmental Entities: Stay of Action.

I. A prosecuting attorney may represent the state or a political subdivision of the state in an action brought under this chapter.

II. Upon the filing of an action under this chapter, the plaintiff shall give immediate notice in writing and provide a copy of the writ to the attorney general. The attorney general shall notify the United States Department of Justice or other appropriate federal agency of such action.

III. On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this chapter shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

318-C:17 Effect on Existing Laws. The provisions of this chapter are not intended to alter the law regarding intra-family tort immunity.

318-C:18 Severability. If any provision of this chapter or the application of any provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to any other person or circumstance shall not be affected by that invalidation.

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

2004-1355h

Amendment to SB 153

Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 326-B:4-a, XVIII as inserted by section 2 of the bill by replacing it with the following:

XVIII. The implementation and coordination of the nurse licensure compact adopted in RSA 326-B:34. The board shall use model rules developed for the nurse licensure compact by the National Council of State Boards of Nursing as the basis for adopting rules which shall be modified as necessary to comply with state statutes.

Amend RSA 326-B:8-a, IV and V as inserted by section 6 of the bill by replacing it with the following:

IV. A registered nurse or a licensed practical nurse, holding a valid license from a remote state, shall register and shall provide such information as the board may require prior to the time when that individual is physically present and practicing in New Hampshire. The board shall require a criminal background check as part of the registration requirement.

V. A registered nurse or a licensed practical nurse, possessing a valid license from a remote state, shall apply for nurse licensure in New Hampshire as provided for in this chapter when that nurse or licensed practical nurse changes his or her residency to New Hampshire. The nurse or licensed practical nurse may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in New Hampshire for a period not to exceed 30 days. The former home state license shall no longer be valid upon the issuance of a New Hampshire license.

Amend the bill by replacing section 7 with the following:

7 Effective Date. This act shall take effect July 1, 2005.

2004-1285h

Amendment to SB 312-FN

Proposed by the Committee on Executive Departments and Administration - C

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

1 New Subdivision; Code of Ethics. Amend RSA 21-G by inserting after section 20 the following new subdivision:

Code of Ethics

21-G:21 Definitions. In this subdivision:

I "Agency" means any executive branch agency, department, division, board, commission, or entity of the executive branch.

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

III. "Gift" means any money or thing of value received in excess of \$50 or in excess of \$250 in aggregate from any single source during any calendar year. Gift shall not include contributions as defined in RSA 664; a commercially reasonable loan made in the ordinary course of business; meals and beverages consumed in the course of official business; ceremonial gifts or awards which have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; reasonable expenses for food, travel, and lodging for an in-state meeting at which the elected official or public employee participates in a panel or a speaking engagement; gifts of tickets or free admission extended to an elected official to attend charitable or political events, if the purpose of such gift or admission is a courtesy customarily extended to the office; gifts that are purely private and personal in nature; or gifts from relatives by blood or marriage, or a member of the same household.

IV. "Public employee" means any person, including but not limited to a classified employee, who is acting on behalf of the governor or an agency while engaged in state business.

V. "Public official" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

21-G:22 Conflict of Interest. Public employees and public officials shall avoid conflicts of interest. Public employees and public officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

21-G:23 Misuse of Position. No public official and no public employee shall disclose or use confidential or privileged information for personal benefit or for financial gain. Public officials and public employees shall not use their positions with the government to secure privileges or advantages for themselves, which are not generally available to governmental employees, or to secure governmental privileges or advantages for others.

21-G:24 Acceptance of Campaign Contributions. A public official or a public employee who is a candidate for an elective office that is not subject to the reporting requirements of RSA 664 and who accepts a financial contribution or other form of political contribution from an entity which is or is likely to become subject to that public official's or public employee's duties shall make a disclosure of such contributions to the secretary of state within 5 days of receipt of such contributions. The

disclosure shall be in writing and on such form as the secretary of state shall prescribe.

21-G:25 Acceptance and Giving of Gifts. Any public employee, public official, and any public employee's or public official's spouse or dependent, who gives, solicits, accepts or agrees to accept a gift from a person who is subject to or likely to become subject to or interested in, any matter or action pending before or contemplated by the public employee or official or by the governmental body with which that employee or official is affiliated shall disclose the gift in the statement of financial disclosure filed under RSA 21-G:27. Nothing in this section shall be construed to prohibit gifts made to the state of New Hampshire and accepted in accordance with the law.

21-G:26 Supplemental State Agency Ethical Codes. In addition to this code, each agency may promulgate a supplemental ethics code to address issues specific to that agency. In the event of a conflict, the provisions of this code shall supersede the agency code. To the extent that this code or an ethics code adopted by an agency shall apply to classified employees, this code, or an agency code, shall be interpreted to be consistent with the provisions of the classified employees' collective bargaining agreement.

21-G:27 Financial Disclosure.

I.(a) To ensure that the performance of official duties does not give rise to a conflict of interest, the following public officials shall file with the secretary of state a statement of financial disclosure in such form as the secretary of state may prescribe:

(1) All agency heads; and

(2) Any public official designated, due to the responsibilities of the position, by the agency head.

(b) The agency head shall file with the secretary of state an organizational chart identifying the names, titles, and position numbers of officials required to file a statement of financial disclosure.

II. The initial statements of financial disclosure and organizational charts required under this section shall be filed by July 1, 2005. Thereafter, revised statements of financial disclosure and organizational charts shall be filed immediately upon any change of status. New agency heads shall file a statement of financial disclosure no later than the first day of service.

III. Statements of financial disclosure and organizational charts filed with the secretary of state shall be public documents.

21-G:28 Penalty.

I. Any person who violates this subdivision shall be guilty of a misdemeanor and may be subject to termination.

II. In the case of any person convicted under this section, the court shall order restitution.

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

2004-1412h

Amendment to SB 324-FN-A-LOCAL Proposed by the Committee on Finance - C

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

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

I. (a) The commissioner shall annually determine a municipality's tax base for the statewide enhanced education tax by subtracting from the total equalized valuation of all property, as determined under RSA 21-J:3, XIII for the preceding year, property that was then taxable under RSA 82 and RSA 83-F. In determining the tax base, the value of any utility property that was not taxable under RSA 83-F in the preceding year but is taxable under RSA 83-F in the current year shall also be subtracted, provided the sum value represents at least 5 percent of the total equalized value of all property, except property taxable under RSA 82 or RSA 83-F in the preceding year.

(b) The commissioner shall calculate the portion of the statewide enhanced education tax to be raised by each municipality by multiplying the uniform education property tax rate by the municipality's tax base.

2 Statewide Enhanced Education Tax; Version Effective July 1, 2004. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. An annual statewide enhanced education tax at the uniform rate of \$3.24 on each \$1,000 of the value of taxable property, **except property subject to tax under RSA 82 and RSA 83-F**, is hereby imposed on all persons and property taxable pursuant to ~~[RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F]~~ **RSA 76:8**.

3 Statewide Enhanced Education Tax; Version Effective July 1, 2005. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the uniform statewide enhanced education tax rate shall be set at a rate which shall raise \$363,677,547 based on ~~[the most recent available state equalized valuation, and such rate shall be imposed on all]~~ persons and property taxable pursuant to ~~[RSA 72 and RSA 73,]~~ **RSA 76:8**, except property subject to tax under RSA 82 and RSA 83-F. The commissioner of the department of revenue administration shall set the rate which shall be effective for the fiscal year in which the calculation is made.

4 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**:

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 2 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. Section 3 of this act shall take effect July 1, 2005 at 12:01 a.m.

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

AMENDED ANALYSIS

This bill:

I. This bill amends the method of calculating utility property in determining a municipality's tax base for the purpose of the statewide enhanced education tax.

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.

2004-1396h

Amendment to SB 329-FN Proposed by the Committee on Finance - C

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

AN ACT relative to the recovery by the retirement system of the overpayment of benefit amounts, relative to payment of medical benefits costs for disabled group II members of the retirement system, and making technical changes to the judicial retirement plan.

Amend the bill by replacing section 3 with the following:

3) Judicial Retirement Plan; Definitions; Actuarial Equivalent. Amend RSA 100-C:1, II to read as follows:

II. "Actuarial equivalent" means a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees. ***The actuarial equivalent shall be based upon an interest rate assumption of 6 percent, and the 1971 Group Annuity Mortality Table (males) for members and the 1971 Group Annuity Mortality Table (males) set back 6 years for spouses or beneficiaries. For purposes of determining the present value of a lump sum payment, the applicable interest rate is the annual interest rate on 30-year Treasury securities for the month before the date of distribution or such other time as the United States Secretary of the Treasury may prescribe by regulations and the applicable mortality table is the mortality table prescribed by the Secretary of the Treasury which shall be based on the prevailing commissioners' standard table as described in Internal Revenue Code Section 807(d)(5)(A) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined. Any changes must be approved by the board of trustees.***

4) Judicial Retirement Plan; Definitions; Earnable Compensation. Amend RSA 100-C:1, VII to read as follows:

VII. "Earnable compensation" means a member's annual salary. ***The annual compensation that may be taken into account in determining contributions to a member or the benefit of a member may not exceed \$150,000, or such greater amount as permitted under Section 401(a)(17) of the Internal Revenue Code.***

5) New Paragraph; Judicial Retirement Plan; Return of Contributions; Rollover. Amend RSA 100-C:8 by inserting after paragraph IV the following new paragraph:

V. A distributee may elect, in a time and manner prescribed in rules of the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this paragraph:

(a) "Distributee" means a member or former member, or spouse of a member or former member.

(b) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, a qualified trust described in Section 401(a) of the Internal Revenue Code, or an eligible 457(b) deferred compensation plan maintained by an eligible employer, that accepts the distributee's eligible rollover distribution.

(c) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution shall not include any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and any distribution which is made upon hardship of the distributee.

6) Maximum Benefit Limitations. Amend RSA 100-C:10 to read as follows:

100-C:10 Maximum Benefit Limitations.

I. Notwithstanding any other provisions of this chapter, the maximum benefit payable to any retired member or

beneficiary of the New Hampshire judicial retirement plan shall be limited to such extent as may be necessary to conform to the requirements of sections 401(a)(9) and 415 of the United States Internal Revenue Code of 1986 for a qualified retirement plan.

II.(a) In accordance with Section 401(a)(9) of the Internal Revenue Code, distribution of the member's contributions shall commence by the April 1 following the later of the calendar year in which the participant attains age 70-1/2 or retires. Actuarial increases shall be provided for a member who retires in a calendar year after the calendar year in which the participant attains age 70-1/2, for the period after age 70-1/2 in which the member was not receiving any benefits under the plan.

(b) When the distribution of the member's entire interest is not made in a lump sum, the distribution shall be made in one or more of the following ways:

(1) Over the life of the member;

(2) Over the life of the member and a designated beneficiary;

(3) Over a period certain not extending beyond the life expectancy of the member; or

(4) Over a period certain not extending beyond the joint life and last survivor expectancy of the member and a designated beneficiary.

(c) If distribution has commenced before the member's death, the remaining interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.

(d) If the member dies before distribution commences, any remaining portion of the member's interest that is not payable to a beneficiary designated by the member shall be distributed within 5 years after the member's death, and any portion of the member's interest that is payable to a beneficiary designated by the member shall be distributed either within 5 years after the member's death, or over the life of the beneficiary or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the member died, or if the designated beneficiary is the member's surviving spouse, commencing not later than the end of the calendar year in which the member would have attained age 70-1/2.

(e) Distributions from the plan shall be made in accordance with the requirements of the regulations under Internal Revenue Code section 401(a)(9), including the minimum distribution incidental benefit requirements.

7 Judicial Retirement Board of Trustees; Investing and Managing Assets. Amend RSA 100-C:12, III to read as follows:

III. The contribution shall be used for the exclusive benefit of members and their beneficiaries and in no event shall revert to the state unless the reversion is due to a good faith mistake of fact or law. The board may return a member or state contribution, or make alternative arrangements for reimbursement, if the board determines the contribution was made because of a mistake of fact or law.

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill allows the board of trustees of the retirement system to recover the overpayment of benefit amounts which were paid after the death of a retiree or beneficiary or after the remarriage of a surviving spouse.

This bill extends the year of eligibility of group II disabled members for the payment of medical benefits costs by the retirement system.

This bill also makes technical changes to the judicial retirement plan relating to managing assets, required distributions, compensation limits, rollover of returned contributions, and actuarial assumptions.

2004-1437h

Amendment to SB 333-FN

Proposed by the Committee on Finance - R

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

1 Purpose Statement. In order to improve pupil achievement, the collection of pupil data is required to:

I. Account for pupil transfers between schools.

II. Respond to the needs of superintendents and administrators to perform gains-based analysis of pupil progress.

III. Help minimize the dropout risk for children.

IV. Improve the ability to make sound policy decisions for the purpose of pupil achievement and improvement.

V. Improve the accuracy of existing aggregate data requests.

VI. Provide reliable data to the citizens of New Hampshire.

VII. Reduce the burden on school districts in aggregating collected data.

2 Adequate Public Education; Delivery of an Adequate Education. RSA 193-E:3, IV is repealed and reenacted to read as follows:

IV. Data reported in paragraph I shall be disaggregated as required by federal law and shall include numbers and

percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major racial and multi-racial groups.

3 New Subdivision; Adequate Public Education; Unique Pupil Identification. Amend RSA 193-E by inserting after section 3 the following new subdivision:

Unique Pupil Identification

193-E:4 Definitions. In this subdivision:

I. "Data warehouse" means the electronic system that maintains the information about each public school pupil as set forth in RSA 193-E:3, I. The data warehouse shall not contain the name, address, telephone number, e-mail address, social security number, or any other personally identifiable information about any person.

II. "District of origin" means the New Hampshire school district in which the pupil first enrolled in public school.

III. "Random number generator" means the electronic system that creates unique pupil identification numbers and assigns a unique pupil identification number to a pupil when a school district enters a pupil's name, date of birth, and gender. The system shall maintain that information and the name of the school district, as the district of origin, and no other information. This system shall not retain the unique pupil identification number.

IV. "Unique pupil identifier" means a randomly generated number assigned to a public school pupil in order to gather pupil level data.

V. "Unique pupil identification system" means an electronic system comprised of the data warehouse and the random number generator.

193-E:5 Unique Pupil Identification.

I. The department of education shall, using federal funds only, implement and maintain a unique pupil identification system on a statewide basis that complies with the following requirements:

(a) No personally identifiable information about a pupil including but not limited to name, date of birth, gender, or social security number, shall be collected or maintained by the state in such a manner as to allow such information to be connected with the unique pupil identifier. Under no circumstances shall the department of education obtain or use a social security number as an identifier for any pupil, or use unique pupil identifiers except in connection with the data warehouse and such use shall not be accessible to the public.

(b) The random number generator shall make available to each school district a unique pupil identifier for each pupil enrolled in a New Hampshire public school. The unique pupil identifier itself shall not permit pupil identification within a sub-category including, but not limited to, school district, sex, age, grade, or county of residence.

(c) The unique pupil identifier shall be requested and maintained by the local school district. The unique pupil identifier shall remain in the pupil's file throughout his or her elementary and secondary academic career in New Hampshire.

(d) Access to the random number generator shall be limited to a superintendent or designee, and only for pupils enrolled in that school administrative unit. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(e) The random number generator shall create and maintain a comprehensive audit trail for all users accessing the system.

(f) The data warehouse shall create and maintain an audit trail for all users accessing secure information.

(g) No person, including an individual, business, government, or governmental entity, shall require an individual to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind. Any person or entity violating the provisions of this paragraph shall be liable for actual damages or \$25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this paragraph.

(h) If a pupil's records become part of an administrative action outside of the pupil's school district, or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted by the school district prior to release.

(i) The information maintained in the data warehouse, except for the unique pupil identifier, shall be available to the department of education and to the public using the same database maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked. Under no circumstances shall the unique pupil identifier be made available to the department of education or to the public.

(j) Information maintained in the random number generator shall be exempt from the provisions of RSA 91-A.

(k) Authorized personnel at the department of education shall administer and maintain the unique pupil identification system.

(l) No personally identifiable information, including but not limited to name, date of birth, gender, or social security number, shall be provided to any person or entity absent a court order, and under no circumstances shall personally identifiable information be provided to any person or entity outside of New Hampshire. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

II. Notwithstanding RSA 193-E:3, II, the legislative oversight committee established in RSA 193-C:7 shall perform any

revisions to this section through legislation filed for that purpose.

III. Any contracts or agreements necessary to implement the provisions of this section shall be approved by the governor with the consent of the executive council, and the fiscal committee established in RSA 14:30-a.

④ New Paragraph; Statewide Assessment and Improvement Education Program; Legislative Oversight Committee.
Amend RSA 193-C:8 by inserting after paragraph VIII the following new paragraph:

IX. Review the unique pupil identification system established in RSA 193-E:5 and propose legislation needed as a result of the review.

⑤ New Paragraph; Public Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraph:

VII. Unique pupil identification information collected in accordance with RSA 193-E:5.

⑥ Effective Date. This act shall take effect August 1, 2004.
2004-1398h

Amendment to SB 338-FN
Proposed by the Committee on Finance - C

Amend the bill by replacing all after section 5 with the following:

⑥ Applicability. Notwithstanding section 2 of this act, any New Hampshire retirement system member who was making additional contributions under RSA 100-A:16, I(c) prior to July 1, 2004 or who applied to make additional contributions under RSA 100-A:16, I(c) prior to July 1, 2004 may continue to make additional contributions after July 1, 2004.

⑦ Effective Date. This act shall take effect July 1, 2004.
2004-1134h

Amendment to SB 366-FN
Proposed by the Committee on Commerce - C

Amend RSA 408-C:2, III as inserted by section 2 of the bill by replacing it with the following:

III. "Compacting state" means any state which has enacted this compact legislation and which has not withdrawn pursuant to RSA 408-C:14, I, or been terminated pursuant to RSA 408-C:14, II.

Amend RSA 408-C:2, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. "Member" means the person chosen by a compacting state as its representative to the commission, or designee.
Amend the introductory paragraph of RSA 408-C:7, IV (b) as inserted by section 2 of the bill by replacing it with the following:

(b) The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner shall consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh:

Amend RSA 408-C:8, II as inserted by section 2 of the bill by replacing it with the following:

II. Except as to privileged records, data and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data or information to the commission; provided, that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this chapter, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.

Amend RSA 408-C:15 as inserted by section 2 of the bill by replacing it with the following:

408-C:15 Severability and Construction. The provisions of this compact shall be severable; and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof, to any state, agency, person, or circumstances held invalid, the constitutionality of the remainder of this compact and the applicability thereof, to any other state, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed to effectuate its purpose.

2004-1327h

Amendment to SB 367
Proposed by the Committee on Commerce - C

Amend RSA 404-H:8, I(a)(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) An amount not exceeding \$300,000 for other covered claims. Payment by the association of an amount satisfying the obligations of the association to a person instituting a liability claim shall satisfy the association's obligations to pay the insured.

Amend RSA 404-H:8, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) In no event shall the association be obligated to pay an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises.

Amend RSA 404-H:8, I(d)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) 36 months after the date of the order of liquidation; or

Amend RSA 404-H:8, I(e)-(m) as inserted by section 1 of the bill by replacing them with the following:

(e) If the association determines that there may be more than one claimant having a covered claim against the association under the policy or policies of any one insolvent insurer, the association may establish a plan to allocate amounts payable by the association in such manner as the association in its discretion deems equitable.

(f) Be deemed the insurer only to the extent of the association's obligation on the covered claims and to such extent, subject to the limitations provided in this chapter, shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent, including but not limited to the right to pursue and retain salvage and subrogation recoverables on paid covered claims obligations. The association shall not be deemed the insolvent insurer for any purpose relating to the issue of whether the association is amenable to the personal jurisdiction of the courts of any jurisdiction.

(g) Allocate claims paid and expenses incurred among the 3 accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under subparagraph I(a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any one year on any account an amount greater than 2 percent of that member insurer's net direct written premiums for the calendar year preceding the assessment on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order that it deems reasonable, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided however that, during the period of deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments.

(h) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims.

(i) Not be bound by any settlement, release, compromise, waiver or judgment executed or entered within 12 months prior to an order of liquidation and shall have the right to assert all defenses available to the association including, but not limited to, defenses applicable to determining and enforcing its statutory rights and obligations to any such claim. The association shall be bound by any settlement, release, compromise, waiver or judgment executed or entered into more than one year prior to an order of liquidation; provided however such claim is a covered claim and such settlement or judgment was not a result of fraud, collusion, default or failure to defend. Further, as to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend, the association either on its own behalf or on behalf of an insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend such claim on the merits.

(j) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(k) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.

(l) Notwithstanding any of the powers of the commissioner as liquidator as provided for in RSA 402-C, the association shall have the final authority with respect to the processing and settlement of covered claims for which it becomes responsible pursuant to this chapter, including authority for the use of records of the insolvent insurer directly related to covered claims. At the conclusion of the association's responsibility with respect to any insolvent insurer, any original records of said insolvent insurer then in the possession of the association shall be turned over to the liquidator for ultimate disposal in accordance with RSA 402-C. The association shall cooperate with any agent to the extent possible in identifying policyholders of the agent and the insolvent insurer.

Amend RSA 404-H:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. In the event of an insolvency resulting in covered claims payable by the association in excess of its capacity to pay from assessments collected under RSA 404-H:8, I(g), the association may borrow funds pursuant to RSA 404-H:8, II(b) from any domestic insurer willing and able to enter into an agreement to provide that funding, or a portion thereof, with the approval of the commissioner.

Amend the introductory paragraph of RSA 404-H:11, II as inserted by section 1 of the bill by replacing it with the following:

II. The association shall have the right to recover from the following persons the amount of any covered claim paid, whether for defense, indemnity, or otherwise, on behalf of such person pursuant to this chapter:

Amend RSA 404-H:16 as inserted by section 1 of the bill by replacing it with the following:

404-H:16 Recognition of Assessments in Rates.

I. The rates and premiums charged for insurance policies to which this chapter applies may include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association. Such rates may not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer. Alternatively, the member insurer may recoup assessments by collecting a surcharge on premiums charged for insurance policies to which this chapter applies instead of recouping the assessments through its rates and premiums.

II. The amount of any surcharge may be separately stated on either a billing or policy declaration sent to an insured.

III. Member insurers who collect surcharges in excess of assessments owed for an insolvent insurer shall remit the excess to the association as an additional assessment within 30 days after the association has determined the amount of the excess recoupment and given notice to the member of that amount. The excess shall be applied to reduce future assessment charges in the appropriate accounts.

IV. A member insurer may omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to remit the amount of surcharge otherwise collectible.

V. Amounts recouped through surcharge shall be considered premiums for all purposes, including the computation of gross premium tax.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 New Subparagraph; Insurance; Types of Investments. Amend RSA 402:28, I by inserting after subparagraph (p) the following new subparagraph:

(q) With approval of the commissioner, funds loaned to the New Hampshire Insurance Guaranty Association pursuant to RSA 404-H:8, II(b).

2004-1358h

Amendment to SB 375

Proposed by the Committee on Executive Departments and Administration - C

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

1 New Subparagraph; Condition for Licensure. Amend RSA 328-D:3, I by inserting after subparagraph (c) the following new subparagraph:

(d) Demonstrate that the applicant has good character.

2 New Paragraph; Conditions for Licensure. Amend RSA 328-D:3 by inserting after paragraph II the following new paragraph:

III. Circumstances that exist which would be grounds for disciplinary action under RSA 328-D:6 may be grounds for denial of a license.

3 License Renewal. Amend RSA 328-D:5 to read as follows:

328-D:5 Renewal of Licenses. Every person licensed to practice under this chapter shall apply to the board for annual renewal of license on forms provided by the board and shall pay a renewal fee as established by the board. Applications for renewal shall be filed no later than December 31 of each year and shall include a photocopy of the applicant's current national certification card. ***A license issued under this chapter shall not expire until the board has taken final action upon the application for renewal.***

4 New Section; Failure to Apply for Renewal. Amend RSA 328-D by inserting after section 5 the following new section:

328-D:5-a Failure to Renew; Lapse.

I. Any licensee who fails to apply for renewal under RSA 328-D:5 shall pay double the renewal fee, provided the licensee applies and pays the renewal fee no later than 90 days after the expiration date. Any licensee who fails to apply for renewal of his or her license within the 90 day period after expiration, shall have their license lapse. A lapsed license shall be reinstated only upon payment of a reinstatement fee as established by the board, and upon showing evidence of professional competence as the board may reasonably require.

II. If a license expires or lapses as a result of a licensee being ordered to active duty with the armed services, the licensee shall have 90 days from the date of discharge or release from the armed service to apply for renewal and all late fees shall be waived.

5] Grounds for Discipline. RSA 328-D:6 is repealed and reenacted to read as follows:

328-D:6 Grounds for Discipline. The board, after hearing, may take action against any person licensed under this chapter upon finding that the licensee:

- I. Has knowingly provided false information on any application for professional licensure, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.
- II. Is a habitual user of drugs or intoxicants or is afflicted with a physical disability, insanity, psychiatric disorders, or other disease deemed dangerous to the public health.
- III. Has displayed a pattern of behavior which is incompatible with the basic knowledge and competence expected of persons in the practice of his or her profession.
- IV. Has engaged in dishonest or unprofessional conduct or has been grossly or repeatedly negligent in practicing his or her profession or in performing activities ancillary to the practice of his or her profession or any particular aspect or specialty thereof, or has intentionally injured a patient while practicing his or her profession or performing such ancillary activities.
- V. Has undertaken to practice independent of the referral or prescription, direction, or supervision of a physician licensed under RSA 329.
- VI. Has failed to provide adequate safeguards with regard to aseptic techniques or radiation techniques.
- VII. Has included in advertising any statement of a character tending to deceive or mislead the public or any statement claiming professional superiority.
- VIII. Has advertised the use of any drug or medicine of an unknown formula or any system of anesthetic that is unnamed, misnamed, misrepresented, or not in reality used.
- IX. Has willfully or repeatedly violated any provision of this chapter or any substantive rule of the board.
- X. Has been convicted of a felony under the laws of the United States or any state.
- XI. Has failed to maintain adequate medical record documentation on diagnostic and therapeutic treatment provided or has unreasonably delayed medical record transfer, or violated RSA 332-I.

6] Disciplinary Action. RSA 328-D:7 is repealed and reenacted to read as follows:

328-D:7 Disciplinary Action. The board, upon making an affirmative finding under RSA 328-D:6, may take disciplinary action in any one or more of the following ways:

- I. Administer a public or private reprimand.
- II. Revoke, suspend, limit, or otherwise restrict a license.
- III. Require the physician assistant to submit to the care, counseling or treatment of a physician, counseling service, health care facility, professional assistance program, or any combination thereof which is acceptable to the board.
- IV. Place the physician assistant on probation.
- V. Require the physician assistant to participate in a program of continuing education in the area or areas in which he or she has been found deficient.
- VI. Assess administrative fines in amounts established by the board which shall not exceed \$3,000 per offense, or, in the case of continuing offenses, \$300 for each day that the violation continues, whichever is greater.

7] Appeals. RSA 328-D:8 is repealed and reenacted to read as follows:

328-D:8 Appeals. Disciplinary action taken by the board under RSA 328-D:7 may be appealed to the supreme court under RSA 541.

8] Physicians Assistants; Advisory Committee. Amend the introductory paragraph of RSA 328-D:9 to read as follows:

There is hereby established a committee who shall serve in an advisory capacity to the board. The committee shall consist of 2 physician assistants licensed under this chapter and nominated by the New Hampshire Society of Physician Assistants and 2 physicians, licensed under RSA 329, who shall have supervised physician assistants in their practice. The committee members shall be appointed by the board for a term of [2] 3 years[-, except that initially one physician assistant and one physician shall serve one-year terms]. No committee member shall serve more than 2 consecutive terms. A vacancy shall be filled in the same manner, but only for the unexpired term. Members of the committee shall receive \$50 per day and their expenses when attending to their duties. The committee shall:

9] Penalty. RSA 328-D:13 is repealed and reenacted to read as follows:

328-D:13 Penalty. Any person who, not being licensed or otherwise authorized according to the law of this state, shall advertise oneself or hold oneself out as a physician assistant, or any person who does such act after receiving notice that such person's license has been revoked, shall be guilty of a misdemeanor.

10] New Section; Limitation on Action. Amend RSA 328-D by inserting after section 13 the following new section:

328-D:14 Limitation on Action. A person, licensed or authorized to practice as a physician assistant under this chapter or under the laws of any other state, who, in good faith, renders emergency care at the scene of an emergency, shall not be liable for any civil damages as a result of acts or omissions by such person in rendering such emergency care, or as a result of any act or failure to act to provide or arrange for further medical treatment or care, as long as such person receives no direct compensation for the care from or on behalf of the person cared for.

11] Repeal. The following are repealed:

I. RSA 328-D:4, relative to temporary licensure.

II. RSA 328-D:9, IV, relative to advisory committee interviews of physician assistant applicants.

12 Effective Date. This act shall take effect December 31, 2004.

2004-1435h

Amendment to SB 376-FN-A

Proposed by the Majority of the Committee on Finance - R

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

AN ACT relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.

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

1 New Paragraph; Administrative Services; Additional Purchasing Authority; Pharmaceuticals. Amend RSA 21-I:17 by inserting after paragraph II the following new paragraph:

III. The state through the director of plant and property management or any other appropriate purchasing authority may purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital, whenever the governing body thereof so desires and the director or other authority deems that he or she can make such purchases advantageously. Any savings realized from the state's purchase of pharmaceuticals and allied products and services for a receiving facility or nonprofit hospital shall be allocated to the receiving facility or nonprofit hospital. No liability shall accrue to the state or the state purchasing authority for any loss, damage, death, or injury resulting from the use of any pharmaceuticals or allied products or services purchased by the state for any nonprofit hospital.

2 Medicaid Enhancement Tax; Imposition of Tax. Amend RSA 84-A:2 to read as follows:

84-A:2 Imposition of Tax. A tax is imposed at a rate of 6 percent upon the ~~[gross]~~ **net** patient services revenue of every hospital for the hospital's fiscal year ending during the first full calendar year preceding the taxable period.

3 New Paragraph; Medicaid Enhancement Tax; "Gross" changed to "Net." Amend RSA 84-A:1 by inserting after paragraph IV the following new paragraph:

IV-a. "Net patient services revenue" means the gross charges of the hospital less any deducted amounts for bad debts, charity care, and payor discounts.

4 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:1, IV to read as follows:

IV. "Medicaid enhancement tax" means the tax imposed upon ~~[gross]~~ **net** patient services revenue pursuant to this chapter.

5 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:4 to read as follows:

84-A:4 Returns. Every hospital shall on or before the tenth day of the month following the expiration of the taxable period make a return to the commissioner. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the data which it must contain for the correct computation of ~~[gross]~~ **net** patient services revenue and the tax assessed upon such amount. All returns shall be signed by the taxpayer or by its authorized representative, subject to the pains and penalties of perjury. If such return shows an overpayment of the tax due, the commissioner shall refund or credit the overpayment to the hospital in accordance with RSA 21-J:28-a.

6 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:6 to read as follows:

84-A:6 Additional Returns. When the commissioner has reason to believe that a hospital has failed to file a return or to include any part of its ~~[gross]~~ **net** patient services revenue in a filed return, the commissioner may require the hospital to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the hospital of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

7 Payment of Funds for Persons Eligible to Receive Nursing Home Care. Amend RSA 167:18-b, IV to read as follows:

IV. The total billings by all counties made pursuant to this section for persons who have been determined eligible to receive nursing facility services shall not exceed 50 percent of the non-federal share of the combined long-term care medicaid spending for which the counties are obligated and in no instance shall the billings for the 12-month period of the state fiscal year, dated between July 1, 2004 and June 30, ~~[2005]~~ **2008** exceed:

(a) State fiscal year 2004-\$60,000,000.

(b) State fiscal year 2005-\$64,000,000.

(c) **State fiscal year 2006-\$67,000,000.**

(d) **State fiscal year 2007-\$70,000,000.**

(e) **State fiscal year 2008-\$73,000,000.**

8 New Paragraph; County Payments. Amend RSA 167:18-b by inserting after paragraph VI the following new paragraph:

VII. Notwithstanding any provision of law to the contrary, each county government shall reimburse the state for 50 percent of the total cost of proportionate share payments made to the county pursuant to RSA 167:18-h.

9 County Nursing Homes; Proportionate Share Payments by State. RSA 167:18-h is repealed and reenacted to read as follows:

167:18-h County Nursing Homes; Proportionate Share Payments by State. Proportionate share payments to county nursing homes shall be made each state fiscal year in an amount equal to the maximum permissible by federal regulations. All payments shall be apportioned to each facility in a percentage equal to that facility's proportion of total county nursing home medicaid utilization. If the federal government makes adjustments to any proportionate share payments that have been made by the state, the amounts due under this section shall be amended accordingly and adjusted payments shall be made to or from the state as necessary.

10 Repeal. RSA 167:18-b, V, relative to recalculations of total payments by counties, is repealed.

11 Effective Date of Repeal Changed; Reimbursement of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. Amend 1998, 388:17, II as amended by 2003, 223:8 to read as follows:

II. Paragraphs I and II of section 16 of this act shall take effect on July 1, ~~2004~~ **2008**.

12 Repeal. RSA 84-A:1, II, relative to gross patient services revenue.

13 Nursing Facility Quality Assessment; Definitions. Amend RSA 84-C:1, IV to read as follows:

IV. "Net **patient services** revenues" means revenues earned on an accrual basis of accounting, net of deducted amounts for bad debts, charity care, and payer discounts, by a nursing facility for services provided to residents as provided for in 42 CFR 433.68(d)(1)(iii).

14 Nursing Facility Quality Assessment; Imposition of Fee. Amend RSA 84-C:2 to read as follows:

84-C:2 Imposition of Fee. An assessment of ~~up to~~ 6 percent of ~~aggregated~~ net **patient services** revenues is hereby imposed on all nursing facilities on the basis of ~~non-medicare~~ patient days **in each nursing facility**. The fee shall be implemented in accordance with the provisions of 42 C.F.R. part 433.

15 Nursing Facility Quality Assessment; Returns. Amend RSA 84-C:4 to read as follows:

84-C:4 Returns. Every nursing facility shall on or before the tenth day of the month following the expiration of the assessment period make a return to the commissioner and to the commissioner of the department of health and human services. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the date which it must contain for the correct computation of facility net **patient services** revenues and the assessment upon such amount. All returns shall be signed by the authorized representative of the nursing facility, subject to the pains and penalties of perjury. If such return shows an overpayment of the assessment due, the commissioner shall refund or credit the overpayment to the nursing facility.

16 Nursing Facility Quality Assessment; Additional Returns. Amend RSA 84-C:6 to read as follows:

84-C:6 Additional Returns. When the commissioner has reason to believe that a nursing facility has failed to file a return or to include any part of its net **patient services** revenue in a filed return, the commissioner may require the nursing facility to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the nursing facility of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

17 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(a) to read as follows:

(a) Aggregate medicaid reimbursement for nursing facilities through PAU 05-01-10-04-01 class 90 is reduced below the level in effect as of February 1, 2003, **increased by the funds expended from the nursing facility trust fund established under RSA 151-E:14 and matched by corresponding federal funds**.

18 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(d) to read as follows:

(d) Any proceeds from the nursing facility quality assessment established in this chapter are expended by the state or any state agency for any purpose other than funding nursing facility expenditures through the ~~medicaid quality incentive program under RSA 151-E:13~~ **nursing facility trust fund under RSA 151-E:14**.

19 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, III to read as follows:

III. The nursing facility quality assessment under this chapter shall not be assessed or collected ~~[and the medicaid quality incentive program authorized by RSA 151-E:13 shall not be paid]~~ **and payments from the nursing facility trust fund authorized by RSA 151-E:14 shall not be made** until after the commissioner of health and human services certifies to the commissioner that the department of health and human services has obtained **all necessary** federal ~~[approval of the assessment in RSA 84-C:2, the state plan uniformity waiver in RSA 84-C:11, I(e), the medicaid quality incentive program in RSA 151-E:13, and payments have commenced under the medicaid quality incentive program. Such payments under the medicaid quality incentive program shall commence 45 days after such certification and shall be effective for the period beginning May 1, 2003 or the effective date of the federal authorization for the nursing facility quality assessment, the~~

~~uniformity waiver, and the medicaid quality incentive program, whichever is later]~~ **approvals. Payments under RSA 151-E:15 shall be effective for the period beginning May 1, 2003.**

20 Expenditure of Funds From Nursing Facility Trust Fund. RSA 151-E:15 is repealed and reenacted to read as follows:

151-E:15 Expenditure of Funds From Nursing Facility Trust Fund. Notwithstanding any other provision of law, moneys in the nursing facility trust fund shall be expended in the following manner:

I. All moneys in the fund shall be paid out no less frequently than on a quarterly basis and shall be disbursed as follows:

(a) The moneys in the fund shall be used to eliminate or reduce to the maximum extent possible the difference between the allowable medicaid costs, derived from the nursing facility medicaid acuity rate setting system, which nursing facilities incur in providing care to medicaid residents, and the amount which the state has budgeted in order to fund that care.

(b) If after the disbursement required in subparagraph (a) there are still any moneys remaining in the fund, the nursing facility rate setting system shall be adjusted to insure that all moneys in the fund are expended for nursing facility care.

II. The state treasurer shall transfer from the nursing facility trust fund to the general fund on the first business day of each quarter the amount necessary to fund the payments under paragraph I.

III. The state treasurer shall transfer, and the commissioner of health and human services shall fund the full amount of the nursing facility trust fund in each quarter.

IV. Notwithstanding the provisions of RSA 167:18-b, I, no county shall be required to make any contribution to the distribution under this section.

21 Initial Assessment Period; Nursing Facility Quality Assessment. Amend 2003, 223:13 to read as follows:

223:13 Initial Assessment Period; Nursing Facility Quality Assessment. Notwithstanding RSA 84-C:1, II the initial assessment period shall be the period beginning ~~[with the effective date of federal authorization and ending on June 30, 2003]~~ **May 1, 2003 and ending on April 30, 2004.**

22 Applicability. Nothing in this act shall be construed to create a new right or entitlement on behalf of any person to receive a service provided by the state.

23 Repeal. The following are repealed:

I. RSA 84-C:11, I(e), relative to a certain contingency regarding the nursing facility quality assessment law.

II. RSA 151-E:13, relative to the medicaid quality incentive program.

24 Long-Term Care Reimbursement Commission.

I. There is established a commission to study long-term care reimbursement.

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

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

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

(c) Three members appointed by the New Hampshire Association of Counties.

(d) The commissioner of health and human services, or designee.

(e) Two members representing the interests of private nursing homes, appointed by the New Hampshire Health Care Association.

(f) The commissioner of the department of revenue administration, or designee.

(g) Two members representing the interests of mid-level care, one appointed by the Northern New England Association of Homes and Services for the Aging and one appointed by the New Hampshire Association of Residential Care Homes.

(h) Two members representing the interests of home health care, appointed by the Home Care Association of New Hampshire.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall study the funding of long-term care medicaid costs and funding sources in New Hampshire as they affect county and state government. The study shall include, but not be limited to the following:

(a) The appropriate role of property taxes in funding the non-federal share of medicaid.

(b) Possible establishment of an equitable statewide medicaid property tax rate.

(c) Alternative funding sources for the non-federal share of medicaid.

(d) The role of tobacco master settlement agreement contribution to funding of the county portion of long-term care.

(e) Demographic trends in long-term care costs.

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

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 30, 2004.

25 Purpose. The purpose of section 26 of this act is to facilitate legislative involvement in any efforts at so-called

“Medicaid Modernization.”

26 Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

VI. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. ***The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state medicaid plan in any way that results at any time in the consolidation of federal grants or allotments, caps on the federal portion of medicaid spending, reductions in the federal share of medicaid spending, or increases in the state share of medicaid spending, without the prior approval of the fiscal committee of the general court.***

27 Health Services Planning and Review; Exemption Added. Amend RSA 151-C:13, I(g) to read as follows:

(g) Hospice houses;

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by an acute care hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term “existing skilled nursing patient capacity” means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the most recent 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit.

28 Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

29 Effective Date.

I. Sections 2-6, 8, 9, and 12 of this act shall take effect July 1, 2005.

II. Sections 1, 7, 10, and 11 of this act shall take effect July 1, 2004.

III. Section 27 shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill:

I. Authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

II. Changes the medicaid enhancement tax to be imposed on net patient services revenue rather than gross patient services revenue.

III. Amends the statutes relative to county nursing homes and proportionate share payments.

IV. Clarifies the nursing facility quality assessment law and changes the method of how funds are expended from the nursing facility trust fund.

V. Repeals the medicaid quality incentive program.

VI. Establishes a commission to study long-term care reimbursement.

VII. Requires that certain amendments to the state plan for providing medical or other remedial assistance be approved by the fiscal committee of the general court.

VIII. Adds an exemption from the certificate of need law for certain hospitals.

2004-1463h

Amendment to SB 376-FN-A

Proposed by the Minority of the Committee on Finance - R

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

AN ACT relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.

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

□ New Paragraph; Administrative Services; Additional Purchasing Authority; Pharmaceuticals. Amend RSA 21-I:17 by inserting after paragraph II the following new paragraph:

III. The state through the director of plant and property management or any other appropriate purchasing authority may purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital, whenever the governing body thereof so desires and the director or other authority deems that he or she can make such purchases advantageously. Any savings realized from the state's purchase of pharmaceuticals and allied products and services for a receiving facility or nonprofit hospital shall be allocated to the receiving facility or nonprofit hospital. No liability shall accrue to the state or the state purchasing authority for any loss, damage, death, or injury resulting from the use of any pharmaceuticals or allied products or services purchased by the state for any nonprofit hospital.

2 Medicaid Enhancement Tax; Imposition of Tax. Amend RSA 84-A:2 to read as follows:

84-A:2 Imposition of Tax. A tax is imposed at a rate of 6 percent upon the ~~[gross]~~ **net** patient services revenue of every hospital for the hospital's fiscal year ending during the first full calendar year preceding the taxable period.

3 New Paragraph; Medicaid Enhancement Tax; "Gross" changed to "Net." Amend RSA 84-A:1 by inserting after paragraph IV the following new paragraph:

IV-a. "Net patient services revenue" means the gross charges of the hospital less any deducted amounts for bad debts, charity care, and payor discounts.

4 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:1, IV to read as follows:

IV. "Medicaid enhancement tax" means the tax imposed upon ~~[gross]~~ **net** patient services revenue pursuant to this chapter.

5 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:4 to read as follows:

84-A:4 Returns. Every hospital shall on or before the tenth day of the month following the expiration of the taxable period make a return to the commissioner. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the data which it must contain for the correct computation of ~~[gross]~~ **net** patient services revenue and the tax assessed upon such amount. All returns shall be signed by the taxpayer or by its authorized representative, subject to the pains and penalties of perjury. If such return shows an overpayment of the tax due, the commissioner shall refund or credit the overpayment to the hospital in accordance with RSA 21-J:28-a.

6 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:6 to read as follows:

84-A:6 Additional Returns. When the commissioner has reason to believe that a hospital has failed to file a return or to include any part of its ~~[gross]~~ **net** patient services revenue in a filed return, the commissioner may require the hospital to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the hospital of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

7 County Nursing Homes; Proportionate Share Payments. RSA 167:18-h is repealed and reenacted to read as follows:

167:18-h County Nursing Homes; Proportionate Share Payments.

I. Proportionate share payments to county nursing homes shall be made each state fiscal year in an amount equal to the maximum permissible by federal regulations. All payments shall be apportioned to each facility in a percentage equal to that facility's proportion of total county nursing home medicaid utilization. If the federal government makes adjustments to any proportionate share payments that have been made by the state, the amounts due under this section shall be amended accordingly and adjusted payments shall be made to or from the state as necessary.

II. Notwithstanding any provision of law to the contrary, each county government shall reimburse the state for 50 percent of the total cost of proportionate share payments made to the county pursuant to paragraph I.

8 Repeal. RSA 167:18-b, V, relative to recalculations of total payments by counties, is repealed.

9 Effective Date of Repeal Changed; Reimbursement of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. Amend 1998, 388:17, II as amended by 2003, 223:8 to read as follows:

II. Paragraphs I and II of section 16 of this act shall take effect on July 1, ~~[2004]~~ **2005**.

10 Repeal. RSA 84-A:1, II, relative to gross patient services revenue.

11 Nursing Facility Quality Assessment; Definitions. Amend RSA 84-C:1, IV to read as follows:

IV. "Net **patient services** revenues" means revenues earned on an accrual basis of accounting, net of deducted amounts for bad debts, charity care, and payer discounts, by a nursing facility for services provided to residents as provided for in 42 CFR 433.68(d)(1)(iii).

12 Nursing Facility Quality Assessment; Imposition of Fee. Amend RSA 84-C:2 to read as follows:

84-C:2 Imposition of Fee. An assessment of ~~[up to]~~ 6 percent of ~~[aggregated]~~ net **patient services** revenues is hereby imposed on all nursing facilities on the basis of ~~[non-medicare]~~ patient days **in each nursing facility**. The fee shall be implemented in accordance with the provisions of 42 C.F.R. part 433.

13 Nursing Facility Quality Assessment; Returns. Amend RSA 84-C:4 to read as follows:

84-C:4 Returns. Every nursing facility shall on or before the tenth day of the month following the expiration of the assessment period make a return to the commissioner and to the commissioner of the department of health and human services. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the date which it must contain for the correct computation of facility net **patient services** revenues and the assessment upon such amount. All returns shall be signed by the authorized representative of the nursing facility, subject to the pains and penalties of perjury. If such return shows an overpayment of the assessment due, the commissioner shall refund or credit the overpayment to the nursing facility.

14 Nursing Facility Quality Assessment; Additional Returns. Amend RSA 84-C:6 to read as follows:

84-C:6 Additional Returns. When the commissioner has reason to believe that a nursing facility has failed to file a return or to include any part of its net *patient services* revenue in a filed return, the commissioner may require the nursing facility to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the nursing facility of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

15 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(a) to read as follows:
(a) Aggregate medicaid reimbursement for nursing facilities through PAU 05-01-10-04-01 class 90 is reduced below the level in effect as of February 1, 2003, ***increased by the funds expended from the nursing facility trust fund established under RSA 151-E:14 and matched by corresponding federal funds.***

16 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(d) to read as follows:
(d) Any proceeds from the nursing facility quality assessment established in this chapter are expended by the state or any state agency for any purpose other than funding nursing facility expenditures through the ~~[medicaid quality incentive program under RSA 151-E:13]~~ ***nursing facility trust fund under RSA 151-E:14.***

17 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, III to read as follows:
III. The nursing facility quality assessment under this chapter shall not be assessed or collected ~~[and the medicaid quality incentive program authorized by RSA 151-E:13 shall not be paid]~~ ***and payments from the nursing facility trust fund authorized by RSA 151-E:14 shall not be made*** until after the commissioner of health and human services certifies to the commissioner that the department of health and human services has obtained ***all necessary*** federal ~~[approval of the assessment in RSA 84-C:2, the state plan uniformity waiver in RSA 84-C:11, I(e), the medicaid quality incentive program in RSA 151-E:13, and payments have commenced under the medicaid quality incentive program. Such payments under the medicaid quality incentive program shall commence 45 days after such certification and shall be effective for the period beginning May 1, 2003 or the effective date of the federal authorization for the nursing facility quality assessment, the uniformity waiver, and the medicaid quality incentive program, whichever is later]~~ ***approvals. Payments under RSA 151-E:15 shall be effective for the period beginning May 1, 2003.***

18 Expenditure of Funds From Nursing Facility Trust Fund. RSA 151-E:15 is repealed and reenacted to read as follows:
151-E:15 Expenditure of Funds From Nursing Facility Trust Fund. Notwithstanding any other provision of law, moneys in the nursing facility trust fund shall be expended in the following manner:

- I. All moneys in the fund shall be paid out no less frequently than on a quarterly basis and shall be disbursed as follows:
 - (a) The moneys in the fund shall be used to eliminate or reduce to the maximum extent possible the difference between the allowable medicaid costs, derived from the nursing facility medicaid acuity rate setting system, which nursing facilities incur in providing care to medicaid residents, and the amount which the state has budgeted in order to fund that care.
 - (b) If after the disbursement required in subparagraph (a) there are still any moneys remaining in the fund, the nursing facility rate setting system shall be adjusted to insure that all moneys in the fund are expended for nursing facility care.
- II. The state treasurer shall transfer from the nursing facility trust fund to the general fund on the first business day of each quarter the amount necessary to fund the payments under paragraph I.
- III. The state treasurer shall transfer, and the commissioner of health and human services shall fund the full amount of the nursing facility trust fund in each quarter.
- IV. Notwithstanding the provisions of RSA 167:18-b, I, no county shall be required to make any contribution to the distribution under this section.

19 Initial Assessment Period; Nursing Facility Quality Assessment. Amend 2003, 223:13 to read as follows:
223:13 Initial Assessment Period; Nursing Facility Quality Assessment. Notwithstanding RSA 84-C:1, II the initial assessment period shall be the period beginning ~~[with the effective date of federal authorization and ending on June 30, 2003]~~ ***May 1, 2003 and ending on April 30, 2004.***

20 Applicability. Nothing in this act shall be construed to create a new right or entitlement on behalf of any person to receive a service provided by the state.

- 21 Repeal. The following are repealed:
- I. RSA 84-C:11, I(e), relative to a certain contingency regarding the nursing facility quality assessment law.
 - II. RSA 151-E:13, relative to the medicaid quality incentive program.
- 22 Long-Term Care Reimbursement Commission.
- I. There is established a commission to study long-term care reimbursement.
 - II. The members of the commission shall be as follows:
 - (a) Three members of the house, appointed by the speaker of the house of representatives.
 - (b) Three members of the senate, appointed by the president of the senate.
 - (c) Three members appointed by the New Hampshire Association of Counties.

(d) The commissioner of health and human services, or designee.

(e) Two members representing the interests of private nursing homes, appointed by the New Hampshire Health Care Association.

(f) The commissioner of the department of revenue administration, or designee.

(g) Two members representing the interests of mid-level care, one appointed by the Northern New England Association of Homes and Services for the Aging and one appointed by the New Hampshire Association of Residential Care Homes.

(h) Two members representing the interests of home health care, appointed by the Home Care Association of New Hampshire.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall study the funding of long-term care medicaid costs and funding sources in New Hampshire as they affect county and state government. The study shall include, but not be limited to the following:

(a) The appropriate role of property taxes in funding the non-federal share of medicaid.

(b) Possible establishment of an equitable statewide medicaid property tax rate.

(c) Alternative funding sources for the non-federal share of medicaid.

(d) The role of tobacco master settlement agreement contribution to funding of the county portion of long-term care.

(e) Demographic trends in long-term care costs.

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

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 30, 2004.

23 Purpose. The purpose of section 24 of this act is to facilitate legislative involvement in any efforts at so-called "Medicaid Modernization."

24 Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

VI. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. ***The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state medicaid plan in any way that results at any time in the consolidation of federal grants or allotments, caps on the federal portion of medicaid spending, reductions in the federal share of medicaid spending, or increases in the state share of medicaid spending, without the prior approval of the fiscal committee of the general court.***

25 Health Services Planning and Review; Exemption Added. Amend RSA 151-C:13, I(g) to read as follows:

(g) Hospice houses;

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by an acute care hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the most recent 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit.

26 Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

27 Effective Date.

I. Sections 2-7 and 10 of this act shall take effect July 1, 2005.

II. Sections 1, 8, and 9 of this act shall take effect July 1, 2004.

III. Section 25 shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill:

I. Authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

II. Changes the medicaid enhancement tax to be imposed on net patient services revenue rather than gross patient services revenue.

- III. Amends the statutes relative to county nursing homes and proportionate share payments.
- IV. Clarifies the nursing facility quality assessment law and changes the method of how funds are expended from the nursing facility trust fund.
- V. Repeals the medicaid quality incentive program.
- VI. Establishes a commission to study long-term care reimbursement.
- VII. Requires that certain amendments to the state plan for providing medical or other remedial assistance be approved by the fiscal committee of the general court.
- VIII. Adds an exemption from the certificate of need law for certain hospitals.

2004-1200h

Amendment to SB 382-FN-LOCAL
Proposed by the Committee on Finance - R

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

3 New Section; Parole of Inmates; Medical Parole. Amend RSA 651-A by inserting after section 10 the following new section:

651-A:10-a Medical Parole.

I. Upon the recommendation of the commissioner of the department of corrections and the administrative director of forensic and medical services, after review of the information provided by a physician licensed pursuant to RSA 329, the parole board may grant medical parole to an inmate residing in a state correctional facility, regardless of the time remaining on his or her sentence, provided all of the following conditions apply:

- (a) The inmate has a terminal, debilitating, incapacitating, or incurable medical condition or syndrome, as certified by a physician licensed pursuant to RSA 329, and, if requested by the parole board, at least one additional physician licensed pursuant to RSA 329.
- (b) The cost of medical care, treatment, and resources for the inmate is determined to be excessive.
- (c) The parole board has determined that the inmate will not be a danger to the public, and that there is a reasonable probability that the inmate will not violate the law while on medical parole and will conduct himself or herself as a good citizen.

II. The administrative director of forensic and medical services, on behalf of an inmate, may petition the parole board for hearing to determine if the inmate is eligible for medical parole and if the inmate is eligible, shall submit the parole plan to the parole board.

III. Medical parole shall only be granted by a majority vote of the full 7 member parole board.

IV. The parole board may request, as a condition of medical parole, that such inmate submit to periodic medical examinations while on medical parole and comply with any other parole conditions imposed by the parole board. The administrative director of forensic and medical services, after review of any such medical examination shall report the findings to the parole board. If the parole board, after review of such findings, determines that the parolee no longer has a terminal, debilitating, incapacitating, or incurable medical condition or syndrome, the medical parole shall be revoked and the parolee shall be returned to the custody of the state.

V. Notwithstanding RSA 504-A:5, a medical parolee who is arrested under the authority of RSA 504-A:4 or RSA 651-A:25 shall be detained at the medical unit or infirmary of the appropriate state correctional facility closest to the location where he or she was arrested.

VI. An inmate who has been sentenced to life in prison without parole or sentenced to death shall not be eligible for medical parole under this section. Nothing in this provision or law shall be construed to create a right to medical parole for any inmate.

VII. Notwithstanding RSA 167:18-b, the state shall be responsible for all medicaid costs incurred, net of federal reimbursement, for any inmate granted medical parole under this section, until the earliest date on which parole could have been granted had the inmate not been granted medical parole.

4 New Subparagraph; Adult Parole Board; Duties. Amend RSA 651-A:4, III by inserting after subparagraph (d) the following new subparagraph:

(e) Procedures for medical parole.

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

AMENDED ANALYSIS

This bill limits the amount a hospital or emergency room can charge the department of corrections for medical services provided to a state prisoner to 110 percent of the medicare allowable rate for such services.

The bill also allows the parole board, in conjunction with the commissioner of the department of corrections and the administrative director of forensic and medical services, to grant certain inmates medical parole.

2004-1372h

Amendment to SB 406
Proposed by the Committee on Children and Family Law - R

Amend RSA 170-B:1, III as inserted by section 1 of the bill by replacing it with the following:

III. The adoptive parent or parents and ensuring them an undisturbed relationship with the child from and after the date of adoption.

Amend RSA 170-B:2 as inserted by section 1 of the bill by replacing it with the following:

170-B:2 Definitions. As used in this chapter, unless the context otherwise requires:

I. "Adult" means an individual who is not a minor.

II. "Agency" means any person licensed by existing law to place minors for adoption.

III. "Birth father" means a person or persons other than a legal father who has been named, pursuant to RSA 170-B:6, as the father of the child, or who is the subject of a pending paternity action, or who has filed an unrevoked notice of intent to claim paternity of the child pursuant to RSA 170-B:6.

IV. "Birth mother" means a woman who gestates an embryo conceived by natural or artificial insemination, in vitro fertilization, or preembryo transfer, or becomes a parent pursuant to RSA 168-B:23, IV.

V. "Child" means a son or daughter, whether by birth or by adoption.

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

VII. "Court" means probate court.

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

IX. "Guardian" means a person so appointed by the probate court.

X. "Legal father" means:

(a) The person designated as the father pursuant to RSA 126:6-a on that child's birth certificate;

(b) The person designated as the father pursuant to court order resulting from a paternity action;

(c) The person designated as the father upon legitimation pursuant to RSA 457:42; or

(d) The person that was determined by the court to be married to the birth mother at the time of either conception or birth or any time between conception and birth.

XI. "Minor" or "minor child" means any individual under the age of 18.

XII. "Parent" means mother, birth father, legal father, or adoptive parent, but such term shall not include a parent as to whom the parent-child relationship has been terminated by judicial decree or voluntarily surrender.

XIII. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

XIV. "Prospective adoptive parent" means the petitioner named on an adoption petition filed in the court.

XV. "Related child" means a child within the second degree of kinship either by blood or affinity. Relatives within the second degree includes step-parents, sisters, brothers, grandparents, aunts, or uncles.

XVI. "Sibling" means one of 2 or more persons having a common parent.

XVII. "Surrender" means the release of all parental rights, including but not limited to care, custody, and control of the child, by a parent, legal guardian, or agency.

Amend RSA 170-B:4 as inserted by section 1 of the bill by replacing it with the following:

170-B:4 Who May Adopt. Any of the following adults may adopt:

I. Husband and wife together.

II. An unmarried adult.

III. The unmarried parent of the adoptee.

IV. A married person without that person's spouse joining as a petitioner, if the adoptee is not the petitioner's spouse; and if any one of the following circumstances apply:

(a) The petitioner's spouse is a parent of the adoptee and assents to the adoption;

(b) The petitioner and his or her spouse are legally separated;

(c) The failure of the petitioner's spouse to join in the petition is excused by the court by reason of prolonged unexplained absence, unavailability, or circumstances constituting an unreasonable withholding of assent; or

(d) The petitioner's spouse assents to the adoption and the adoptee is over the age of 18.

Amend RSA 170-B:6, I as inserted by section 1 of the bill by replacing it with the following:

I. In an intrastate or interstate adoption, but not an international adoption, the following persons shall be given notice by the court and shall have the right to request a hearing to prove paternity:

(a) A person named by the birth mother in an affidavit:

(1) Filed with the court; and

(2) Given prior to or at the time of the surrender of parental rights pursuant to RSA 170-B:9, or her parental rights being involuntarily terminated.

(b) The birth or legal father, if his identity is known by the court, the department or licensed child placing agency which is legal guardian of the child, or the proposed adoptive parents or their attorney, prior to the birth mother surrendering

her parental rights pursuant to RSA 170-B:9 or her parental rights being involuntarily terminated.

(c) A person who claims to be the father and who has filed notice of his claim of paternity with the office of child support services in what shall be known as the New Hampshire putative father registry or in the putative father registry of the state where the child was born. In an interstate adoption, the petitioner shall provide the court with the address and telephone number of the putative father registry in the state where the child was born. In New Hampshire, the notice form shall be supplied by the office of child support services and shall indicate the claimant's willingness and intent to support the child to the best of his ability. The notice form may be filed prior to the birth of the child but shall be filed prior to the birth mother's parental rights being surrendered pursuant to RSA 170-B:9 or involuntarily terminated. Failure to file the notice prior to this time shall bar the alleged father from thereafter bringing an action to establish his paternity of the child, and shall constitute an abandonment of said child and a waiver of any right to a notice of hearing in any adoption proceeding concerning the child.

(d) A person who is openly living with the child or the child's birth mother or providing financial support to her or the child at the time any action under this chapter is initiated and who is holding himself out to be the child's father prior to the mother surrendering her parental rights pursuant to RSA 170-B:9 or the mother's parental rights being involuntarily terminated.

Amend RSA 170-B:9 as inserted by section 1 of the bill by replacing it with the following:

170-B:9 Procedure for Execution of Surrender.

I. Any parent surrendering parental rights shall be represented by legal counsel who is not representing an intended adoptive parent or the agency, unless such representation is waived with approval of the court for good cause shown.

II. A surrender of parental rights by a parent or guardian shall be executed by an instrument in writing, signed by the parent, in the presence and with the approval of the court of the county in which the parent resides. The court may designate a person or another court to take the parent's surrender on the court's behalf for good cause shown.

III. Any parent surrendering parental rights shall file with the court information on the age and medical and personal backgrounds of the birth parents and child. Such personal information may include but not be limited to ethnic and religious background, as is reasonably known. This requirement may be waived by the court for good cause shown.

IV. If the parent surrendering is under 18 years of age, the court may require the assent of the minor's parents or legal guardian.

V. If the parent does not reside in this state, such surrender may be taken pursuant to the laws of the state where the parent resides. A surrender executed pursuant to the laws of a state other than New Hampshire shall include an affidavit stating that the surrender was taken in accordance with the laws of that state and, where applicable, that the agency named has the authority to surrender the child for an adoption.

VI. The identification of the intended adoptive parents need not be known or disclosed to the birth parent or legal guardian in the surrender.

VII. A surrender executed by the department or by an agency, shall be in writing and signed by the executive head or other authorized representative, in the presence of a person authorized to take acknowledgments.

Amend RSA 170-B:12, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The court shall notify any other party who has surrendered rights to the child of the issuance of its order granting the withdrawal of such surrender. Notice sent by regular first class mail to the last known address on file with the court shall be sufficient and shall include with it a replication of RSA 170-B:12. The party shall have 30 days from the date of the register's notice of decision to request in writing to the court that his or her surrender be withdrawn as well. The 30-day time period to file such a request shall not be extended by the court absent a showing of good cause.

(a) Upon the court's timely receipt of the request, the court shall, except in the case of a surrender to the department, allow that party's withdrawal as of right and shall enter an order withdrawing such surrender.

(b) In the case of a surrender to the department, upon timely receipt of the request, the provisions of paragraphs II and III shall apply.

Amend RSA 170-B:13 as inserted by section 1 of the bill by replacing it with the following:

170-B:13 Payment of Birth Parent Expenses; Penalty.

I. In any adoption of an unrelated minor child under this chapter, an intended adoptive parent or anyone acting in concert with, at the direction of, or on behalf of an intended adoptive parent shall pay only the following expenses of the birth parent:

(a) Reasonable counseling, medical, and legal fees, which shall be paid by the party responsible for payment to the provider of the service.

(b) Reasonable expenses for transportation, meals, clothing, and lodging incurred for placement of the minor child.

(c) Reasonable expenses for adoption services provided by an agency at the request of the birth parent, which shall be paid directly to the agency.

(d) Reasonable living expenses of the birth mother which are necessary to maintain an adequate standard of living, which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy and lost wages resulting from the pregnancy or delivery. Payments may cover expenses incurred during the pregnancy-related

incapacity, but not for a period longer than 6 weeks following delivery. Reasonable living expenses shall not include gifts in excess of \$50, educational expenses, or other payments for the monetary gain of the birth parent.

II. A contract purporting to require a birth parent to reimburse an intended adoptive parent for such payments under any circumstances, including circumstances in which a birth parent refuses to surrender his or her parental rights or withdraws said surrender, is void as against public policy.

III. Violations of this section shall not affect the force or effect of an adoption decree issued pursuant to this chapter; specifically, it shall not be grounds for the finding of fraud or duress affecting the validity of a surrender that an adoptive parent paid or refused to pay expenses or other money or things of value not allowed by this section.

IV. The court may issue appropriate orders to enforce this section, including orders for reimbursement.
Amend RSA 170-B:24, II(e) and (f) as inserted by section 1 of the bill by replacing it with the following:

(e) When the department or agency involved in the adoption receives a request for identifying information where a release has been signed and not previously revoked, the department or agency shall attempt to contact the person who signed the release to reaffirm that person's desire to be contacted. If the person reaffirms his or her desire to be contacted or the department or agency cannot locate the person who signed the release or if the person is deceased, the department or agency shall disclose identifying information to the person who requested it. Court approval is not required for information disclosed under this paragraph.

(f) When the department or agency involved in the adoption receives a request for identifying information where no release has been signed or the previously signed release has been revoked, the department or agency may, after review of its records, attempt to contact the person whose identity is sought, to ascertain if they desire to release identifying information. If the person whose identity is sought, and the person seeking identifying information agree to the release of identifying information, the department or agency shall release it. Court approval is not required for information released under this subparagraph.

Amend RSA 170-B:24, III as inserted by section 1 of the bill by replacing it with the following:

III. Court approval shall be required prior to the release of identifying information in the following cases:

(a) If the parties do not agree, or if they cannot be contacted, or if the department or agency questions the safety of releasing information pursuant to paragraph II, the requesting party or the department or agency may petition the court having jurisdiction for the release of identifying information. The department or agency shall file a report of the department or agency's action with the court. The court shall on its own motion or on request of any party hold a hearing on the issue of releasing identifying information. The department or agency involved shall receive notice of the hearing and be entitled to participate in any hearing under this section.

(b) For all other requests for identifying information under this section, court approval shall be required. The court shall request a review of the record and the facts of the request from the department or agency involved in the adoption. The court may hold a hearing on the issue of releasing identifying information. The department or agency involved shall receive notice of such hearings and be entitled to participate in any hearing under this section.

Amend RSA 170-C:2, VIII as inserted by section 5 of the bill by replacing it with the following:

VIII. "Parent" means (a) the mother, (b) a father as to whom a child is legitimate, (c) a person as to whom a child is presumed to be a legitimate child, (d) ~~a putative~~ **an alleged** father who is living with the mother and child or who has complied with the provisions of RSA ~~[170-B:5, I(d)]~~ **170-B:5, I(c)**, or ~~(e)~~ **(d)** an adoptive parent. Such term does not include a parent as to whom the parent-child relationship has been terminated by judicial decree.

Amend the bill by replacing all after section 7 with the following:

8 Applicability. This act shall apply to all adoption proceedings or pleadings filed on or after the effective date of this act.

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

2004-1308h

Amendment to SB 407-FN-LOCAL

Proposed by the Committee on Municipal and County Government - C

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

□ Use of Official Ballot; Operating Budget. Amend RSA 40:13, IX-XI to read as follows:

IX.(a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body, unless the provisions of RSA 40:14-b are adopted, of the local political subdivision.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved ~~the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case~~

may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or reduced by one-time expenditures contained in the operating budget,] ***the default budget*** or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. ~~[For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision.]~~

XI. The ~~[amount of the previous year's operating budget, as adjusted pursuant to paragraph X,]~~ ***default budget*** shall be disclosed ~~[to the voters at the first session]~~ ***at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall demonstrate how the default budget amount was determined by showing the appropriations contained in the operating budget authorized for the previous year and the reductions and increases and one-time expenditures as defined under paragraph IX(b) on a default budget form created by the department of revenue administration.*** This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, ***unless the provisions of RSA 40:14-b are adopted,*** acting on relevant new information at any time before the ballots are printed, ***provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.*** The wording of the second session ballot question concerning the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the ~~[operating]~~ ***default*** budget shall be \$_____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

3 New Section; Default Budget Determined by Budget Committee. Amend RSA 40 by inserting after section 14-a the following new section:

40:14-b Default Budget Determined by Budget Committee.

I. A local political subdivision which has adopted the official ballot referenda form of meeting pursuant to RSA 40:14 and has also adopted a municipal budget committee pursuant to RSA 32:14 may delegate the determination of the default budget to the budget committee instead of the governing body.

II. A vote under this section may be taken simultaneously with the adoption of RSA 40:13 or any time after the adoption of RSA 40:13.

(a) If the vote is taken simultaneously with the adoption of RSA 40:13, a separate question shall be placed on the warrant for the annual meeting following the procedures in RSA 40:14.

(b) If the vote is taken after the adoption of RSA 40:13, the question shall be placed on the warrant of the annual meeting by the governing body or by petition under the procedures set out in RSA 39:3 or RSA 197:6. A public hearing on the question shall be held by the local governing body following the procedures in RSA 40:14, IV. A vote to adopt the question shall conform with RSA 40:14, VI.

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?"

III. The provisions of this section may be rescinded following the procedures set out in RSA 40:14, VII, except that the wording of the question shall be: "Shall we rescind the provisions of RSA 40:14-b, as adopted by the (local political subdivision) on (date of adoption), so that the default budget will be determined by the governing body instead of the budget committee?"

4 Budget Committee; Duties. Amend RSA 32:16, I to read as follows:

I. To prepare the budget as provided in RSA 32:5, ***and if authorized under RSA 40:14-b, a default budget under RSA 40:13, IX(b)*** for submission to each annual or special meeting of the voters of the municipality, and, if the municipality is a town, the budgets of any school district or village district wholly within the town, unless the warrant for such meeting does not propose any appropriation.

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

2004-1411h

Amend RSA 188-D:20, I as inserted by section 2 of the bill by replacing it with the following:

I. Prior to registering or renewing a business or trade name, or soliciting students for enrollment, an entity maintaining a physical presence in this state shall be reviewed by the postsecondary education commission to determine if the entity requires a license. The executive director, in consultation with the postsecondary education commission, shall establish procedures to accomplish this review.

Amend the bill by replacing all after section 4 with the following:

5 New Subparagraph; Application of Receipts; Student Tuition Guaranty Fund. Amend RSA 6:12, I (b) by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys deposited in the student tuition guaranty fund established in RSA 188-D:20-b.

6 Contingent Repeal. RSA 188-D:20-a, relative to the provision of a surety bond, is repealed.

7 Certification by Executive Director of the Postsecondary Education Commission. Section 6 of this act shall take effect upon written certification by the executive director of the postsecondary education commission to the secretary of state and the director of legislative services that the balance in the student tuition guaranty fund established in RSA 188-D:20-b is sufficient to provide fund participants with a satisfactory level of coverage.

8 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. Section 6 of this act shall take effect as provided in section 7 of this act.

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

2004-1409h

Amendment to SB 415-FN
Proposed by the Committee on Children and Family Law - C

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

AN ACT relative to the expansion of the Grafton county court pilot project relative to abuse and neglect hearings.

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

1 Court Pilot Project Continued and Expanded. Amend RSA 2002, 243:2-243:5 as amended by 2003, 206:5 – 206:6 to read as follows:

243:2 Abuse and Neglect Hearings in the Grafton **and Rockingham** County ~~[Court]~~ **Courts**; Pilot Project.

I. A pilot project in the Grafton **and Rockingham** county ~~[court]~~ **courts** is established to assess opening hearings in child abuse and neglect cases to the public absent a finding that opening the hearing or that disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties.

II. **All observers of and participants in hearings conducted under this section shall be subject to the confidentiality provisions of RSA 169-C:25.**

III. Notwithstanding RSA 169-C:14, any hearing held under RSA 169-C in the court participating in the pilot project shall be open to the public unless the court makes a specific finding, upon motion of either party or sua sponte by the court, that opening the hearing or that disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties. The court shall then limit admittance to the hearing only to the extent required to prevent disclosure of the harmful evidence except where a child who is the subject of the proceedings attends a hearing, in which case it shall be presumed that admitting nonparties would be contrary to the best interests of the child or would cause unreasonable harm. In any event, medical and psychological reports, records, and profiles, and testimony referring to the contents of such reports, records, and profiles, shall remain non-public. Such hearing shall, whenever possible, be held in rooms not used for criminal trials.

IV. Expansion of the pilot program to any county shall be implemented based on procedures developed in Grafton county by the administrative judge of the family division.

~~[H.]~~ V. The ~~[supervisory judge of the family court in Grafton county]~~ **administrative judge of the family division** shall prepare a report on the findings and recommendations of the Grafton **and Rockingham** county ~~[court]~~ **courts** relative to opening hearings in child abuse and neglect cases under the terms established by the pilot project. The ~~[supervisory judge of the family court in Grafton county]~~ **administrative judge of the family division** shall provide the report to the governor, the speaker of the house of representatives, the senate president, the legislative oversight committee, the senate clerk, the house clerk, and the commissioner of the department of health and human services on or before September 1, ~~[2004]~~ **2006**.

243:3 Legislative Oversight Committee Established. There is established a legislative oversight committee to monitor the progress of the pilot project in the Grafton **and Rockingham** county ~~[court]~~ **courts**.

I. Membership and Compensation.

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

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

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

(b) Members of the oversight committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(c) *The administrative judge of the family division shall appoint one judge in each county to serve as a liaison on the pilot project to the legislative oversight committee.*

II. Duties. The legislative oversight committee shall:

(a) Establish criteria to evaluate the effectiveness of the pilot project, ***including the effects of opening hearings on children and families involved.***

(b) Determine what costs, if any, are incurred by the [court] ***courts*** as a result of the project.

(c) Assess the effectiveness of the project based on the established criteria and information gathered by the committee regarding the project's implementation.

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

IV. Report. The committee shall ***make an interim*** report of its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, [2004], ***2005. The interim report shall include recommendations, based on results, regarding expansion of the pilot project to Hillsborough County beginning July 1, 2006. The committee shall submit a final report on or before November 1, 2006. The final report shall include recommendations, based on results, regarding expansion of the pilot project statewide.***

243:4 Repeal. Section 2 of this act, relative to the pilot project in Grafton [county] ***and Rockingham counties***, is repealed.

243:5 Effective Date.

I. Section 4 of this act shall take effect June 30, [2004] ***2006.***

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

2 Effective Date. This act shall take effect June 29, 2004.

AMENDED ANALYSIS

This bill continues for 2 years, and expands to Rockingham county, the Grafton county court pilot project which opens abuse and neglect hearings to the public. The bill also continues the legislative oversight committee on the pilot project and requires the committee to make an interim report on or before November 1, 2005 and a final report by November 1, 2006.
2004-1239h

Amendment to SB 423

Proposed by the Committee on Judiciary - C

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

1 Records of the Department of Labor; Workers' Compensation. Amend RSA 273:5 to read as follows:

273:5 Records.

I. The records of [said] the department of labor shall be public records open to the inspection of any person interested.

II. Notwithstanding paragraph I or any other provision of law to the contrary, the department of labor shall maintain the confidentiality of the names, addresses, and medical records of workers' compensation claimants.

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

AMENDED ANALYSIS

This bill requires certain information regarding workers' compensation cases to remain confidential.
2004-1381h

Amendment to SB 430-FN

Proposed by the Committee on Commerce - C

Amend the bill by deleting sections 1 and 2 and renumbering the original sections 3-9 to read as 1-7, respectively.

Amend the bill by replacing section 1 with the following:

1 New Section; Insurance; Review and Evaluation of Mandated Insurance Benefits Proposed Under RSA 281-A, RSA 415, RSA 420-A, and RSA 420-B. Amend RSA 400-A by inserting after section 39 the following new section:

400-A:39-a Review and Evaluation of Proposed Insurance Mandated Benefit Proposals Under RSA 281-A, RSA 415, RSA 420-A, and RSA 420-B.

I. The commissioner is authorized to contract for an external review and evaluation of any mandated benefit.

II. Whenever a legislative measure containing a mandated benefit is proposed, the standing committee of either the house or the senate having jurisdiction over the proposal may refer the proposal to the insurance department for review and evaluation.

III. Upon a referral of a mandated benefit proposal from the standing committee of the house or the senate having jurisdiction over the proposal, or at the discretion of the commissioner, the insurance department shall conduct a review and evaluation of the mandated benefit proposal and shall report any results to the standing committee that has oversight of the

mandated benefit. In the instance of a mandated benefit proposal affecting RSA 281-A, the review and evaluation by the insurance department shall be conducted in conjunction with input from the labor department.

IV. The report shall include, at a minimum and to the extent that information is available, the following:

- (a) The social impact of mandating the benefit.
- (b) The financial impact of mandating the benefit.
- (c) The medical efficacy of mandating the benefit.
- (d) The effects of balancing the social, economic, and medical efficacy considerations.

V. For the purposes of this section, a mandated benefit proposal is one that mandates insurance coverage for certain conditions, specific health services, specific diseases, or certain providers of health care services.

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

7 Repeal. RSA 400-A:39-a, relative to review and evaluation of mandated insurance benefits, is repealed.

8 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. Section 7 of this act shall take effect January 1, 2010.

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

AMENDED ANALYSIS

This bill requires that any legislative proposal which mandates insurance benefits, including workers' compensation benefits, be evaluated by the insurance department before being enacted into law if a standing committee requests such an evaluation.

This bill also establishes a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.

2004-1352h

Amendment to SB 434

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT establishing a pharmaceutical study commission to study methods for making prescription drugs more affordable for New Hampshire citizens.

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

1 Commission Established. There is established a commission to study methods for making prescription drugs more affordable for New Hampshire citizens.

2 Membership and Compensation.

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

(a) Three members of the house of representatives, appointed by the speaker of the house, as follows:

(1) One member from the commerce committee.

(2) One member from the executive departments and administration committee.

(3) One member from the health, human services and elderly affairs committee.

(b) Two members of the senate, appointed by the president of the senate.

(c) Two members of the public, appointed by the governor.

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

3 Duties. The commission shall study methods for making prescription drugs more affordable for New Hampshire citizens, including but not limited to, importing drugs from Canada. The commission shall solicit comment from:

I. The commissioner of health and human services, or designee.

II. The National Association of Chain Drug Stores.

III. The American Pharmaceutical Association.

IV. The Pharmaceutical Research and Manufacturers of America.

V. The American Association of Retired Persons.

VI. Any other person or entity the commission deems relevant.

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

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

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

AMENDED ANALYSIS

This bill establishes a commission to study methods for making prescription drugs more affordable for New Hampshire citizens, including but not limited to, importing drugs from Canada.
2004-1397h

Amendment to SB 436-FN-LOCAL
Proposed by the Committee on Finance - C

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

- 1 Findings. The general court finds that it is the desire of both the city of Claremont and the town of Newport that each community have its own district courthouse, and the intent of this act is not to combine the courts into one facility in Claremont.
- 2 Claremont District Court. RSA 502-A:1, XXVII is repealed and reenacted to read as follows:
XXVII. CLAREMONT DISTRICT. The Claremont district shall consist of the city of Claremont and the towns of Cornish, Unity, Charlestown, Acworth, Langdon, and Plainfield. The district court for the district shall be located in Claremont, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Claremont District Court.
- 3 New Paragraph; Newport District Court. Amend RSA 502-A:1 by inserting after paragraph XXVII the following new paragraph:
XXVII-a. NEWPORT DISTRICT. The Newport district shall consist of the towns of Newport, Grantham, Croydon, Springfield, Goshen, Sunapee, Lempster, and Washington. The district court for the district shall be located in Newport, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Newport District Court.
- 4 Claremont-Newport District. RSA 502-A:1, XXVII is repealed and reenacted to read as follows:
XXVII. CLAREMONT-NEWPORT DISTRICT. The Claremont-Newport district shall consist of the city of Claremont and the towns of Cornish, Unity, Charlestown, Acworth, Langdon, Plainfield, Newport, Grantham, Croydon, Springfield, Sunapee, Goshen, Lempster, and Washington. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.
- 5 Repeal. RSA 502-A:1, XXVII-a, relative to the Newport district court, is repealed.
- 6 Contingency. If the department of administrative services and the city and towns in the Claremont and Newport districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 4 and 5 of this act shall take effect July 1, 2006. If the department of administrative services and the city and towns in the Claremont and Newport districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 4 and 5 of this act shall not take effect.
- 7 Effective Date.
 - I. Sections 4 and 5 of this act shall take effect as provided in section 6 of this act.
 - II. The remainder of this act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill prevents the consolidation of the Claremont and Newport district courts, if certain conditions are met regarding court facilities.
2004-1243h

Amendment to SB 441
Proposed by the Committee on Commerce - C

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

- 2 New Paragraph; Practice of Dental Hygiene. Amend RSA 317-A:21-c by inserting after paragraph III the following new paragraph:
IV. The practice of dental hygiene conducted under the authority of a health care charitable trust as provided in RSA 317-A:20, III(c) shall be performed by dentists or by dental hygienists licensed by the board and who practice under the supervision of a dentist licensed by the board. The health care charitable trust shall notify the board in writing of the name and location of the dental clinic and the name of the supervising dentist, and shall notify the board within 10 days of any change of the supervising dentist.
2004-1287h

Amendment to SB 442
Proposed by the Committee on Commerce - C

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

- 1 New Chapter; Manufactured Housing Installation Standards. Amend RSA by inserting after chapter 205-C the following new chapter:

CHAPTER 205-D
MANUFACTURED HOUSING INSTALLATION STANDARDS

205-D:1 Definitions. In this chapter:

- I. "Anchoring system" means a method of construction which when properly designed and installed will resist overturning and lateral movement of the manufactured house.
- II. "Board" means the installation standards board.
- III. "Commissioner" means the commissioner of the department of safety.
- IV. "Dealer" or "retailer" means any person engaged in the retail selling or offering for sale, brokering, or distribution of manufactured houses, primarily to a person who purchases these houses for residential use.
- V. "Department" means the department of safety.
- VI. "Federal Manufactured Housing Construction and Safety Standard" means a standard for the construction, design, and performance of a manufactured house which meets the needs of the public including the need for quality, durability, and safety which has been duly adopted by the federal government pursuant to the National Manufactured Housing Construction and Safety Standards Acts of 1974, 42 United States Code, section 5401, et seq.
- VII. "Installation" means the placement of a manufactured house on a permanent or temporary system. This term includes, but is not limited to, supporting, restraining, blocking, leveling, securing, anchoring, and connection of plumbing, heating, cooling, and electrical systems and the multiple or expandable sections of the house. Installation shall include site preparation.
- VIII. "Installation standards" means reasonable specifications for the installation of a manufactured house, at the place of occupancy, to ensure proper siting, the joining of all sections of the house, and the installation of stabilization, support, or anchoring systems.
- IX. "Installer" means any person who performs the installation of manufactured houses as prescribed under this chapter.
- X. "Local enforcement agency" means the building inspector or other local government official with authority to issue permits or enforce building codes.
- XI. "Manufactured housing" means any structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include campers or recreation vehicles as defined in RSA 216-I:1 or RSA 259:84-a; presite built housing as defined in RSA 674:31-a; or modular buildings as defined in RSA 205-C:1, XI.
- XII. "Manufacturer" means any person engaged in manufacturing or assembling manufactured housing.
- XIII. "Site" means a designated lot or parcel of land designed for the accommodation of a manufactured house.

205-D:2 Board Established; Members; Terms; Chairperson.

- I. There is hereby created an installation standards board consisting of the commissioner of the department of safety or the commissioner's designee and 12 additional members appointed by the commissioner of safety as follows:
 - (a) Two public members who are not tenants or owners of a manufactured house, owners or operators of a manufactured housing park, or in any way associated with the manufactured housing industry.
 - (b) One installer of manufactured housing, nominated by the New Hampshire Manufactured Housing Association.
 - (c) One structural engineer or architect licensed in this state for a minimum of 5 years, nominated by the board of engineers established under RSA 310-A:3.
 - (d) One dealer or retailer, nominated by the New Hampshire Manufactured Housing Association.
 - (e) One owner or operator of a manufactured housing park with 100 or fewer lots, nominated by the New Hampshire Manufactured Housing Association.
 - (f) One owner or operator of a manufactured housing park with more than 100 lots, nominated by the New Hampshire Manufactured Housing Association.
 - (g) One member of a cooperative manufactured housing park, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.
 - (h) One municipal building code official, nominated by the New Hampshire Building Officials Association.
 - (i) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.
 - (j) One civil engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established under RSA 310-A:3.
 - (k) One homeowner of a manufactured house, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.
- II. Each person shall serve for a 3-year term and until a successor is appointed and qualified; provided, however, that the initial appointments shall be as follows:
 - (a) Members appointed pursuant to subparagraphs I(b), (d), (k), and (f) shall serve 3-year terms.

(b) Members appointed pursuant to subparagraphs I(c), (h), (e), and (i) shall serve 2-year terms.

(c) Members appointed pursuant to subparagraphs I(a), (j), and (g) shall serve one-year terms.

III. At the initial organizational meeting of the board, the commissioner of the department of safety shall appoint a chairperson from among the members.

IV. If there is a vacancy on the board, the provisions of RSA 21:33-a and RSA 21:34 shall apply to the public members, as well as to the members appointed pursuant to subparagraphs I(b) through (k).

V. The board shall hold meetings every 90 days and may meet more frequently as deemed necessary by the board or the chairperson.

VI. The board shall operate as a unit of the department of safety.

205-D:3 Duties of the Board. The duties of the board shall be to:

I. Assure compliance with the Federal Manufactured Housing Construction and Safety Standard, including compliance with the standard as amended by the Manufactured Housing Improvement Act of 2000, Public Law 106-569.

II. Establish uniform manufactured housing installation standards in order to protect the quality, durability, safety, and affordability of manufactured housing in this state.

III. Adequately license and train manufactured housing installers in order to ensure the proper performance of the house and protect the safety and welfare of the public.

IV. Ensure compliance with state installation standards by conducting appropriate inspections of the installation of manufactured housing.

V. Provide a fair and effective recourse for consumers relative to installation standards; and provide a dispute resolution program for timely resolution of disputes between manufacturers, retailers, and installers of manufactured houses regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured houses that are reported during the one year period beginning on the date of installation.

205-D:4 Installation Standards.

I. This chapter shall apply to the installation of all new and relocated manufactured housing that is used as a residential dwelling, except as provided in paragraph II.

II. The following manufactured housing sites are exempt from this chapter; provided that such housing sites are maintained and operated in a safe and sanitary condition:

(a) Sites that are already occupied as of the date of the enactment of this chapter.

(b) Sites for the installation of manufactured housing which provides temporary relief from fire, flood, or other disasters. The site shall be exempt from the provisions of this chapter for a period of one year from the date of the placement of the house.

III. Installers shall have the option of installing manufactured housing in accordance with one of the following standards:

(a) New Hampshire installation standards as developed by the board.

(b) A design prepared by a registered professional engineer or architect for the site.

(c) The manufacturer's installation instructions, provided that such instructions meet or exceed the New Hampshire installation standards as developed by the board.

205-D:5 Inspectors.

I. The local enforcement agency, or if there is no local enforcement agency, the state fire marshal or the state fire marshal's designee, shall:

(a) Conduct appropriate inspections to ensure compliance throughout the state with installation practices consistent with the provisions of this statute and rules promulgated hereunder.

(b) Enter any premises on which an installation is being or has been completed subject to regulation under this chapter for the purpose of making such inspection as is necessary to carry out his or her duties under this chapter. Inspections shall be done prior to occupancy of the manufactured house.

(c) Order the correction of any violation of this chapter, or rule adopted under this chapter.

(d) Order any installer to discontinue installation until the violations are corrected.

(e) Approve the continuation of work on the installation upon being satisfied that violations have been corrected.

(f) Issue a certificate of compliance upon satisfaction that a manufactured house has been installed in compliance with this chapter and the rules promulgated under this chapter.

II. Whenever a local enforcement agency, or if there is no local enforcement agency, the state fire marshal or the state fire marshal's designee, orders the correction of a violation under subparagraph I(c), he or she shall immediately notify the board.

III. A certificate of compliance shall be required for occupancy.

IV. Any installer aggrieved under the provisions of this section may file a complaint in accordance with RSA 205-D:6.

205-D:6 Complaints.

I. A consumer, park owner, manufacturer, retailer, or installer of manufactured housing aggrieved or having a dispute

regarding the installation of a manufactured house under the provisions of this chapter may file a complaint with the board.

II. All complaints shall be in writing and reviewed by the board.

III. To be accepted for filing, complaints shall be filed on a form provided by the board.

IV. All complaints shall be filed with the board within one year of the date of occupancy.

V. If the board determines that a complaint requires further investigation, it shall be acted upon within 60 days. The board shall establish procedures for expedited hearings on complaints where the circumstances set forth in the complaint warrant it.

VI. Upon confirmation that a complaint complies with this section, the board shall schedule a hearing on the complaint in accordance with the provisions of RSA 541-A.

VII. Disposition of all complaints shall be voted on by the board.

205-D:7 License Required. No person shall install any manufactured house subject to the provisions of this chapter without first obtaining a license from the board as required by this chapter.

205-D:8 Qualifications for License. The board shall issue a license to any applicant who at a minimum:

I. Has attained the age of 18;

II. Has 2 years experience as a manufactured housing installer or proves to the board's satisfaction equivalent installation experience;

III. Has successfully completed 6 hours of training on installation standards; and

IV. Complies with the requirements of RSA 205-D:10.

205-D:9 Bond Required.

I. The board shall not issue a license to any person unless the person has posted a surety bond in the amount of at least \$100,000, as determined by the board, or the equivalent in cash, marketable securities, letters of credit, or escrow accounts with the attorney general. The type of bond shall be designated by the attorney general. No surety bond shall be accepted unless it is with a surety company authorized to do business in this state. The surety may cancel the bond at any time upon giving 30 days' written notice to the attorney general.

II. Any person who is damaged by any violation of this chapter may bring an action against the bond or its equivalent to recover damages suffered and any other amounts allowable by law. The attorney general, in any action brought under this chapter or any other applicable provisions of the law, may likewise proceed against the bond or its equivalent.

205-D:10 Application for License.

I. Applications for licenses shall be made on forms adopted by the board.

II. Applications for licensure shall be accompanied by proof of the surety bond required by this chapter, and payment of the license fee.

III. The board may require each applicant to provide additional information about the applicant's background and trustworthiness as is reasonably necessary.

205-D:11 Expiration and Renewal.

I. All licenses issued by the board shall expire on the last day of the month of the licensee's birth, but may be renewed during the following month, retroactive to the first day of the month. Upon failure to pay the renewal fee within the required period, a licensee may renew his or her license by submitting the required fee plus \$10 before the last day of the second month following the month of his or her birth.

II. Persons licensed as installers are eligible for renewal of their licenses if they:

(a) Are not in violation of this chapter;

(b) Meet any requirements for continuing education established by the board in rules adopted pursuant to RSA 541-A; and

(c) Submit evidence that a surety bond required under RSA 205-D:9 is in force.

205-D:12 Fees.

I. The board may establish, pursuant to RSA 541-A, fees for licensure, license renewal, training, inspections conducted by the state fire marshal, and the manufacturer's warranty seal. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. The fee for the manufacturer's warranty seal shall not exceed \$50. If the fees collected through licensure, license renewal, training, and the manufacturer's warranty seal are not sufficient to produce revenue to carry out the responsibilities of the board and the responsibilities of the state fire marshal in conducting inspections under this chapter, then the board shall establish a fee for inspection which shall not exceed \$100.

II. The board shall establish fees for the first year of its operation based upon its estimate of expenses necessary to carry out the provisions of this chapter during that fiscal year. The comptroller is authorized upon request of the department of safety to establish necessary budgetary components and operating accounts in the department and to transfer revenues received from the fees in this section and in RSA 205-D:11 to the department to carry out the responsibilities of the board and the responsibilities of the state fire marshal in conducting inspections under this chapter.

III. If an inspection is conducted by a local enforcement agency, the local enforcement agency may charge fees

established pursuant to RSA 674:51, III(d).

205-D:13 Disciplinary Action.

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

(b) Upon a sworn written complaint of any person which charges that a person licensed by the board has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Conduct sufficient to support disciplinary proceedings under this section shall include, but is not limited to, any of the following:

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this chapter.

(b) Willful or repeated violation of the provisions of this chapter.

(c) Suspension or revocation of a license, similar to one issued under this chapter, in another jurisdiction and which has not been reinstated.

III. The board may take disciplinary action in any one or more of the following ways:

(a) By reprimand.

(b) By suspension, limitation, or restriction of license for a period of up to 5 years.

(c) By revocation of license.

(d) By requiring the person to participate in a program of continuing education in the area or areas in which he or she has been found deficient.

(e) By imposing a fine not to exceed \$1,500 for each offense.

205-D:14 Hearings. The board shall take no disciplinary action without a hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board. A hearing shall be held on all written complaints received by the board within 90 days of the date that notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

205-D:15 Penalty. Any person acting as an installer without a license, or violating any of the provisions of this chapter, shall be guilty of a class B misdemeanor.

205-D:16 Consumer Protection Act. Nothing in this chapter shall preclude an aggrieved party from seeking redress under RSA 358-A, the consumer protection act, for any unfair or deceptive trade practice committed relative to the installation of manufactured housing.

205-D:17 Warranty Seal. Before a manufactured house may be installed in this state, the manufacturer shall first obtain from the board a manufacturer's warranty seal and attach the seal to the manufactured house.

205-D:18 Exemptions.

I. Manufactured housing which is installed in compliance with this chapter shall be exempt from all state or local standards or regulations which regulate the same matters.

II. Nothing in this chapter shall be construed to amend or repeal the provisions of RSA 31:116, relative to manufactured housing foundations in parks, and RSA 47:22-b, relative to manufactured housing foundations in parks.

III. This chapter shall not apply to students engaged in a high school vocational program under the supervision of a licensed installer or as otherwise allowed by the board in its rules.

205-D:19 Federal Funds and Other Funding Sources. The board may seek and receive funds from the federal government and other public or private sources to further activities under this chapter, subject to the approval of the commissioner.

205-D:20 Rulemaking Authority. With the approval of the commissioner, the board shall be authorized pursuant to RSA 541-A, to adopt rules relative to:

I. The establishment of uniform manufactured housing installation standards.

II. The design and content of all forms and applications required under this chapter.

III. The application procedure for a license to practice under this chapter.

IV. The qualifications of license applicants set under this chapter.

V. How an applicant shall be trained, including the minimum education requirements and training standards.

VI. How a license to practice under this chapter shall be renewed, including any requirements for continuing education.

VII. The establishment of fees required under this chapter.

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

IX. The establishment of complaint procedures including investigations and expedited hearings procedures.

X. Procedures for the conduct of hearings consistent with the requirements of due process.

XI. The establishment of a program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured housing regarding responsibility, for the issuance of appropriate orders, for the correction or repair of defects in manufactured houses that are reported during the one year period following the date of installation.

2 Rulemaking Required. On or before July 1, 2005, the installation standards board established in section 1 of this act shall adopt rules under RSA 541-A as provided in RSA 205-D:20.

3 Applicability. To allow time for the establishment of the installation standards board and for implementation of this act, no installers shall be required to be licensed pursuant to this act until 90 days after the board has adopted rules.

4 Effective Date. This act shall take effect 30 days after its passage.
2004-1334h

Amendment to SB 445

Proposed by the Committee on Executive Departments and Administration - C

Amend the bill by replacing all after section 4 with the following:

5 Issuance, Expiration, and License Renewal. Amend RSA 326-H:14, II to read as follows:

II. All licenses issued by the board shall be valid for 2 years from the date of issuance and shall be renewed biennially or reissued pursuant to rules adopted and upon payment of fees established by the board. The board shall cause notification of impending license expiration to be sent to each licensed person at least 60 days prior to the expiration of the license. ***Licenses shall continue as valid until final action is exercised by the board on an application for renewal, provided that the application is filed before the expiration date of the license.***

6 Licensed Dietitians; Penalties. RSA 326-H:16 is repealed and reenacted to read as follows:

326-H:16 Suspension and Revocation of License. The board, after providing an opportunity for a hearing, may take appropriate disciplinary action as follows:

I. Suspend or revoke the license if the person has obtained the license by fraudulent or deceitful means.

II. Suspend or revoke the license if the person has been convicted of a class A felony or found guilty of malpractice or gross misconduct in practice as a dietitian.

III. Suspend or revoke if by reason of negligent habits, neglect, willful action, or other causes engaged in actions inconsistent with the health of the person or persons under the care of the licensee.

IV. Take appropriate disciplinary action such as suspension, revocation, penalties, sanctions, additional training or other requirements for all other violations of this chapter, and the rules and code of ethics adopted by the board.

7 Hearings. Amend RSA 326-H:17, I to read as follows:

I. The board shall take no disciplinary action without ***providing an opportunity for*** a hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints received by the board within 3 months of the date notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

8 Effective Date. This act shall take effect 60 days after its passage.
2004-1333h

Amendment to SB 449

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

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

1 Use of Fluoride; Public Water Systems Serving More Than One Political Subdivision. RSA 485:14 is repealed and reenacted to read as follows:

485:14 Use of Fluoride. No fluoride shall be introduced into the public water supply unless and until the municipality or municipalities using said waters have held a public hearing as to the introduction of fluoride into the public water supply of said municipality or municipalities, and the registered voters of such municipality or municipalities have approved such action pursuant to RSA 44:16, RSA 31:17-a, RSA 52:23 or RSA 485:14-a. For purposes of this section "municipality" means a municipality that has 100 or more user connections that are served from the public water supply.

2 New Section; Referendum for Public Water Systems Serving More Than One Political Subdivision. Amend RSA 485 by inserting after section 14 the following new section:

485:14-a Referendum Procedure for Public Water Systems Serving More Than One Political Subdivision.

I. Upon the written application of the aggregate of 10 percent of the registered voters in all of the towns served by a water system, presented to the clerk of the town owning the water system at least 90 days before the day prescribed for an annual town meeting or city election, the clerk shall forward a copy of the petition to each town served by the water system. Upon receipt of the petition, the selectmen of the town shall insert on the warrant or the official ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves multiple towns does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said towns. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period

of 3 years from the date of the last popular referendum and only upon written application at that time of not less than the aggregate of 10 percent of the registered voters of all of the towns.

II. In this section:

(a) "Town" means town as defined in RSA 21:5.

(b) "Selectmen" means selectmen as defined in RSA 21:28.

3 Referendum on the use of Fluoride. RSA 31:17-a is repealed and reenacted to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the registered voters of the town shall, by majority vote, approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

4 Public Water Supplies; Referendum on the use of Fluoride. RSA 44:16 is repealed and reenacted to read as follows:

44:16 Public Water Supplies. Upon the written application of 10 percent of the registered voters in any city, presented to the city clerk prior to the municipal election, the city clerk shall insert on the ballot to be used at said election the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality at said election does not approve the use of fluoride in the public water system for said city, no fluoride shall be introduced into the public water system. If fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the city shall, by majority vote, approve the use of such fluoride. After such popular referendum, the city clerk shall not insert the aforementioned question relative to the use of fluoride in the public water system on the ballot to be used at the municipal election for a minimum period of 3 years from the date of the last popular referendum, and only upon written application at that time of not less than 10 percent of the registered voters of said city. The procedure for a referendum on the use of fluoride in a city that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

5 Public Water; Referendum on the use of Fluoride. RSA 52:23 is repealed and reenacted to read as follows:

52:23 Public Water. Upon the written application of 10 percent of the registered voters in any village water district, presented to the commissioners or one of them at least 15 days before the day prescribed for an annual meeting of the district, the commissioners shall insert in their warrant for such meeting an article relative to the use of fluoride in the water system for said district, and the district clerk shall prepare a ballot for said meeting with the following question: "Shall fluoride be used in the district water system?" Beside the question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves only one municipality does not approve the use of fluoride in the district water system, no fluoride shall be introduced into the district water system; or if fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the district shall, by majority vote, approve of the use of fluoride. After such popular referendum, the commissioners shall not insert an article relative to the use of fluoride in the district water system in the warrant nor shall the district clerk prepare such a ballot for a minimum period of 3 years from the date of the last popular referendum of the district and only upon written application at that time of not less than 10 percent of the registered voters of said district. The procedure for a referendum on the use of fluoride in a village district that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

6 Applicability. Any public water system serving more than one municipality which introduced fluoride into the water supply prior to July 1, 2004 may continue the use of fluoride until a referendum under RSA 485:14-a has taken place.

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

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.

II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.

III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may

continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.
2004-1445h

Amendment to SB 449

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

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

❑ Use of Fluoride; Public Water Systems Serving More Than One Political Subdivision. RSA 485:14 is repealed and reenacted to read as follows:

485:14 Use of Fluoride. No fluoride shall be introduced into the public water supply unless and until the municipality or municipalities using said waters have held a public hearing as to the introduction of fluoride into the public water supply of said municipality or municipalities, and the registered voters of such municipality or municipalities have approved such action pursuant to RSA 44:16, RSA 31:17-a, RSA 52:23 or RSA 485:14-a.

❒ New Section; Referendum for Public Water Systems Serving More Than One Political Subdivision. Amend RSA 485 by inserting after section 14 the following new section:

485:14-a Referendum Procedure for Public Water Systems Serving More Than One Political Subdivision.

I. Upon the written application of the aggregate of 10 percent of the registered voters in all of the towns served by a water system, presented to the clerk of the town owning the water system at least 90 days before the day prescribed for an annual town meeting or city election, the clerk shall forward a copy of the petition to each town served by the water system. Upon receipt of the petition, the selectmen of the town shall insert on the warrant or the official ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves multiple towns does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said towns. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than the aggregate of 10 percent of the registered voters of all of the towns.

II. In this section:

(a) "Town" means town as defined in RSA 21:5.

(b) "Selectmen" means selectmen as defined in RSA 21:28.

❒ Referendum on the use of Fluoride. RSA 31:17-a is repealed and reenacted to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the registered voters of the town shall, by majority vote, approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

❒ Public Water Supplies; Referendum on the use of Fluoride. RSA 44:16 is repealed and reenacted to read as follows:

44:16 Public Water Supplies. Upon the written application of 10 percent of the registered voters in any city, presented to the city clerk prior to the municipal election, the city clerk shall insert on the ballot to be used at said election the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality at said election does not approve the use of fluoride in the public water system for said city, no fluoride shall be introduced into the public water system. If fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the city shall, by majority vote, approve the use of such fluoride. After such popular referendum, the city clerk shall not insert the aforementioned question relative to the use of fluoride in the public water system on the ballot to be used at the municipal election for a minimum period of 3 years from the date of the last popular referendum, and only upon written application at that time of not less than 10 percent of the registered voters of said city. The procedure for a referendum on the use of fluoride in a city that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

❒ Public Water; Referendum on the use of Fluoride. RSA 52:23 is repealed and reenacted to read as follows:

52:23 Public Water. Upon the written application of 10 percent of the registered voters in any village water district,

presented to the commissioners or one of them at least 15 days before the day prescribed for an annual meeting of the district, the commissioners shall insert in their warrant for such meeting an article relative to the use of fluoride in the water system for said district, and the district clerk shall prepare a ballot for said meeting with the following question: "Shall fluoride be used in the district water system?" Beside the question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves only one municipality does not approve the use of fluoride in the district water system, no fluoride shall be introduced into the district water system; or if fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the district shall, by majority vote, approve of the use of fluoride. After such popular referendum, the commissioners shall not insert an article relative to the use of fluoride in the district water system in the warrant nor shall the district clerk prepare such a ballot for a minimum period of 3 years from the date of the last popular referendum of the district and only upon written application at that time of not less than 10 percent of the registered voters of said district. The procedure for a referendum on the use of fluoride in a village district that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

6 Applicability. Any public water system serving more than one municipality which introduced fluoride into the water supply prior to July 1, 2004 may continue the use of fluoride until a referendum under RSA 485:14-a has taken place.

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

AMENDED ANALYSIS

This bill:

- I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.
- II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.
- III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

2004-1440h

Floor Amendment to SB 449
Proposed by Reps. Patten, Brundige and Schmidt

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

7 Special Procedure; Municipalities Receiving Water From the City of Manchester, Water Works Department.

- I. Notwithstanding RSA 485:14-a, the secretary of state shall place the following question on the September 2004 state primary election ballot and on a separate ballot for undeclared voters for the city of Manchester and other municipalities receiving water from the city of Manchester, water works department: "Shall fluoride be used in the Manchester public water system?"
- II. When the secretary of state has received the returns on the question in paragraph I, he or she shall examine, record, and total such returns and shall declare the outcome.

III. The secretary of state shall forward one copy of the outcome to the clerk of the city of Manchester.

IV. The city of Manchester, water works department, may continue to use fluoride until the secretary of state notifies the Manchester city clerk of the outcome of the question in paragraph I. If a majority of those voting in all of the municipalities combined does not approve the use of fluoride in the Manchester public water system, the use of fluoride shall be discontinued.

V. To the extent that there is an additional expense for printing the question, the expense shall be paid by the city of Manchester, water works department.

AMENDED ANALYSIS

This bill:

- I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.
- II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.
- III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

IV. Creates a procedure for a vote in the September 2004 state primary election on the use of fluoride in the municipalities served by the city of Manchester, water works department.

2004-1370h

Amendment to SB 478-FN
Proposed by the Committee on Criminal Justice and Public Safety - C

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

1 Penalties for Intoxication or Under Influence of Drug Offenses. Amend RSA 265:82-b, I to read as follows:

I. Except as otherwise provided in this section:

(a) Any person who is convicted of any offense under RSA 215-A:11, I or RSA 265:82 shall be:

(1) Guilty of a ~~[violation]~~ **class B misdemeanor**;

(2) Fined not less than ~~[\$350]~~ **\$500**;

(3) Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services; ~~and~~

(4) The person's driver's license or privilege to drive shall be revoked for not less than 9 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) within 45 days after conviction, or as soon thereafter as any extenuating circumstances approved by the department of health and human services allow;

(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate; and

(6) The court in which the person was convicted may reduce the conviction to a violation upon a motion filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, any evidence of drug or alcohol treatment, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.

(b) Any person who is convicted of any aggravated DWI offense under RSA 215-A:11, II, or RSA 265:82-a, except as provided in subparagraph (c), shall be:

(1) Guilty of a **class A** misdemeanor;

(2) Fined not less than \$500;

~~(3) [Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services; and]~~ ***Sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall be in no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order;***

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) ~~[within 45 days after conviction, or]~~ as soon thereafter as any circumstances approved by the department of health of human services allow;

(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other test as the court may deem appropriate; and

(6) A person who leaves the relevant driver intervention program required by subparagraph II(a)(3) before completion and fails to return and complete it as soon as extenuation circumstances approved by the department of health and human services allow or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 14 days in the county correctional facility.

(c) Any person who is convicted of aggravated DWI under RSA 215-A:11, II(a)(1) or II(b)(1), or RSA 265:82-a, I(b) or

II(b), shall be:

- (1) Guilty of a class B felony;
- (2) Fined not less than \$1,000;
- (3) ~~[Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program]~~ ***Sentenced to a mandatory sentence of not less than 21 consecutive days of which 14 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services, and the remainder of the sentence may be deferred at the court's discretion. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence;*** and

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) ~~[within 45 days after conviction, or]~~ as soon thereafter as any extenuating circumstances approved by the department of health and human services allow.

2) Penalties for Intoxication or Under Influence of Drug Offenses. Amend RSA 265:82-b, II(a)-(b) to read as follows:

(a) For a second offense:

- (1) The person shall be guilty of a ***class A*** misdemeanor.
- (2) The person shall be fined not less than \$500.

(3)***(A) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than [10] 37 consecutive days of which [3] 30 consecutive 24-hour periods shall be served in the county correctional facility [and] followed by 7 consecutive 24-hour periods [shall] to be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b within 21 days after conviction, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned [the first available space] to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required [7] 30 consecutive 24-hour periods [at the center] or such other time as the court may order.***

(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the state-operated, 7-day multiple DWI offender intervention detention center program prior to license restoration. ***If the person attends an approved equivalent 7-day residential intervention program, the fees and costs shall be paid to the program.***

(6) A person who leaves the program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, or who fails to begin following

treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

(7) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 263:65-a and all other requirements under law are met.

(2) ~~[If the person has completed the state-operated 7-day multiple DWI offender intervention detention center program as required under subparagraph (a)(3) upon conviction for a prior offense,]~~ The person shall be sentenced to ***a mandatory sentence of*** not less than ~~[30]~~ ***180*** consecutive days of which ~~[23]~~ ***30*** consecutive 24-hour periods shall be served in the county correctional facility ~~[and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, and]~~ ***following which*** the person shall complete at the person's own expense a residential treatment program of at least 28 days duration or an intensive course of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and human services before the driver's license may be restored. ***The remainder of the sentence may be deferred for a period of up to 2 years. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence.***

(3) ~~[A person who leaves the multiple DWI offender program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility]~~ ***The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.***

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

2004-1378h

Amendment to SB 481-FN-LOCAL

Proposed by the Committee on Environment and Agriculture - R

Amend RSA 485-E:1 as inserted by section 1 of the bill by replacing it with the following:

485-E:1 Statement of policy. The purpose of the chapter is to achieve the restoration of the estuary habitat as part of the National Estuary Restoration Act of 2000, to develop an estuary habitat restoration funding strategy for creating and maintaining effective partnerships with the federal government and with the private sector, to establish a funding partnership between local communities and the state, and to seek federal assistance for and promote efficient financing of the Great Bay estuary habitat restoration projects. It is recognized that in certain cases municipalities in New Hampshire may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint public wastewater collection, treatment, and discharge systems are designed, constructed, operated, and maintained. The state of New Hampshire recognizes the value of and need for such agreements, and the Estuary Alliance for Sewage Treatment is established for this purpose or for other water-related purposes.

Amend RSA 485-E:2 as inserted by section 1 of the bill by replacing it with the following:

485-E:2 Definitions. In this chapter:

I. "Alternatives development" means the fully analyzed alternatives by the consultant as detailed by the "Scope of Services Feasibility Study for a Regional Outfall Sewer System."

II. "Construction" shall include all engineering services in addition to the construction of joint public wastewater collection, treatment, and discharge systems, except those intercepting sewers and facilities retained by municipalities; or any other associated work, or both, and including any necessary land acquisition, easements, and rights-of-way.

III. "Directors" means the EAST board of directors.

IV. "EAST" means the Estuary Alliance for Sewage Treatment.

V. "Municipalities" means cities, towns, village districts, or other incorporated units of local government possessing authority to construct, maintain, and operate public wastewater facilities and to raise revenue therefor by bonding and taxation,

which may legally impose and collect user charges and impose and enforce regulatory control upon users of public wastewater facilities.

VI. "Operation and maintenance" shall include maintenance of all buildings, equipment, supplies, and administrative costs associated with the management of joint public wastewater collection, treatment, and discharge systems, and for such other purposes as may be involved in the operation of an effective regional pollution control program.

VII. "Sewage" means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

Amend RSA 485-E:3 as inserted by section 1 of the bill by replacing it with the following:

485-E:3 Estuary Alliance for Sewage Treatment. There is hereby established a public body corporate and politic having a distinct legal existence separate from the state and not constituting a department or agency of the state government to be known as the Estuary Alliance for Sewage Treatment, also known as EAST. The public purpose of EAST is:

I. To acquire, own, and operate or cause to be operated joint public wastewater collection, treatment, and discharge systems to be used for the collection, treatment, and disposal of treated wastewater from the municipal sewage treatment plants in the Great Bay estuary area.

II. To act for other water-related purposes.

Amend RSA 485-E:6 as inserted by section 1 of the bill by replacing it with the following:

485-E:6 Federal Grants and Financing.

I. Application for federal grants-in-aid for the planning, further alternatives feasibility studies, and other alternative water-related solutions shall be made by EAST. Each municipality shall be responsible for applying for federal and state grants for facilities or other water-related solutions not used by EAST.

II. Municipalities may raise and appropriate revenue for the purpose of contributing pro rata to the planning and further study of alternatives development of joint public wastewater collection, treatment, and discharge systems or other water-related infrastructure solutions, or both, as joint facilities development alternatives pursuant to this alliance.

Amend RSA 485-E:7 as inserted by section 1 of the bill by replacing it with the following:

485-E:7 Board of Directors.

I. The board of directors of EAST shall consist of the following representatives:

(a) One from every town or city that has joined EAST by agreement, appointed by the governing body.

(b) One member of the county commission from each county in which one or more municipalities participate in

EAST, appointed by each respective county chairperson.

(c) The commissioner of the department of environmental services, or designee, who shall be a non-voting member.

II. Each entity in paragraph I of this section may appoint an alternate who will serve if the primary board member is absent. The board of directors shall hold office for 2 years. All initial appointments shall be regarded as having begun on the day of the annual meeting.

III. Annually, the board of directors shall elect one of its members as chairperson and another as vice chairperson. The directors shall elect a secretary and a treasurer who shall also be board members, and the same person may serve both as secretary and as treasurer. The officers shall be elected by majority vote.

IV. The directors shall serve without compensation, but EAST shall reimburse its directors for actual expenses appropriately and necessarily incurred in the discharge of their duties.

Amend RSA 485-E:12 as inserted by section 1 of the bill by replacing it with the following:

485-E:12 Outfall Pipe; Legislative Approval Required. EAST shall obtain approval from the legislature before it takes any action that will lead to construction of a regional outfall sewer pipe.

485-E:13 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 First Meeting. The chairperson of the Great Bay Estuary commission, established by 2003, 236, shall call the first meeting of EAST prior to November 1, 2005.

AMENDED ANALYSIS

This bill:

I. Establishes the Estuary Alliance for Sewage Treatment EAST, for the purpose of developing joint public wastewater collection, treatment, and discharge systems for the disposal of treated wastewater, and for other water-related purposes, for municipalities in the Great Bay estuary and related area.

II. Requires EAST to obtain legislative approval for construction of a regional outfall sewer pipe.

2004-1262h

Amendment to SB 487

Proposed by the Majority of the Committee on Fish and Game -R

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2006.

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

2004-1233

Amendment to SB 487

Proposed by the Minority of the Committee on Fish and Game - R

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

AMENDED ANALYSIS

This bill prohibits a person from using a lead sinker or jig while fresh water fishing. The law previously prohibited their use only in fresh water ponds and lakes.

2004-1401h

Amendment to SB 509-FN

Proposed by the Committee on Judiciary - C

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

1 Subdivision Heading. Amend the subdivision heading preceding RSA 167:58 to read as follows:

Medicaid Fraud **and False Claims**

2 New Sections; False Claims Against Department of Health and Human Services. Amend RSA 167 by inserting after section 61-a the following new sections:

167:61-b False Claims Against the Department; Definitions.

I. Any person shall be liable to the state for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages that the state sustains because of the act of that person, who:

(a) Knowingly presents, or causes to be presented, to an officer or employee of the department, a false or fraudulent claim for payment or approval.

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the department.

(c) Conspires to defraud the department by getting a false or fraudulent claim allowed or paid.

(d) Has possession, custody, or control of property or money used, or to be used, by the department and, intending to defraud the department or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt.

(e) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the department.

(f) Is a beneficiary of an inadvertent submission of a false claim to the department, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the department within a reasonable time after discovery of the false claim.

II.(a) Notwithstanding the damages provisions of paragraph I, the court may assess not less than 2 or more than 3 times the amount of damages that the state sustains because of the act of the person and no civil penalty, if the court finds that a person who has violated paragraph I:

(1) Furnished officials of the state responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information;

(2) Fully cooperated with any state investigation of such violation; and

(3) At the time the person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

(b) A person violating paragraph I shall also be liable to the state for the costs and attorneys' fees arising from any civil action brought to recover the penalty or damages.

III. Liability under this section shall be joint and several for any act committed by 2 or more persons.

IV. This section shall not apply to any controversy involving damages to the department of less than \$5,000 in value. For purposes of this paragraph, "controversy" means the aggregate of any one or more false claims submitted by the same person.

V. In RSA 167:61-b through RSA 167:61-e:

(a) "Claim" means any request or demand, whether under a contract or otherwise, for money or property that is made to an officer, employee, agent, or other representative of the department or to a contractor, grantee, or other person, if the department provides any portion of the money or property that is requested or demanded, or if the department will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(b)(1) "Knowing" and "knowingly" means that a person, with respect to information:

(A) Has actual knowledge of the information;

(B) Acts in deliberate ignorance of the truth or falsity of the information; or

(C) Acts in reckless disregard of the truth or falsity of the information.

(2) No proof of specific intent to defraud is required for an act to be knowing.

(c) "Original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action under RSA 167:61-c that is based on the information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report that led to the public disclosure.

(d) "Person" means any natural person, corporation, firm, association, organization, partnership, business, or trust.

(e) "Relator" means an individual who brings an action under RSA 167:61-c.

VI. In any action brought under RSA 167:61-c, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

VII. An action for false claims under RSA 167:61-c shall not be brought:

(a) More than 6 years after the date on which the violation of RSA 167:61-b is committed; or

(b) More than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official within the office of the attorney general charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

167:61-c Actions by Attorney General and Private Persons.

I. The attorney general shall investigate violations under RSA 167:61-b. If the attorney general finds that a person has violated or is violating RSA 167:61-b, the attorney general may bring a civil action in superior court against the person.

II.(a) An individual, hereafter referred to as "relator," may bring a civil action for a violation of RSA 167:61-b, I on behalf of the relator and for the state. The action shall be brought in the name of the state.

(b) When a relator brings an action under this section, no person other than the state may intervene or bring a related action based on the facts underlying the pending action.

(c) A copy of the complaint and written disclosure of substantially all material evidence and information the relator possesses shall be served on the state in accordance with the New Hampshire rules of civil procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(d) The state may, for good cause shown, move the court for one or more extensions of the 60-day time period during which the complaint shall remain under seal. Any such motion may be supported by affidavits or other submissions filed under seal.

(e) Before the expiration of the 60-day period or any extension obtained, the state shall:

(1) Proceed with the action, in which case the action shall be conducted by the state; or

(2) Notify the court that it declines to take over the action, in which case the action shall be dismissed.

III. The defendant shall not be required to respond to any complaint filed under this section until after the complaint is unsealed and served upon the defendant in accordance with the New Hampshire rules of civil procedure.

IV. Notwithstanding any provision of RSA 275-E to the contrary, any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the superior court for the relief provided in this paragraph. For purposes of this paragraph, "employee" has the same meaning as in RSA 275-E:1, I.

167:61-d Rights of Parties to Actions.

I. If the state proceeds with an action under RSA 167:61-c, the state shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the relator bringing the action. The relator shall have the right to continue as a party to the action, subject to the following limitations:

(a) The state may dismiss the action notwithstanding the objections of the relator initiating the action if the court determines, after a hearing on the motion, that dismissal should be allowed.

(b) The state may settle the action with the defendant notwithstanding the objections of the relator initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

II. Notwithstanding RSA 167:61-c, the state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil monetary penalty. If any such alternate remedy is pursued in another proceeding, the relator initiating the action shall have the same rights in the proceeding as the relator would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that

has become final shall be conclusive on all parties to an action under this section.

III. The parties to the action shall receive court approval of any settlements reached.

167:61-e Award to Relator.

I. If the state proceeds with an action brought by a relator under RSA 167:61-c, the relator shall, except as otherwise provided in this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the relator substantially contributed to the prosecution of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the relator bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information furnished by the relator and the role of the relator bringing the action in advancing the case to litigation. Any payment to a relator under this paragraph shall be made from the proceeds. The relator shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant.

II. If the court finds that the action was brought by a relator who planned and initiated the violation of RSA 167:61-b upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the relator would otherwise receive under paragraph I, taking into account the role of the relator in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the relator bringing the action is convicted of criminal conduct arising from the relator's role in the violation of RSA 167:61-b, the relator shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of the state to continue the action represented by the attorney general.

III. No court shall have jurisdiction over an action brought under RSA 167:61-c:

(a) Against any department official or any division, board, bureau, commission or agency within the department;

(b) When the relator is a present or former employee of the state and the action is based upon information discovered by the employee during the course of the employee's employment, unless the employee first, in good faith, exhausted any existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and the state failed to act on the information provided within a reasonable period of time;

(c) That is based upon allegations or transactions that are the subject of a civil or criminal investigation, civil suit, or an administrative civil money penalty proceeding, in which the state is already a party; or

(d) That is based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the action is brought by the attorney general or the relator bringing the action is an original source of the information.

IV. The state shall not be liable for expenses or fees, including attorneys' fees, that a relator incurs in bringing an action under RSA 167:61-c and shall not elect to pay those expenses or fees.

3 Repeal. RSA 167:61, relative to recovery of money obtained through fraud or abuse, is repealed.

4 Applicability. No provision of this act shall apply with respect to any claim, as defined under RSA 167:61-b, V(a), submitted prior to January 1, 2005.

5 Effective Date.

I. Section 3 of this act shall take effect January 1, 2010.

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

2004-1000h

Amendment to SB 520

Proposed by the Committee on Children and Family Law - C

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

1 Child Support Guidelines; Modification of Order. Amend RSA 458-C:7 to read as follows:

458-C:7 Modification of Order.

I. The obligor or obligee may apply to the court or, when the department of health and human services has issued a legal order of support pursuant to RSA 161-C, to the department, whichever issued the existing order, for modification of such order 3 years after the entry of the last order for support, without the need to show a substantial change of circumstances. This section shall not prohibit the obligor or obligee from applying at any time for a modification based on substantial change of circumstances.

II. *Any child support modification shall not be effective prior to the date that notice of the petition for modification has been given to the respondent. "Notice" means:*

(a) Service as specified in civil actions; or

(b) Acceptance of a copy of the petition, as long as the petition is filed no later than 30 days following said acceptance, and as long as the petitioner provides proof of acceptance by a certified mail receipt. Nothing in this subparagraph shall be construed to affect service as required by law.

2 Support and Custody of Children; Date of Modification. Amend RSA 458:17, VIII to read as follows:

VIII. No modification of a support order shall alter any arrearages due prior to the date of [filing] **notice of the [motion] petition for modification *as provided in RSA 458-C:7.***

3 Repeal. RSA 458-C:3, IV(c), relative to the effective date of a petition for modification, is repealed.

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

AMENDED ANALYSIS

This bill provides that modification of a child support order shall not be effective prior to the date of notice of the petition for modification.

2004-1461h

Floor Amendment to SB 520 Proposed by Rep. Hallyburton

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

AN ACT relative to child support modification and service of divorce petitions.

Amend the bill by replacing all after section 3 with the following:

4 Annulment, Divorce, and Separation; Service of Petition. RSA 458:9, II is repealed and reenacted to read as follows:

II. An individual petition shall be filed with the appropriate court, together with the filing fee, by the petitioner. Upon the filing of a petition, the court shall issue orders of notice, attached to the petition, which the petitioner shall then serve on the respondent as provided in this section:

(a) Service within the state shall be made either by:

(1) A sheriff, in hand or by leaving an attested copy of the petition, orders of notice, and an appearance form at the respondent's abode, within 25 days of receipt of orders of notice. The return of service shall state the street and number, or some other description, of the abode. The petitioner shall file the return of service with the court as proof of service.

(2) Certified mail, return receipt requested, restricted delivery, mailed within 7 days of receipt of orders of notice, signed by the addressee only. The petitioner shall file the return receipt with the court as proof of service.

(b) Service outside the state shall be made either by:

(1) An officer authorized to make service of process in the state where the respondent lives. Proof of out-of-state service shall be made by a return of the officer under oath, accompanied by an official certificate of his or her official character or authority. The petitioner shall file the return of service with the court as proof of service.

(2) Certified mail, return receipt requested, restricted delivery, signed by the addressee only. The petitioner shall file the return receipt with the court as proof of service.

5 Contingency. If HB 532 of the 2004 legislative session becomes law, then section 4 of this act shall take effect at 12:01 a.m. on the effective date of HB 532. If HB 532 of the 2004 legislative session does not become law, then section 4 of this act shall not take effect.

6 Effective Date.

I. Section 4 of this act shall take effect as provided in section 5.

II. Section 5 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill provides that a motion for modification of child support shall be effective from the date of service or the date of notice to the respondent; provided, that such notice is by certified mail, restricted delivery, return receipt requested.

The bill also provides that in state service of a divorce petition shall be made in hand or by certified mail within 25 days of receipt of the orders of notice.

2004-1222h

Amendment to SB 531

Proposed by the Committee on Municipal and County Government - C

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

AN ACT permitting the state veterans advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit, and relative to other optional tax credits.

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

2 New Paragraph; Veterans Tax Credit; Definitions; Theater of Operations Service Medal. Amend RSA 72:29 by inserting after paragraph VI the following new paragraph:

VII. The term "theater of operations service medal" for the purposes of RSA 72:28-34 shall mean any medal, ribbon, or badge awarded to a member of the armed forces which establishes that the member served in a theater of war or armed conflict, as determined by the director of the state veterans council with written notification to the department of revenue administration.

3 Tax Credits; Procedure for Adoption, Modification, or Recission. Amend RSA 72:27-a, II to read as follows:

II. The vote shall specify the provisions of the property tax exemption or credit, the amount of such exemption or credit,

and the manner of its determination, as listed in paragraph I. ***If a majority of those voting on the question vote “yes,” the exemption or credit shall take effect within the town or city, on the date set by the governing body, or in the tax year beginning April 1 following its adoption, whichever shall occur first.***

④ Optional Tax Exemptions; Investigation of Application and Decision. Amend RSA 72:34, IV to read as follows:

IV. ***On or before July 1 prior to the date of notice of tax under RSA 72:1-d, the selectmen or assessors shall send by first class mail a written decision to any taxpayer who timely requests an exemption or tax credit.*** On or before July 1 following the date of notice of tax under RSA 72:1-d, the selectmen or assessors shall send by first class mail a written decision to any taxpayer who timely requests ~~[an exemption,]~~ a deferral ~~[or tax credit]~~. This decision shall be sent on a form to be prepared by the department of revenue administration. The decision shall advise the taxpayer of the municipality's decision and shall inform the taxpayer of the appeal procedure set forth in RSA 72:34-a. Failure to respond shall constitute denial. Municipalities may, at their option, require the taxpayer to furnish a self-addressed envelope with sufficient postage for the mailing of this written decision.

5 Effective Date.

I. Section 4 of this act shall take effect April 1, 2005.

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

AMENDED ANALYSIS

This bill authorizes the state veterans advisory committee to adopt bylaws governing the management and operation of the committee. The bill also defines “theater of operations service medal” for purposes of the veterans’ tax credit.

This bill also makes certain changes to optional tax credit effective dates, and investigation of optional tax credit applications by town officials.

2004-1219h

Amendment to SB 533

Proposed by the Committee on Municipal and County Government - R

Amend RSA 170-E:3, I(g) as inserted by section 1 of the bill by replacing it with the following:

(g) Any recreation program ~~[of the Boys Club, Girls Club]~~ ***offered by the Boys and Girls Club***; Girls, Inc.; YMCA; YWCA; and any school or church group.

2004-1439h

Amendment to SB 534-FN-A

Proposed by the Committee on Executive Departments and Administration - R

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

① Department of Safety; Duties of Commissioner. Amend RSA 21-P:4, VI to read as follows:

VI. Have the discretion to grant to bingo and lucky 7 inspectors within ~~[his department]~~ ***the pari-mutuel commission*** certain limited police powers as follows:

② Police Standards and Training Council; Education and Training. Amend RSA 188-F:27, VI and VII to read as follows:

VI. Any investigator who has the power to enforce the criminal laws under RSA 106-A and RSA 287-E and rules of the sweepstakes commission ~~[and]~~, ***the department of safety, or the pari-mutuel commission*** and who was serving under a permanent appointment prior to July 1, 1986, shall not be required to meet the requirements of paragraphs I and III; however, any investigator referred to in this paragraph shall complete such limited programs as may be prescribed by the police standards and training council under this section within one year of the date the programs are required. Should any investigator exempted from the requirements of paragraphs I and III of this section by this paragraph terminate employment with the department of safety and be hired as a police officer by another police department of the state or a political subdivision thereof, the inspector's certification shall lapse and may be reinstated upon completion of such necessary additional training courses as the police standards and training council may prescribe.

VII. Any special agent of the state liquor commission who has the power to enforce the criminal laws under RSA title XIII ***or RSA 287-E*** and rules of the state liquor commission and who was serving under a permanent appointment prior to August 13, 1985, shall not be required to meet the requirements of paragraphs I and III; however, any special agent referred to in this paragraph shall complete such limited programs as may be prescribed by rule adopted under RSA 541-A by the police standards and training council under this section within one year of the date the programs are required. Should any special agent exempted from the requirements of paragraphs I and III of this section by this paragraph terminate employment with the state liquor commission and be hired as a police officer by another police department of the state or a political subdivision thereof, the special agent's certification shall lapse and may be reinstated upon completion of such necessary additional training courses as the police standards and training council may prescribe by rule adopted under RSA 541-A.

③ New Paragraph; Pari-Mutuel Commission; Additional Duties. Amend RSA 284:6-a by inserting after paragraph III the following new paragraph:

IV. The pari-mutuel commission shall administer RSA 287-E relating to bingo and lucky 7.

④ New Paragraph; Pari-Mutuel Commission; Rulemaking. Amend RSA 284:12 by inserting after paragraph VI the following new paragraph:

VII. Rules for bingo and lucky 7 as authorized under RSA 287-E.

5 New Subparagraph; Purchase of Supplies; Exemption. Amend RSA 21-I:18, I by inserting after subparagraph (m) the following new subparagraph:

(n) The purchase of gaming tickets and their dispensing equipment by the pari-mutuel commission under RSA 287-E. The pari-mutuel commission shall make such purchases under competitive bidding requirements, except when waived by the pari-mutuel commission or its authorized agent with written justification.

6 Sweepstakes Commission. Amend RSA 284:21-a to read as follows:

284:21-a State Sweepstakes Commission. There shall be and hereby is created a state sweepstakes commission consisting of 3 members who shall be appointed and may be removed for cause by the governor with the advice and consent of the council. One member shall be appointed for one year, one for 2 years and one for 3 years, and upon the expiration of their terms of office their successors shall be appointed for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. No member of the commission shall have any pecuniary or other interest in any supplier or agent to the commission~~[or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,]~~ or in any licensee licensed under the provisions of this chapter.

7 Sweepstakes Commission. Amend RSA 284:21-i, I to read as follows:

I. The sweepstakes commission shall be empowered to employ such technical assistants and employees to carry out the provisions of this subdivision as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the personnel commission. No employee of the commission shall have any pecuniary or other interest in any supplier or agent to the commission~~[or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,]~~ or in any licensee licensed under this chapter.

8 Sweepstakes Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the sweepstakes commission **and all moneys received from the pari-mutuel commission under RSA 287-E**, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and **all administration and enforcement expenses of the pari-mutuel commission under RSA 287-E**. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

9 Reference Change; Raffles Held in Conjunction With Bingo Games. Amend RSA 287-A:8, III to read as follows:

III. Notwithstanding RSA 287-A:4, raffle tickets sold in conjunction with bingo games shall be sold only by members of a charitable organization licensed by the ~~[sweepstakes]~~ **pari-mutuel** commission to conduct bingo and only at bingo games being operated by the charitable organization.

10 Bingo and Lucky 7; Definitions. Amend RSA 287-E:1, VI to read as follows:

VI. "Commission" means the state ~~[sweepstakes]~~ **pari-mutuel** commission.

11 Bingo; Administration and Enforcement. Amend RSA 287-E:2 to read as follows:

287-E:2 Administration and Enforcement. The ~~[sweepstakes]~~ **pari-mutuel** commission shall administer and ~~[the commissioner of safety shall]~~ enforce this subdivision relating to bingo.

12 Lucky 7; Administration and Enforcement. Amend RSA 287-E:16 to read as follows:

287-E:16 Administration and Enforcement. The ~~[sweepstakes]~~ **pari-mutuel** commission shall administer and ~~[the commissioner of safety shall]~~ enforce this subdivision relating to the sale of lucky 7 tickets.

13 New Paragraph; Bingo and Lucky 7; Rulemaking. Amend RSA 287-E:18 by inserting after paragraph V the following new paragraph:

VI. The inspection and enforcement of bingo and lucky 7.

14 Gambling Offenses; Exceptions. Amend RSA 647:2, V(a) to read as follows:

(a) Dispenser devices approved by the ~~[sweepstakes]~~ **pari-mutuel** commission which are located at the regular meeting place of, or at a facility owned, leased, or utilized by, a charitable organization licensed under RSA 287-E:20.

15 Repeal. The following are repealed:

I. RSA 21-P:7, III, relative to bingo and lucky 7 inspection and enforcement by the state police.

II. RSA 21-P:14, II(q), relative to bingo and lucky 7 inspection and enforcement by the department of safety.

16 Transfer of Authority. The pari-mutuel commission shall assume all authority, functions, duties, and responsibilities of the sweepstakes commission regarding the administration, licensing, and enforcement of RSA 287-E. All existing rules adopted by the sweepstakes commission for the administration, licensing, and enforcement of RSA 287-E shall remain in effect and be enforced by the pari-mutuel commission.

17 Transfer; Status of State Employees.

I. Classified employees of the sweepstakes commission responsible for the administration and licensing of bingo and lucky 7 shall be transferred to the pari-mutuel commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the sweepstakes commission for administration and licensing of bingo and lucky 7. The transfer provided for in this paragraph shall include the following personnel from the sweepstakes commission: position numbers 14418, 14424, and 14393.

II. Classified employees of the department of safety responsible for the enforcement of the bingo and lucky 7 laws shall be transferred to the pari-mutuel commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the gaming enforcement unit for enforcement of the bingo and lucky 7 laws. The transfer provided for in this paragraph shall include the following personnel from the department of safety: position numbers 14425, 14402, 17114, 17116, and 14410.

18 Transfer of Certain Public Health Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, and except as provided in paragraph III, all of the functions, powers, duties, and responsibilities of the bureau of environmental and occupational health within the office of community and public health, department of health and human services shall be transferred to the department of environmental services on July 1, 2004. The transfer shall include the following personnel presently assigned to the bureau of environmental and occupational health: position numbers 19631, 19632, 14681, 14806, 14817, 17147, 18461, 18996, 18997, 19641, 19700, 40339, 8T020, 9T027, 9T099, 9T179, 9T195, 9T296, 18999, 1900, 40342, 9T112, 9T113, and 9T729. The transfer shall also include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the department of health and human services, office of community and public health, related to the above functions and authorized for use by the bureau of environmental and occupational health.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation or adopted in or by the former department of health and human services, bureau of environmental and occupational health are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The duties and responsibilities of the department of health and human services under RSA 130-A, relative to lead paint poisoning prevention and control, except for licensure and certification duties and responsibilities under RSA 130-A:12, shall be exempt from the transfers made in paragraphs I and II.

19 Department of Environmental Services; Appointment of Division Directors. RSA 21-O:2, III is repealed and reenacted to read as follows::

III. Division directors shall be appointed to terms of 4 years.

(a) The commissioner shall, after consulting with the water council, nominate for appointment by the governor and council a director of the division of water. The nominee shall have a baccalaureate or master's degree from an accredited college or university, hold a valid license or certificate of registration to practice civil, sanitary, or environmental engineering issued by the lawfully constituted registration board of any state of the United States, and shall have a minimum of 5 years' responsible experience in the administration of sanitary or environmental engineering programs in the public or private sector.

(b) The commissioner shall, after consulting with the air resources council, nominate for appointment by the governor and council a director of air resources. Each nominee shall hold a baccalaureate or master's degree from a recognized college or university with a major study in environmental sciences, chemistry, engineering, public health, public administration or a related field, and have 5 years' experience in a high supervisory or administrative position in a public or private agency engaged in air quality, air pollution control, environmental planning, engineering project management or a related discipline.

(c) The commissioner shall, after consulting with the waste management council, nominate for appointment by the governor and council a director of waste management. Each nominee shall hold a master's degree from a recognized college or university with major study in environmental sciences, chemistry, civil engineering, public health, public administration or a related field, and have 5 years' experience in a high level supervisory or administrative position in a public or private agency engaged in waste management, environmental health or a related discipline.

20 Transfer of Certain Programs From Office of State Planning and Energy Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, all of the functions, powers, duties, and responsibilities of the office of state planning and energy programs relating to the coastal zone management program and the New Hampshire estuaries project shall be transferred to the department of environmental services. The transfer provided for in this section shall include the following personnel from the coastal zone management program: position numbers 40468, 40469, 10027, 30001, 9T006, 16669 and 16670 and from the estuaries project: position numbers 9T003, 9T005 and 9Temp. The transfer provided in this section, shall include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the office of state planning and energy programs related to the above functions and authorized for use by the office of state planning and energy programs for said programs.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation, or adopted in or by the former coastal zone management program and New Hampshire estuaries program are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The department of environmental services shall be considered a temporary host for the New Hampshire estuaries project. The management committee of the estuaries project shall report to the speaker of the house of representatives and the president of the senate by December 1, 2004 recommending a permanent host for the project. Nothing in this section shall

preclude the department of environmental services from becoming the permanent host.

21 Compensation of Commissioner and Assistant Commissioner of the Department of Environmental Services; Review. The unclassified salaries of the commissioner and assistant commissioner, department of environmental services shall be reviewed by the fiscal committee pursuant to the procedure in RSA 94:1-d and RSA 14:30-a.

22 Mooring of Boats; Denial of Mooring Permit. Amend RSA 270:61, VI to read as follow:

VI. The department shall not deny a mooring permit to any person, or place any limitations on the type of craft permitted at a mooring, when reasonable need exists, there is no opposition from abutters, ~~and~~ there is no evidence that the mooring will interfere with navigation, **and the mooring is in compliance with RSA 270:64.**

23 New Paragraph; Moorings Prohibited. Amend RSA 270:64 by inserting after paragraph II the following new paragraph:

III. The director shall consult with the fish and game department, the department of environmental services, or the office of state planning and energy programs to assist in the assessment required under subparagraph I(c).

24 Moorings; Special Exceptions. Amend RSA 270:65 to read as follows:

270:65 Special Exceptions. The division of safety services~~[-in consultation with the office of state planning and energy programs-]~~ shall propose rules to develop standards for granting special exceptions for the placement of from 2 to 4 moorings adjacent to a shorefront property. The placement of 5 or more moorings adjacent to a shorefront property shall require approval pursuant to RSA 270:67, I and II.

25 Public and Congregate Mooring Fields; Permit Required. Amend RSA 270:67 to read as follows:

270:67 Public and Congregate Mooring Fields; Permit Required.

I. PUBLIC MOORING FIELDS.

(a) The ~~[office of state planning and energy programs and the]~~ division of safety services shall identify suitable locations for public mooring fields and prioritize the need for the development of such sites. In determining said locations ~~[the office of state planning and energy programs and]~~ the division of safety services shall recommend each location size and the configuration of each public mooring field. Further, it shall be determined by the ~~[office of state planning and energy programs and]~~ division of safety services that adequate access exists to serve the needs of the users of the public mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said site proposal may be conducted by the ~~[office of state planning and energy programs]~~ **division of safety services**. The ~~[office of state planning and energy programs and the]~~ division of safety services shall review all recommendations received and submit their final site proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

(b) The division shall issue a permit to any applicant for a mooring in a public mooring field who fulfills the mooring requirements in this subdivision subsequent to approval under subparagraph (a).

(c) Each public mooring field applicant shall be assessed a fee of \$25 which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

(d) No mooring shall be sold or leased except as provided in this section.

II. CONGREGATE MOORING FIELDS.

(a) The ~~[office of state planning and energy programs and]~~ division of safety services may identify suitable locations for congregate mooring fields. In determining said locations ~~[the office of state planning and energy programs and]~~ the division of safety services shall recommend each location size and the configuration of each congregate mooring field. Further, it shall be determined by the ~~[office of state planning and energy programs and]~~ division of safety services that adequate access exists to serve the needs of the users of the congregate mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said proposal may be conducted by the ~~[office of state planning and energy programs]~~ **division of safety services**. The ~~[office of state planning and energy programs and the]~~ division of safety services shall review all recommendations received and submit their final proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

(b) Subsequent to approval by the governor and council, the division shall issue a permit to any applicant for a congregate mooring field who shows that:

(1) The location and size of the congregate mooring field meet the criteria established pursuant to RSA 270:71;

and

(2) Adequate access exists to serve the needs of the users of the congregate mooring field; and

(3) The congregate mooring field will comply with the provisions of RSA 270:64; and

(4) No mooring shall be sold or leased except as provided in this section.

(c) Each congregate mooring field permitted by the director shall be assessed an annual mooring fee of \$25 for each mooring installed in the congregate mooring field which shall be deposited in the navigation safety fund established under RSA

270-E:6-a.

(d) Operators in charge of maintaining congregate mooring fields may charge no more for the use of a mooring than an amount which reasonably covers the costs of mooring installations and maintenance. Said charges shall be reported to the ~~[office of state planning and energy programs and the]~~ division of safety services who shall submit an annual report to the governor and council and the general court on all congregate mooring fields.

III. Notwithstanding RSA 270:61, III, small mooring sites may be established without the approval of governor and council, but subject to the approval of the division. Such sites shall be only for the use of motels, cottages, condominiums, other rental property, or homogeneous use group.

26 Mooring Areas; Designation. Amend RSA 270:68, I to read as follows:

I. The division shall ~~[after consultation with the office of state planning and energy programs,]~~ determine the need and suitable locations, size, and configuration for mooring areas. The director shall designate appropriate mooring areas and assign mooring sites within such designated areas to individuals who meet all other requirements of this subdivision and can demonstrate a need for a site in such area. All designated mooring areas shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvements programs of the adjacent municipality.

27 Committee Established to Study Reorganization of Department of Revenue Administration.

I. There is established a committee to study the reorganization of the department of revenue administration.

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

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

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

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall:

(a) Study the benefits of the reorganization of the department of revenue administration.

(b) Study the fiscal impact of any reorganization of the department of revenue administration.

(c) Address issues raised in the most recent performance audit of the department of revenue administration.

(d) Study any other matter the committee deems relevant.

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

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

28 Department of Transportation; Division of Aeronautics Changed to Division of Aeronautics, Rail, and Transit. Amend the introductory paragraph of RSA 21-L:7 to read as follows:

21-L:7 Division of Aeronautics, ***Rail, and Transit***. There is established within the department the division of aeronautics, ***rail, and transit***, under the supervision of an unclassified director of aeronautics, ***rail, and transit***, who shall be responsible for the following functions:

29 New Paragraph; Department of Transportation; Division of Aeronautics, Rail, and Transit. Amend RSA 21-L:7 by inserting after paragraph VI the following new paragraph:

VII. Planning, designing, and facilitating construction, and servicing rail and transit facilities including but not limited to pedestrian, bicycle, transit, rideshare, and railroad modes.

30 Change From Division of Aeronautics to Division of Aeronautics, Rail, and Transit. Amend the following RSA provisions by replacing "division of aeronautics" and "aeronautics division" with "division of aeronautics, rail, and transit": 72:38, I-III; 21-L:8, III and V; 422:3, XIX; 422:39; 423:11, III; 423-A:3.

31 Change From Director of Aeronautics to Director of Aeronautics, Rail, and Transit. Amend the following RSA provisions by replacing "director of aeronautics" with "director of aeronautics, rail, and transit": 21-L:8, VI; 94:1-a, I(b) FF; 149-H:1, I(g); 270:12, II; 422:6; 422:38, II and IV.

32 Commission Established to Study Transfer of Division of Public Works From Department of Transportation to Bureau of Public Works in Department of Administrative Services and Reorganization of Department of Transportation.

I. There is established a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation.

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

(1) Five members of the house of representatives, one of whom shall be a member of the executive departments and administration committee, one of whom shall be a member of the finance committee, and 2 of whom shall be members of the public works and highways committee, appointed by the speaker of the house.

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

(3) The commissioner of transportation, or designee.

(4) The commissioner of administrative services, or designee.

(b) Members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation.

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

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

33 Change From Commissioner of Public Works and Highways to Commissioner of Transportation. Amend the following RSA provisions by replacing "commissioner of public works and highways" and "commissioner, public works and highways" with "commissioner of transportation": 12-A:5, I(b) and V; 14:15-b; 37:6, VII; 48-B:2; 215-A:8; 216-B:3; 216-B:5; 216-B:6; 216-C:2; 216-C:5; 216-C:6; 265:22; 266:72, V(a); 472:5.

34 Change From Department of Public Works, Department of Public Works and Highways, and Public Works and Highways Department to Department of Transportation. Amend the following RSA provisions by replacing "department of public works", "department of public works and highways," and "public works and highways department" with "department of transportation": 21-I:12, II(c) and (d); 21-I:8, I(e); 153:10; 162-B:3, III; 210:11, IV; 216-B:6; 216-C:6; 217:1; 237:17, VIII; 284:21-h, II(b); 447:17; 498-A:21, II.

35 Authority Over State House Rooms. Amend RSA 14:14-b, III to read as follows:

III. All rooms and other spaces in the basement and on the first and third floors of the state house ~~[-with the exception of rooms numbered 122, 123 and 124 and the passageway immediately adjacent thereto].~~

36 Bioterrorism Positions Transferred From Department of Health and Human Services to Department of Safety. Notwithstanding any provision of law to the contrary, all of the positions in the department of health and human services, office of community and public health that provide all hazards emergency preparedness services as defined in a memorandum of understanding dated September 4, 2003 between the department of health and human services and the department of safety shall be transferred to the department of safety. The transfer provided for in this section shall include the following personnel: Position numbers 9T126, 9T196, 9T107, 9T148, 9T149, 9T106, 9T153, 9T125, 9T098, 9T150, 9T120, 17142, 16147, and 2 part-time temporary positions.

37 Capital Budget Overview Committee; Duties. Amend RSA 17-J:4 to read as follows:

17-J:4 Duties. The capital budget overview committee shall review the status of capital budget projects both during and between legislative sessions. Each state agency with capital budget projects shall submit to the committee a status report on the projects every 60 days. ***The administrator of public works shall, within 30 days of the approval of funding for any capital budget project, submit a timeline or schedule for such project to the capital budget overview committee for review.***

38 New Subdivision; Department of Cultural Resources; New Hampshire Film and Television Commission. Amend RSA 21-K by inserting after section 22 the following new subdivision:

New Hampshire Film and Television Commission

21-K:23 Commission Established; Members; Duties.

I. There is established a New Hampshire film and television commission within the department of cultural resources. The purposes of the commission shall be:

- (a) To promote the economic development of the film and television industry in New Hampshire.
- (b) To promote the utilization of location sites by the film and television industry in the state of New Hampshire.
- (c) To increase the use of New Hampshire hotels, restaurants, and local businesses by visiting film and television production companies.

II. The commission shall:

- (a) Identify opportunities for activities related to the film and television industries.
- (b) Recommend both long-range and short-term programs that will result in economic gain for the state.
- (c) Educate state, local, and private officials and organizations regarding the benefits and rewards that can result from increased development of this industry.
- (d) Secure sites, as appropriate, within the state suitable for filming by the motion picture industry, the television industry, independent film producers, and other filmmakers.

III. The members of the commission, all of whom, except for the commissioner of the department of resources and economic development or designee, shall be appointed by the commissioner of the department of cultural resources, shall be as

follows:

- (a) Three individuals representing the film and television industry.
- (b) Two members of the general public with an interest in the film industry.
- (c) The commissioner of the department of cultural resources, or designee, and the commissioner of the department of resources and economic development, or designee, who shall serve as ex officio members of the commission.

IV. Except for the commissioner of cultural resources and the commissioner of resources and economic development or their designees, the term of office for the members shall be 3 years and until a successor is appointed. The initial members of the commission shall serve staggered terms. Vacancies shall be filled in the same manner and for the unexpired terms. The members of the commission shall serve without compensation, but shall be reimbursed for necessary travel and other necessary expenses.

V. The members shall annually elect a person from among its membership to act as chairperson.

VI. The department of cultural resources shall cooperate with the commission and shall provide necessary information and staff support.

39 Repeal. RSA 12-A:41-a, relative to the New Hampshire film and television commission, is repealed.

40 Appointments: Department of Education. RSA 21-N:3, I and II are repealed and reenacted to read as follows:

I. The governor, after consultation with the board of education, shall appoint the commissioner and the deputy commissioner of the department of education with the consent of council. Each shall serve for a term of 4 years. The commissioner and the deputy commissioner may succeed himself or herself, if reappointed. The commissioner and deputy commissioner shall be qualified to hold their positions by reason of education and experience.

II. The commissioner, after consultation with the board of education, shall nominate each division director for appointment by the governor and council. The division directors shall serve for a term of 4 years. They may succeed themselves, if reappointed. The directors shall be qualified to hold their respective positions by reason of education and experience.

41 Applicability. Section 40 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

42 New Section; Intermediary Appeals. Amend RSA 332-G by inserting after section 4 the following new section:

332-G:5 Intermediary Appeals. Notwithstanding any other provision of law to the contrary, any person affected by the final decision of any board or regulatory commission may appeal such final decision to the highest ranking official of the department to which the board or commission is administratively attached, prior to appeal to any court.

43 Effective Date.

I. Sections 27 and 32-35 of this act shall take effect upon its passage.

II. Section 42 of this act shall take effect January 1, 2005.

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

AMENDED ANALYSIS

This bill:

I. Transfers administration and enforcement of bingo and lucky 7 to the pari-mutuel commission.

II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.

III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services.

V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.

VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.

VII. Establishes a committee to study the reorganization of the department of revenue administration.

VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.

IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

X. Transfers certain state house rooms from the executive branch to the legislative branch.

XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.

XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.

XIII. Changes the appointment authority for department of education officials.

XIV. Permits an appeal from the final decision of a board or regulatory commission to the highest ranking official of the

department to which the board or commission is administratively attached.