

June 25, 1999

No. 42

STATE OF NEW HAMPSHIRE

Legislative

SENATE CALENDAR

REPORTS, HEARINGS & MEETINGS

**THE SENATE WILL MEET IN SESSION TUESDAY, JUNE 29, 1999 AT 10:00
A.M.**

LAIID ON THE TABLE

HB 295, relative to alternative kindergarten programs in cooperative school districts.

HB 375, relative to substitutions for disqualified and deceased candidates.

HB 448, relative to the board of dental examiners and the regulation of dentists and dental hygienists.

HB503-FN-L, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas.

HB 729, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles.

HJR 1, requesting that the federal government prohibit the U.S. Fish and Wildlife Service or other federal agency from introducing wolf populations to the northeastern United States, especially New Hampshire.

SPECIAL ORDER 10:01 A.M.

EDUCATION

HB 341, relative to the process for nonrenewal of teacher contracts. Vote 6-2

Ought to Pass with Amendment, Senator Larsen for the committee.

HB 633-FN-L, establishing parental choice scholarships. Vote 6-0

Inexpedient to Legislate, Senator D'Allesandro for the committee.

HB 690-FN-L, relative to charter schools and open enrollment districts. Vote 7-0

Rereferred to Committee, Senator McCarley for the committee.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 626-FN, relative to revising the laws regulating accountancy.

MINORITY REPORT; Rereferred to Committee, Senator Brown for the committee. Vote 3-4

MAJORITY REPORT, Ought to Pass, Senator Cohen for the committee. Vote 4-3

JUDICIARY

HB 360-FN, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons.

MAJORITY REPORT: Ought to pass with amendment, Senator Pignatelli for the committee. Vote 4-2

MINORITY REPORT: Inexpedient to Legislate, Senator Brown for the committee. Vote 2-4

PUBLIC AFFAIRS

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law. Vote 5-0

Ought to Pass, Senator Trombly for the committee.

HB 468, relative to the home rule powers of municipalities. Vote 3-2

Ought to Pass, Senator Trombly for the committee.

PUBLIC INSTITUTIONS, HEALTH AND HUMAN SERVICES

HB 640-FN, relative to grievance procedures of managed care organizations.

MAJORITY REPORT: Ought to Pass with amendment, Senator Wheeler for the committee, Vote 4-2

MINORITY REPORT: Ought to Pass, Senator Krueger for the committee, Vote 2-4

AMENDMENTS

Senate Education

June 23, 1999

1999-1772s

04/09

Amendment to HB 341

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

1 School Boards, Teachers; Teacher Renewal; References Amended. Amend RSA 189:14-a to read as follows:

189:14-a Failure to be Renominated or Reelected.

I.(a) Any teacher who has a professional standards certificate from the state

board of education and who has taught for one or more years in the same school district shall be notified in writing on or before April 15 if that teacher is not to be renominated or reelected.

(b) Any such teacher who has taught for 3 consecutive years or more in the same school district and who has been so notified may request in writing within 10 days of receipt of said notice a hearing before the school board and may in said request ask for reasons for failure to be renominated or reelected. For purposes of this section only, a leave of absence shall not interrupt the consecutive nature of a teacher's service, but neither shall such a leave be included in the computation of a teacher's service. Computation of a teacher's service for any other purposes shall not be affected by this section. The notice shall advise the teacher of all of the teacher's rights under this section. The school board, upon receipt of said request, shall provide for a hearing on the request

to be held within 15 days. The school board shall issue its decision in writing within 15 days of the close of the hearing.

II. Any teacher who has a professional standards certificate from the state board of education and who has taught for 3 consecutive years or more in any school district in the state shall, after having taught for 2 consecutive years in any other school district in the state, be entitled to all of the rights for notification and hearing in ~~[paragraph I(b)]~~ **paragraphs I(b), III, and IV of this section.**

III. In cases of nonrenomination because of unsatisfactory performance, the superintendent of the local school district shall demonstrate, at the school board hearing, by a preponderance of the evidence, that the teacher had received written notice that the teacher's unsatisfactory performance may lead to nonrenomination, that the teacher had a reasonable opportunity to correct such unsatisfactory performance, and that the teacher had failed to correct such unsatisfactory performance. Nothing in this paragraph shall be construed to require the superintendent or the school board to provide a teacher with remedial assistance to correct any deficiencies that form the basis for such teacher's nonrenomination.

IV. In all proceedings before the school board under this section, the burden of proof for nonrenewal of a teacher shall be on the superintendent of the local school district by a preponderance of the evidence.

2 School Boards, Teachers; Review by State Board of Education. Amend RSA 189:14-b to read as follows:

189:14-b Review by State Board.

I. A teacher aggrieved by such decision may request the ~~[state board of education]~~ *teacher appeals board* for review thereof. Such request must be in writing and filed with the ~~[state]~~ *teacher appeals* board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the ~~[state]~~ *teacher appeals* board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The ~~[state]~~ *teacher appeals* board shall issue its decision within ~~[15]~~ **60 days after the request for review is filed, and the decision of the ~~[state]~~ *teacher appeals* board shall be final and binding upon both parties. **A request for review under this section shall constitute the exclusive remedy available to a teacher on the issue of the nonrenewal of such teacher for unsatisfactory performance.****

4 New Subdivision; Teacher Appeals Board. Amend RSA 189 by inserting after section 58 the following new subdivision:

Teacher Appeals Board

189:59 Teacher Appeals Board Established; Membership.

I. There is hereby established a teacher appeals board consisting of 3 members appointed by the governor and council. One member shall have extensive experience representing the interests of teachers. One member shall have extensive experience representing the interests of school districts. One member, who shall be the chairperson, shall have no current affiliation with any organization representing the interests of teachers or school districts and shall have not been an employee, representative, or agent of any organization representing the interests of teachers or

school districts within 5 years of the date of appointment to the board. The chairperson shall possess a minimum of 10 years experience in the adjudication or resolution of disputes.

II. In addition to the members appointed to the board under paragraph I of this section, the governor and council shall appoint 3 alternate board members. One alternate member shall have extensive experience representing the interests of teachers. One alternate member shall have extensive experience representing the interests of school districts. One alternate member, shall have no current affiliation with any organization representing the interests of teachers or school districts and shall have not been an employee, representative, or agent of any organization representing the interests of teachers or school districts within 5 years of the date of appointment to the board.

III. Each member and alternate member of the board shall serve for a term of 6 years, except for the terms of the members and alternate members initially appointed of whom one member and one alternate shall be appointed for a term of 2 years, one member and one alternate shall be appointed for a term of 4 years, and one member and one alternate shall be appointed for a term of 6 years. Each board member shall serve until a successor is appointed and qualified. Vacancies on the board shall be filled by appointment by the governor and council for the duration of the unexpired term.

IV. The board members and alternate members shall serve without compensation. Board members and alternate members may, at the recommendation of the governor and council, be reimbursed for their necessary expenses while engaged in the performance of their duties to the board.

V. The board shall be administratively attached to the department of education.

189:60 Nonrenewal of Teacher Contracts; Review.

I. The teacher appeals board shall have exclusive jurisdiction to review decisions of the local school boards to nonrenew a teacher's contract.

II. The teacher appeals board shall uphold a decision of the local school board to nonrenew a teacher's contract based on unsatisfactory performance unless the decision is unjust, unreasonable, or unlawful.

III. The record before the teacher appeals board shall consist of the entire record compiled at the local school board hearing.

IV. The teacher appeals board shall have the power to compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and to take testimony under oath, as provided in RSA 516, and may delegate such powers to any persons it may appoint.

V. Formal rules of evidence shall not apply in proceedings before the board.

4 Public Employee Labor Relations; Grievance Procedures; Nonrenewal of Teacher Contract Not Subject to Binding Arbitration. Amend RSA 273-A:4 to read as follows:

273-A:4 Grievance Procedures. Every agreement negotiated under the terms of this chapter shall be reduced to writing and shall contain workable grievance procedures. ***No grievance resulting from the failure of a teacher to be renewed because of unsatisfactory performance***

pursuant to RSA 189:14-a, shall be subject to arbitration or any other binding resolution, except as provided by RSA 189:14-a and RSA 189:14-b. Any such provision in force as of the effective date of this section shall be null and void upon the expiration date of that collective bargaining agreement.

5 Effective Date. This act shall take effect January 1, 2000.

1999-1772s

AMENDED ANALYSIS

This bill clarifies the process for conducting hearings before a local school board on the issue of nonrenewal of teacher contracts, and for the appeal of such nonrenewal decisions to a newly created teacher appeals board.

Senate Judiciary

June 23, 1999

1999-1780s

05/10

Amendment to HB 360-FN

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

AN ACT clarifying that any person convicted of a crime punishable by imprisonment for a term exceeding one year is prohibited from owning or possessing firearms and other dangerous weapons.

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

1 Convicted Felons; Prohibition on Owning or Possessing Firearms and Other Dangerous Weapons. Amend RSA 159:3, I to read as follows:

I. A person is guilty of a class B felony if [he] **such person**:

(a) Owns or has in [~~his~~] **such person's** possession or under [~~his~~] **such person's** control, a pistol, revolver, or other firearm, or slungshot, metallic knuckles, billies, stiletto, switchblade knife, sword cane, pistol cane, blackjack, dagger, dirk-knife, or any other dangerous weapon; and

(b) Has been convicted in either a state or federal court in this or any other state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States of[=

~~(1) A felony against the person or property of another; or~~

~~(2) A felony under RSA 318-B; or~~

~~(3) A felony violation of the laws of any other state, the District of Columbia, the United States, the Commonwealth of Puerto Rico or any territory or possession of the United States relating to controlled drugs as defined in RSA 318-B]~~ ***a crime punishable by imprisonment for a term exceeding one year.***

2 Effective Date. This act shall take effect January 1, 2000.

1999-1780s

AMENDED ANALYSIS

This bill clarifies that any person convicted of a crime punishable for a term exceeding one year is prohibited from owning or possessing firearms and other dangerous weapons.

Public Institutions, Health and Human Services

June 21, 1999

1999-1730s

01/09

Amendment to HB 640-FN

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

AN ACT establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system.

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

1 Statement of Purpose. The purpose and intent of this act is to strengthen protections for New Hampshire families who receive their medical care from managed care organizations by providing consumers with the information and tools consumers need to hold managed care organizations accountable for the health care treatment decisions they make.

2 Practice of Medicine; Medical Directors. Amend RSA 329:1 to read as follows:

329:1 Practice. Any person shall be regarded as practicing medicine under the meaning of this chapter who shall diagnose, treat, perform surgery, or prescribe any treatment of medicine for

any disease or human ailment. "Surgery" means any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered, except that this section shall not apply to any person to whom authority is given by any other statute to perform acts which might otherwise be deemed the practice of medicine. "Laser" means light amplification by stimulated emission of radiation. ***A medical director, as defined in RSA 420-J:3, XXV-a, shall be regarded as practicing medicine under the meaning of this chapter whenever:***

I. A medical necessity determination is made for which he or she is responsible under RSA 420-J:6, V or RSA 420-E:2-a; II. The medical necessity determination denies authorization or payment for a covered health care service, supply or drug that the treating health care provider has prescribed; and III. Such denial causes the covered person not to receive the health care service, supply or drug that the treating health care provider has prescribed. 3 New Section; Medical Directors Required. Amend RSA 420-E by inserting after section 2 the following new section:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director licensed under RSA 329, who shall have final responsibility for the utilization system and its administration and implementation, including utilization review decisions affecting health care services provided to beneficiaries.

4 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXV the following new paragraph:

XXV-a. "Medical director" means a physician licensed under RSA 329 and employed by a health carrier or medical utilization review entity who is responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan.

5 New Paragraph; Medical Director Required. Amend RSA 420-J:6 by inserting after paragraph IV the following new paragraph:

V. Each health carrier that conducts utilization review shall employ a medical director who shall have final responsibility for all utilization review techniques and methods and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan.

6 Information Provided to Covered Persons. Amend RSA 420-J:5, II to read as follows:

II. A health carrier shall provide to consumers:

(a) A description of the ***internal*** grievance procedure ***required under RSA 420-J:5*** for adverse determinations and other matters ~~[which]~~ ***and a description of the process for obtaining external review under RSA 420-J:5-a. These descriptions*** shall be set forth in or attached to the policy, certificate, membership booklet, or other evidence of coverage provided to covered persons.

(b) A statement of a covered person's right to contact the commissioner's office for assistance at any time. The statement shall include the toll-free telephone number and address of the commissioner.

(c) Upon written denial of a requested medical service or claim by the health carrier, a statement of the covered person's right to access the internal grievance process. ***This***

statement shall also include a written explanation of any adverse determination, with the name and credentials of the health carrier medical director, including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. If the person making the adverse determination is not the medical director but a designee, then the name, credentials, board status, and state or states of current license shall also be provided for that person. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts.

(d) Staff assistance in filing a grievance.

(e) [If requested by the consumer or health care provider acting on behalf of the consumer, a written explanation of any adverse determination, with the name and credentials of the health carrier medical director or designee, including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts] ***Upon exhausting the second level grievance review process, a statement of the covered person's right to obtain an independent external review of the health carrier's determination. This shall include a description of the process for obtaining external review, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.***

7 First Level Grievance; Names Required. Amend RSA 420-J:5, III(b)(1) to read as follows:

(1) The ***names***, titles and qualifying credentials of the persons participating in the first level grievance review process.

8 Second Level Grievance; Names Required. Amend RSA 420-J:5, V(a)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. Upon concurrence of the covered person, a copy of the decision shall be forwarded to the insurance department. The decision shall include the ***names and*** titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance, including issues raised by the covered person, and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] ***420-J:5-a. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available..***

9 Review Panel; Names Required. Amend RSA 420-J:5, V(b)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the ***names and*** titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] ***420-J:5-a. The statement of appeal rights shall include a description of the process for***

obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.

10 Expedited Internal Grievance Review. Amend RSA 420-J:5, VI(e) to read as follows:

(e) In any case where the expedited review process does not resolve a difference of opinion between the health carrier and the covered person or the provider acting on behalf of the covered person, the covered person or the provider acting on behalf of the covered person may submit a written grievance, unless the provider is prohibited from filing a grievance by federal or other state law. A health carrier shall review it as a second level grievance. In conducting the review, the health carrier shall ~~[adhere to time frames that are reasonable under the circumstances]~~ ***make a decision and notify the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the grievance is submitted.*** 11 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph III the following new paragraph:

III-a. "Authorized representative" means any person who has obtained express written consent to represent the covered person in an external review from:

(a) The covered person;

(b) A person authorized by law to provide substituted consent for a covered person; or

(c) A family member of the covered person when adherence to the requirement of express written consent is impracticable or would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

12 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXIII the following new paragraph:

XXIII-a. "Independent review organization" means an entity that employs or contracts with clinical peers to conduct independent external reviews of health carrier determinations.

13 New Section; External Review. Amend RSA 420-J by inserting after section 5 the following new section:

420-J:5-a External Review Process. The insurance department shall arrange for independent external review of certain health carrier determinations as follows: I. A covered person shall have the right to independent external review of a health carrier determination when the following conditions apply:

(a) The subject of the request for external review is:

(1) An adverse determination; or

(2) A determination by the health carrier that a service, supply or drug is not a covered benefit, when the covered person is asserting that the service, supply or drug should be considered covered for medical reasons. This shall include, but not be limited to, the

following circumstances:

(A) a service, supply or drug is denied, reduced or terminated by the carrier because the health benefit plan does not cover experimental or investigational treatment, but the covered person asserts that the treatment in question should not be considered experimental or investigational.

(B) a service is denied, reduced or terminated by the carrier because the health benefit plan does not cover procedures that are performed for cosmetic reasons or for reasons of convenience, but the covered person asserts that the service is required for medical reasons rather than cosmetics or convenience.

(C) a referral is denied by the carrier because treatment by out-of-network providers is not covered unless the service in question cannot be provided within the carrier's network, and the covered person asserts that the network does not have providers with the appropriate clinical expertise for the service in question.

(D) a drug is denied by the carrier because it is not on the formulary list, but the covered person asserts that the drug is covered under the medical exception criteria.

(E) a service, supply or drug is denied because of a medically-based decision that a condition is preexisting, and the covered person disputes this.

(b) The covered person has completed the internal review procedures provided by the health carrier pursuant to RSA 420-J:5, III through VI, or the health carrier has agreed to submit the determination to independent external review prior to completion of internal review, or the covered person has requested first or second level, standard or expedited review and has not received a decision from the health carrier within the required time frames.

(c) The covered person or the covered person's authorized representative has submitted the request for external review in writing to the commissioner within 12 months of the date of the health carrier's second level denial decision provided pursuant to RSA 420-J:5, V or VI, or if the health carrier has failed to make a first or second level, standard or expedited review decision that is past due, within 12 months of the date the decision was due.

(d) Except in the case of a request for expedited review, the covered person or the covered person's authorized representative has paid to the commissioner a filing fee of \$25 at the time of submitting the request for external review. However, the commissioner may waive the filing fee upon a showing of financial hardship.

(e) The health carrier determination does not relate to any category of health care services that is excluded from the external review provisions of this section pursuant to paragraph II.

(f) The request for external review is not based on a claim or allegation of provider malpractice, professional negligence, or other professional fault excluded from the external review provisions of this section pursuant to paragraph III.

II. Determinations relating to the following health care services shall not be reviewed under this section, but shall be reviewed pursuant to the review processes provided by applicable federal or state law:

(a) Health care services provided through medicaid, the state Children's Health Insurance Program (Title XXI of the Social Security Act), medicare or services provided under these programs but through a contracted health carrier.

(b) Health care services provided to inmates by the department of corrections.

(c) Health care services provided pursuant to a health plan not regulated by the state, such as self-funded plans administered by an administrative services organization or third-party administrator or federal employee benefit programs.

III. The external review procedures set forth in this section shall not be utilized to adjudicate claims or allegations of health care provider malpractice, professional negligence, or other professional fault against participating providers.

IV. Standard external review shall be conducted as follows:

(a) Within 7 days after the date of receipt of a request for external review, the commissioner shall complete a preliminary review of the request in order to determine whether:

(1) The individual is or was a covered person under the health benefit plan;

(2) The determination that is the subject of the request for external review meets the conditions of eligibility for external review stated in paragraph I; and

(3) The covered person has provided all the information and forms required by the commissioner that are necessary to process an external review.

(b) Upon completion of the preliminary review pursuant to subparagraph IV(a), the commissioner shall immediately notify the covered person or the covered person's authorized representative in writing:

(1) Whether the request is complete; and

(2) Whether the request has been accepted for external review.

(c) If the request for external review is accepted, the commissioner shall:

(1) Include in the notice provided to the covered person pursuant to subparagraph IV(b) a statement that if the covered person wishes to submit new or additional information or to present oral testimony via teleconference, such information shall be submitted, and the oral testimony must be scheduled and presented, within 20 days of the date of issuance of the notice.

(2) Immediately notify the health carrier in writing of the request for external review and its acceptance.

(d) If the request is not complete, the commissioner shall inform the covered person or the covered person's authorized representative what information or documents are needed to make the request complete.

(e) If the request for external review is not accepted, the commissioner shall inform the covered person or the covered person's authorized representative and the health carrier in writing of the reason for its non-acceptance.

(f) At the time a request for external review is accepted, the commissioner may select an independent review organization that is certified pursuant to paragraph VI to conduct the external review. If an independent review organization is not selected to conduct the review, then the policies and procedures established by the commissioner for selecting clinical peer reviewers and conducting the review shall meet the minimum qualifications established under paragraph VII for certification of independent review organizations.

(g) Within 10 days after the date of issuance of the notice provided pursuant to subparagraph IV(c)(2), the health carrier or its designated utilization review organization shall provide to the commissioner or the selected independent review organization and to the covered person all information in its possession that is relevant to the adjudication of the matter in dispute, including but not limited to:

(1) The terms of agreement of the health benefit plan, including the evidence of coverage, benefit summary or other similar document;

(2) All relevant medical records, including records submitted to the carrier by the covered person, the covered person's authorized representative, or the covered person's treating provider;

(3) A summary description of the applicable issues, including a statement of the health carrier's final determination;

(4) The clinical review criteria used and the clinical reasons for the determination;

(5) The relevant portions of the carrier's utilization management plan;

(6) Any communications between the covered person and the health carrier regarding the internal or external review; and

(7) All other documents, information, or criteria relied upon by the carrier in making its determination.

(h) In providing the information required in subparagraph IV(g), the health carrier may not present different reasons than those the health carrier or its designated utilization review organization communicated to the covered person upon internal review, unless the reasons relate to new information presented by the covered person or the covered person's authorized representative or treating provider subsequent to the internal review.

(i) Failure by the health carrier to provide the documents and information required in subparagraph IV(g) within the specified time frame shall not delay the conduct of the external review.

(j) The commissioner or the selected independent review organization shall review all of the information and documents received from the carrier pursuant to subparagraph IV(g) and any other information submitted by the covered person or the covered person's authorized representative or treating provider pursuant to subparagraph IV(c)(1) and any testimony provided. The commissioner or the independent review organization shall consider anew all previously determined facts, allow the introduction of new information, and make a decision that is not bound by decisions or conclusions made by the health carrier during internal review. In addition to the information provided by the health carrier and the covered person or the covered person's authorized representative or treating provider, the commissioner or the independent review organization may consider the following in reaching a decision:

(1) The covered person's pertinent medical records;

(2) The treating health care professional's recommendation;

(3) Consulting reports from appropriate health care professionals and other similar documents submitted by the health carrier, covered person, or the covered person's authorized representative or treating provider;

(4) Any applicable, generally accepted clinical practice guidelines, including those developed by the federal government, national or professional medical societies, boards and associations;

(5) Any applicable clinical review criteria developed and used by the health carrier or its designated utilization review organization;

(6) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts;

(7) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institute of Health's Library of Medicine for indexing or that are recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the Social Security Act;

(8) Standard reference compendia; and

(9) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(k) The commissioner or the selected independent review organization shall render a decision upholding or reversing the determination of the health carrier and notify the covered person or the covered person's authorized representative and the health carrier in writing within 20 days of the date that any new or additional information from the covered person is due pursuant to subparagraph IV(c)(1). This notice shall include a written review decision that contains a statement of the nature of the grievance, references to evidence or documentation considered in making the decision, findings of fact, and the clinical and legal rationale for the decision, including, as applicable, clinical review criteria and rulings of law. The decision shall have the same force and effect as a final order of the commissioner and shall be enforceable pursuant to the penalty provisions of RSA 420-J:14.

V. Expedited external review shall be conducted as follows:

(a) Expedited external review shall be available when the covered person's treating health care provider certifies to the commissioner that adherence to the time frames specified in paragraph IV would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

(b) Except to the extent that it is inconsistent with the provisions of this subsection, all requirements for the conduct of standard external review specified in paragraph IV shall apply to expedited external review.

(c) At the time the commissioner receives a request for an expedited external review, the commissioner shall immediately make a determination whether the request meets the standard set forth in subparagraph V(a) for expedited external review, as well as the reviewability requirements set forth in subparagraph IV(a). If these conditions are met, the commissioner shall immediately notify the health carrier. If the request is not complete, the commissioner shall immediately contact the covered person or the covered person's authorized representative and attempt to obtain the information or documents that are needed to make the request complete.

(d) The commissioner may select an independent review organization that is certified pursuant to paragraph VI to conduct the expedited external review. If an independent review organization is not selected to conduct the review, then the policies and procedures established by the commissioner for selecting clinical peer reviewers and conducting the review shall meet the minimum qualifications established under paragraph VII for certification of independent review organizations.

(e) The health carrier or its designated utilization review organization shall provide or transmit the documents and information specified in subparagraph IV(g) to the commissioner or the selected independent review organization by telephone, facsimile or any other available expeditious method within one day of receiving the commissioner's notice of the request for expedited external review pursuant to subparagraph V(c).

(f) When handling a review on an expedited basis, the commissioner or the selected independent review organization shall make a decision and notify the carrier and the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the expedited external review is requested. The decision shall have the same force and effect as a final order of the commissioner and shall be enforceable pursuant to the penalty provisions of RSA 420-J:14.

(g) If the notice provided pursuant to subparagraph V(f) was not in writing, within 2 days after the date of providing that notice, the commissioner or the selected independent review organization shall:

(1) Provide written confirmation of the decision to the covered person or the covered person's authorized representative and the health carrier; and

(2) Include the information set forth in subparagraph IV(k).

(h) Reviews that the health carrier handled on an expedited basis in its internal review process shall be handled on an expedited basis in the external review process.

(i) An expedited external review shall not be provided for determinations made by the health carrier on a retrospective basis.

(j) Continuation of benefits pending expedited external review shall be provided when appropriate and as determined by the commissioner.

VI. The certification of independent review organizations shall be conducted as follows:

(a) The commissioner shall certify independent review organizations eligible to be selected to conduct external reviews under this section to ensure that an independent review organization satisfies the minimum qualifications established under paragraph VII.

(b) The commissioner shall develop an application form for initially certifying and recertifying independent review organizations to conduct external reviews.

(c) Independent review organizations wishing to be certified shall submit the application form and include all documentation and information necessary for the commissioner to determine whether the independent review organization satisfies the minimum qualifications established under paragraph VII.

(d) The commissioner may determine that accreditation by a nationally recognized private accrediting entity with established and maintained standards for independent review organizations that meet or exceed the minimum qualifications established under paragraph VII is sufficient for certification under this paragraph.

(e) The commissioner shall maintain and periodically update a list of certified independent review organizations.

VII. To be certified under paragraph VI to conduct external reviews, an independent review organization shall meet the following minimum qualifications:

(a) It shall develop and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process.

(b) It shall establish and maintain a quality assurance program that:

(1) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(2) Ensures the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the independent review organization with suitable matching of reviewers to specific cases;

(3) Ensures the confidentiality of medical and treatment records; and

(4) Ensures that any person employed by or under contract with the independent review organization adheres to the requirements of this section.

(c) It shall maintain a toll-free telephone service on a 24-hour, 7-day-a-week basis related to external reviews that is capable of accepting or recording information from, and providing appropriate instruction to callers.

(d) It shall agree to maintain and provide to the commissioner such information as may be required to fulfill the provisions and purposes of this section.

(e) It shall assign clinical peer reviewers to conduct external reviews who are physicians or other appropriate health care providers and who:

(1) Are experts in the treatment of the covered person's medical condition that is the subject of the external review;

(2) Are knowledgeable about the recommended health care service or treatment through actual clinical experience;

(3) Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a specialty board recognized by the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review;

(4) Have no history or disciplinary actions or sanctions that have been taken or are pending by any hospital, governmental agency, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character; and

(5) Have agreed to disclose any potential conflict of interest.

(f) It shall be free of any conflict of interest. To meet this qualification, an independent review organization may not own or control or in any way be owned or controlled by a health carrier, a national, state or local trade association of health carriers, or a national state or local trade association of health care providers. In addition, in order to qualify to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor any clinical peer reviewer assigned by the independent organization to conduct the external review may have a material professional, familial or financial interest in any of the following:

- (1) The health carrier that is the subject of the external review;
- (2) Any officer, director or management employee of the health carrier that is the subject of the external review;
- (3) The health care provider or the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;
- (4) The facility at which the recommended health care service or treatment would be provided;
- (5) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review; or
- (6) The covered person or the covered person's authorized representative.
- (g) For the purpose of allowing in-state health care providers to act as clinical peer reviewers in the conduct of external reviews, the commissioner may determine, in specific cases, that an affiliation with a hospital, an institution, an academic medical center, or a health carrier provider network does not in and of itself constitute a conflict of interest which is sufficient to preclude that provider from acting as a clinical peer reviewer, so long as the affiliation is disclosed to the covered person and the covered person has given his or her prior written consent.
- (h) The following organizations shall not be eligible for certification to conduct external reviews:
 - (1) Professional or trade associations of health care providers;
 - (2) Subsidiaries or affiliates of such provider associations;
 - (3) Health carrier or health plan associations; and
 - (4) Subsidiaries or affiliates of health plan or health carrier associations.

VIII. A covered person shall:

- (a) Be provided with timely and adequate notice of his or her rights with respect to external review.
- (b) Have the right to be represented by any person, including the covered person's treating provider, and to otherwise make use of outside assistance during the review process, to receive a copy of all documents, all information, and all clinical review criteria or other standards relied upon by the health carrier in making its determination, and to present to the commissioner or the selected independent review organization any information, including new information not previously considered by the health carrier, which the covered person believes to be relevant to the adjudication of the matter in dispute, provided that such information is simultaneously provided to the health carrier.
- (c) Be provided the opportunity, under standard external review, to present oral testimony to the independent review organization via teleconference. At any such hearing, the health carrier shall also have the opportunity to present oral testimony and to respond to issues raised.
- (d) Be protected from retaliation for exercising the right to an independent external review under this section.

IX. The health carrier against which a request for external review is filed shall pay the cost of the external review. The commissioner shall ensure that such costs assessed to the health carrier are at all times reasonable in relation to the services

provided. If the covered person is the prevailing party in the external review, the health carrier shall pay to the covered person the amount of any filing fee paid by the covered person.

X. The confidentiality of any health care information acquired or provided to the commissioner or an independent review organization shall be maintained, and the records, and internal materials prepared for specific reviews by the commissioner or an independent review organization under this section shall be exempt from public disclosure under RSA 91-A.

XI. No independent review organization or clinical peer reviewer working on behalf of an independent review organization shall be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted pursuant to this section, unless the opinion was rendered in bad faith or involved gross negligence.

XII. The right to external review under this section shall not be construed to change the terms of coverage under a health benefit plan.

XIII. When requested by the covered person, the commissioner shall provide consumer assistance in pursuing the internal grievance procedures and the external review process under RSA 420-J:5 and this section.

XIV. The commissioner shall report annually to the governor and the legislature on the number of grievances subjected to external review, the number of decisions resolved wholly or partially in favor of the covered person, the number of decisions resolved wholly or partially in favor of the health carrier, and any common themes or issues that may require legislative action.

XV. The commissioner shall report annually to the New Hampshire board of medicine the names of the medical directors responsible for determinations that resulted in external review and the outcomes of such external reviews. 14 New Paragraphs; Provider Contract Standards. Amend RSA 420-J:8 by inserting after paragraph VI the following new paragraphs:

VII. No contract between a health carrier and a participating provider shall contain any payment or reimbursement provision the terms of which create incentives for the provider to limit medically necessary care to covered persons. Nothing in this section shall be construed to prohibit the use of payment arrangements between a health carrier and a participating provider or provider group which involve capitation or withholds.

VIII. A health carrier shall provide to consumers, upon request, a description, in general terms, of the types of payment and reimbursement provisions contained in its contracts with participating providers. Such descriptions shall be set forth in clear, understandable language and shall, at a minimum, convey basic information about any financial incentives to providers that may directly or indirectly have the effect of reducing or limiting services to covered persons.

IX. Every contract between a health carrier and a participating provider shall provide that the health carrier may not remove a health care provider from its network or refuse to renew the health care provider with its network for advocating on behalf of a covered person for medically necessary care for the covered person. 15 Repeal. RSA 420-J:5, VIII and IX, relative to an external process and annual report, are hereby repealed. 16 Effective Date. This act shall take effect 60 days after its passage.

1999-1730s

AMENDED ANALYSIS

This bill creates an independent external consumer appeal process to review certain determinations made by managed care entities. The bill requires health carriers that conduct utilization review and licensed utilization review entities to employ a medical director and amends

the definition of the practice of medicine to include the making of certain medical necessity determinations. The bill prohibits contracts between health carriers and participating providers from including provisions that create financial incentives to deny medically necessary care. The bill also requires that health insurers disclose certain information necessary for consumers to hold managed care entities accountable for health care treatment decisions.

REPORTS

BANKS

HCR 7, urging the federal government not to adopt rules requiring financial institutions to monitor their customers' banking habits. Vote 5-0

Inexpedient of Legislate, Senator Fraser for the committee.

HB 451, establishing a committee to study first and second mortgage home loans. Vote 5-0

Ought to Pass, Senator Fernald for the committee.

HB 563, relative to names of limited liability partnerships and companies and cooperative associations. Vote 5-0

Ought to Pass with Amendment, Senator Fernald for the committee.

ENVIRONMENT

HB 97, relative to the right to farm. Vote 6-2

Inexpedient to Legislate, Senator D'Allesandro for the committee.

HCR 11, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds. Vote 3-0

Ought to Pass, Senator Russman for the committee.

FINANCE

HB 112 relative to state taxes and other sources of revenue for funding an adequate education; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education and a tax equity and efficiency commission, and making appropriations therefor. Vote: 6-2

Ought to pass with amendment, Senator Squires for the committee.

HB 576-FN-A, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor. Vote: 8-0

Rereferred to Committee, Senator Hollingworth for the committee.

HB 608-FN-A, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor. Vote: 8-0

Ought to Pass, Senator F. King for the committee.

HB 666-FN-A-L, relative to the taxation of sand, gravel, loam, and other similar substances. Vote: 7-0

Ought to pass with amendment, Senator Klemm for the committee.

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services. Vote: 8-0

Ought to pass with amendment, Senator Squires for the committee.

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission and making an appropriation therefor. Vote: 6-2

Ought to Pass, Senator Larsen for the committee.

HB 719-FN, relative to procedures regarding children in need of services. Vote: 8-0

Ought to Pass, Senator F. King for the committee.

HB 721-FN, relative to procedures regarding delinquent children under RSA 169-B. Vote: 8-0

Ought to Pass, Senator McCarley for the committee.

HB 738-FN, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses. Vote: 8-0

Ought to Pass, Senator McCarley for the committee.

SB 49-FN-L, relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making an appropriation therefor. Vote: 8-0

Inexpedient to Legislate, Senator McCarley for the committee.

SB 72, exempting certain portions of Seabrook Beach Village District and certain portions of Hampton Beach from certain provisions of the excavating, filling, and construction permit laws. Vote: 8-0

Ought to Pass, Senator Hollingworth for the committee.

SB 196, relative to electric rate reduction financing. Vote: 8-0

Rereferred to Committee, Senator F. King for the committee.

SB 206-FN-A-L, establishing the tobacco use prevention fund and continually appropriating a special fund and relative to the health care fund. Vote: 8-0

Rereferred to Committee, Senator Squires for the committee.

SB 210-FN-L, relative to payment by the state for certain court-ordered placements of special education students. Vote: 8-0

Rereferred to Committee, Senator McCarley for the committee.

INTERNAL AFFAIRS

HB 395-FN-A, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire. Vote 5-1

Ought to Pass, Senator Fraser for the committee.

HB 551, revising the definition of "employer" under the employment discrimination laws of the state. Vote 6-0

Inexpedient to Legislate, Senator D'Allesandro for the committee.

HB 605-FN, affirming sovereign immunity for the state and its political subdivisions as it relates to the "year 2000 problem." Vote 4-2

Ought to Pass, Senator D'Allesandro for the committee.

HB 728-FN, establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses.

MINORITY REPORT: Ought to Pass, Senator D'Allesandro for the committee. Vote 2-4

MAJORITY REPORT: Inexpedient to Legislate, Senator Fraser for the committee. Vote 4-2

JUDICIARY

HB 652-FN, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund. Vote 6-0

Ought to Pass, Senator Fernald for the committee.

TRANSPORTATION

HB 89-FN-A, making an appropriation for a department of transportation study of the state house complex to evaluate space needs. Vote 5-0

Ought to pass with amendment, Senator Gordon for the committee.

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers. Vote 5-0

Inexpedient to Legislate, Senator Gordon for the committee.

HB 449-FN, requiring boating safety education. Vote 5-0

Rereferred to Committee, Senator Pignatelli for the committee.

HB 525-FN, relative to special number plates for certain veterans. Vote 6-1

Ought to pass with amendment, Senator Pignatelli for the committee.

HB 559-FN-A, authorizing vanity plates or decals for OHRV registrations. Vote 7-0

Ought to Pass, Senator Trombly for the committee.

HB 584-FN, relative to administrative license suspensions. Vote 6-0

Ought to pass with amendment, Senator Russman for the committee.

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund. Vote 5-0

Ought to pass with amendment, Senator Gordon for the committee.

HB 639-FN, relative to motor vehicle registration fees for antique motor vehicles and motorcycles. Vote 3-2

Ought to pass with amendment, Senator Roberge for the committee.

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor. Vote 6-0

Ought to pass with amendment, Senator Gordon for the committee.

HB 698-FN-L, restricting fees for registration permits for certain vehicles. Vote 6-0

Ought to Pass, Senator Roberge for the committee.

HJR 6, encouraging the revitalization of the northern rail line from Concord to Lebanon. Vote 5-2

Rereferred to Committee, Senator McCarley for the committee.

AMENDMENTS

Banks

June 14, 1999

1999-1577s

08/09

Amendment to HB 563

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

1 Voluntary Corporations and Associations; Use of Name Regulated. RSA 292:3 is repealed and reenacted to read as follows:

292:3 Name. Any corporate name assumed under this chapter shall not be deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

2 New Hampshire Business Association Act; Corporate Name. Amend RSA 293-A:4.01(b) to read as follows:

(b) Except as authorized by subsections (c) and (d), a corporate name shall not be the same as, or deceptively similar to:

(1) the corporate name of a corporation incorporated or authorized to transact business in this state;

(2) a ~~[corporate]~~ name reserved or registered under RSA ~~[293-A:4.02 or 293-A:4.03]~~ **293-A, 293-B, 301, 301-A, 304-A, 304-B, 304-C, 305-A, or 349;**

(3) the fictitious name of another foreign corporation authorized to transact business in this state;

(4) the corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state;

(5) ~~a trade name registered with the secretary of state under RSA 349;~~

~~(6) a domestic or foreign limited partnership name filed pursuant to RSA 304-B;~~

~~(7) the name of a foreign partnership registered pursuant to RSA 305-A;~~

~~(8) the name of a New Hampshire investment trust filed under RSA 293-B;~~

~~(9)]~~ the name of an agency or instrumentality of the United States or this state or a subdivision thereof; and

(6) the name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the respective political organization.

3 Treatment of New Hampshire Investment Trusts; Use of Names Regulated. RSA 293-B:16, I is repealed and reenacted to read as follows:

I. The name of each New Hampshire investment trust as set forth in its certificate of trust shall not be the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

4 New Section; Cooperative Marketing and Rural Electrification Associations; Use of Names Regulated. Amend RSA 301 by inserting after section 43 the following new section:

301:43-a Use of Name Regulated. The secretary of state shall decline to register any cooperative name under this chapter that is the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

5 Uniform Limited Partnership Act; Name. RSA 304-B:2, II is repealed and reenacted to read as follows:

II. The name of each limited partnership as set forth in its certificate of limited partnership shall not be the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

6 Limited Liability Companies; Use of Name Regulated. RSA 304-C:3, III is repealed and reenacted to read as follows:

III. Shall not be the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state; and

7 Registration of Foreign Partnerships; Name. RSA 305-A:1, IV is repealed and reenacted to read as follows:

IV. A foreign partnership may not assume any name which is the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

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

1999-1577s

AMENDED ANALYSIS

This bill:

I. Requires that certain business entities receive written consent from limited liability companies and limited liability partnerships before using names that are the same or deceptively similar.

II. Requires that cooperative marketing and rural electrification associations receive written consent from business entities before using names that are the same or deceptively similar.

III. Requires that the written consent to use similar names received by certain business entities be filed with the secretary of state.

IV. Increases uniformity among the various statutory sections dealing with business entities use of names.

Senate Finance

June 25, 1999

1999-1845s

09/10

Amendment to HB 112-FN-A

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

AN ACT increasing the tobacco tax and dedicating a portion of tobacco tax revenues to tobacco use prevention and cessation programs and establishing a tobacco use prevention advisory committee.

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

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

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[37]~~ **52** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

2 New Subdivision Heading; Disposition of Tobacco Tax Revenues; Special Fund. Amend RSA 78 by inserting after section 31 the following new subdivision heading:

Disposition of Revenues

3 Tobacco Tax; Disposition of Revenues. Amend RSA 78:32 to read as follows:

78:32 Distribution of Funds.

I. The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 37 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state imposed by RSA 78:7 and shall certify such amount to the state treasurer by October 1 of each year. Of this additional amount, \$3,000,000 shall be deposited at the end of each fiscal year beginning June 30, 2000 in the tobacco use prevention and cessation fund established in RSA 78:33 and the remainder shall be for deposit in the education trust fund established by RSA 198:39.

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

78:33 Tobacco Use Prevention and Cessation Fund. There is established within the office of the state treasurer a nonlapsing, continually appropriated tobacco use prevention and cessation fund. \$3,000,000 annually shall be appropriated to the department of health and human services for tobacco use prevention and cessation programs and shall be allocated as follows:

<u>Percentage</u>	<u>Amount</u>
I. Tobacco use prevention community programs and grants	25 \$750,000
II. Tobacco use prevention school programs and grants	18
\$540,000	
III. Tobacco use prevention state-wide programs and grants	15
\$450,000	
IV. Tobacco use cessation programs	15 \$450,000
V. Tobacco use prevention and cessation counter marketing	18
\$540,000	

VI. Evaluation 5 \$150,000

VII. Administration and enforcement 4 \$120,000

4 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Three million dollars of the annual gross revenues of the tobacco tax collected under RSA 78, which shall be credited as provided in RSA 78:32 to the tobacco use prevention and cessation fund established under RSA 78:33.

5 Applicability. This act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 1999, shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

6 New Subdivision; Tobacco Use Prevention Advisory Committee. Amend RSA 126-K by inserting after section 14 the following new subdivision:

Tobacco Use Prevention Advisory Committee

126-K:15 Advisory Committee.

I. There is hereby established a tobacco use prevention advisory committee to advise the department of health and human services on the criteria for the expenditure of funds available from the tobacco use prevention and cessation fund and on expenditure proposals submitted to the department.

II. The committee shall consist of the following members:

- (a) A member of the senate, appointed by the senate president.
- (b) A member of the house of representatives, appointed by the speaker of the house.
- (c) One representative of the New England affiliate of the American Heart Association.
- (d) One representative of the American Lung Association of New Hampshire.
- (e) One representative of the New England division of the American Cancer Society.
- (f) One representative of the New Hampshire Medical Society.
- (g) One representative of a community law enforcement agency.
- (h) One representative of the New Hampshire School Nurses Association.

(i) One representative of the New Hampshire Hospital Association.

(j) One representative of the New Hampshire health educators.

(k) Two representatives of the Smoke Free New Hampshire Alliance, of which one shall be a minor and one shall be a community coalition member.

(l) One representative of the Norris Cotton Cancer Center.

(m) The commissioner of the department of education, or designee.

(n) One representative appointed by the New Hampshire liquor commission.

(o) Three public members, appointed by the governor.

(p) The commissioner of health and human services.

III. The members in subparagraphs II(c)-(l) shall be appointed by the commissioner of health and human services. The commissioner of health and human services shall call the first meeting of the committee and shall serve as chairperson of the committee.

IV. The tobacco use prevention advisory committee shall annually submit a report of its work, findings, and any recommendations for the purpose of legislation or other state policy to the speaker of the house, president of the senate, house clerk, senate clerk, the governor, the commissioner of education, the commissioner of health and human services, and the state library on or before August 15.

7 Effective Date. This act shall take effect July 1, 1999.

1999-1845s

AMENDED ANALYSIS

This bill increases the tobacco tax by 15 cents. The bill dedicates \$3,000,000 of the increase in annual tobacco tax gross revenues to a tobacco use prevention and cessation fund and the remainder to the education trust fund. The bill establishes a tobacco use prevention advisory committee.

Senate Finance

June 25, 1999

1999-1824s

08/10

Amendment to HB 666-FN-A-LOCAL

Amend the bill by replacing section 1 with the following:

1 Findings and Declaration of Purposes. The legislature finds:

I. That there has been a great deal of confusion and uncertainty among taxpayers, assessors and municipalities regarding the applicability of the excavation activity tax imposed by RSA 72-B, and how it should be implemented;

II. That the legislature wishes to clarify that the excavation activity tax as defined in this act applies to the area of land which is being excavated, or has been excavated, and has not been reclaimed as defined in this act, and that the activity tax applies to the area of land which has not been so reclaimed;

III. That the legislature wishes to clarify that the excavation activity tax does not apply to excavation areas on which excavations ceased before August 24, 1977 and have not since reoccurred thereon; and that the excavation activity tax applies to exposed rock ledge area which has been actively worked within the previous tax year;

IV. That the legislature wishes to reiterate its findings and declaration of purpose of 1997, 219:1, that in appraising real property subject to the excavation activity tax, assessors shall not take into consideration the value of any earth contained in the real property;

V. That the legislature wishes to reiterate its original findings and declaration of purpose in enacting RSA 72-B that such tax is expected to be no less than the tax paid in 1994 for the parcel of land on which such exempt earth is situated;

VI. That the legislature wishes to reiterate its original findings and declaration of purpose in enacting RSA 72-B, which provided a means of taxing the value of earth by exempting earth and the real property constituting the area from which earth was being excavated from the real property tax imposed by RSA 72:6 and RSA 72:13, and subjecting it to the excavation tax and excavation activity tax created pursuant to RSA 72-B;

VII. That the legislature wishes to reiterate its original findings and declaration of purpose, which was to avoid the undesirable effects of taxing earth in the ground as real property, which included the premature excavation of such earth to avoid real property taxation; and that in order to ensure that this and other undesirable and unintended consequences of the taxation of earth, and the real property constituting the area from which earth was being excavated, do not occur, the legislature wishes to make clear that RSA 72-B must be read in conjunction with RSA 155-E, which provides a statewide comprehensive regulatory framework to regulate the excavation of earth;

VIII. That one of the state's fundamental policy goals is to encourage and promote compliance with the statewide comprehensive regulatory framework for the regulation of earth removal and activities associated therewith, as set forth in RSA 155-E; and

IX. That if the real property constituting the excavation area is exempted from the provisions of RSA 72:6 and RSA 72:13, and subjected instead to the excavation activity tax imposed by RSA 72-B, excavation operators will be encouraged to effectively use and manage known earth deposits and reclaim those areas of excavations that have been excavated since August 24, 1977.

Amend the bill by replacing section 20 with the following:

20 Effective Date.

I. RSA 72-B:1, IV(h), as inserted by section 2 of this act, shall take effect April 1, 2000.

II. The remainder of this act shall take effect April 1, 1999.

Senate Finance

June 25, 1999

1999-1836s

04/09

Amendment to HB 684

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

AN ACT creating a position within the long-term care institute.

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

1 New Section; New Position; Long-Term Care Specialist. Amend RSA 126-L by inserting after section 5 the following new section:

126-L:5-a Long-Term Care Specialist. There is hereby established a long-term care specialist within the institute. The long-term care specialist shall be hired by the board. The long-term care specialist shall serve as the executive director of the institute and as a liaison between the institute and the insurance department and shall perform the duties of the institute as provided in RSA 126-L:5.

2 Applicability. The long-term care specialist position, established in section 1 of this act, shall not be a state employee position.

3 Budget Surplus; Transfer to Long-Term Care Institute. Notwithstanding RSA 9:13-e, any general fund undesignated surplus up to the sum of \$49,592 plus a sum equal to 25 percent of the

state employee fringe benefits for the fiscal year ending June 30, 2000, and the sum of \$49,592 plus a sum equal to 25 percent of the state employee fringe benefits for the fiscal year ending June 30, 2001, shall be transferred to the long-term care institute established in RSA 126-L:2 for the purposes of paying the annual salary of the position created in section 1 of this act. Any general fund undesignated surplus in excess of the sums referred to in this section shall be transferred in accordance with RSA 9:13-e.

4 Repeal. RSA 126-L:5-a, relative to a long-term care specialist, is hereby repealed.

5 Effective Date.

I. Section 4 of this act shall take effect July 1, 2001.

II. The remainder of this act shall take effect July 1, 1999.

1999-1836s

AMENDED ANALYSIS

This bill creates a 2-year position of long-term care specialist to perform the duties of the long-term care institute. The bill provides for a transfer of general fund undesignated surplus sufficient to pay the annual salary of the long-term care specialist.

Senate Transportation

June 25, 1999

1999-1830s

05/10

Amendment to HB 89-FN-A

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

AN ACT making an appropriation for a department of transportation study of the state house complex's space needs, and naming the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.

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

4 Raymond S. Burton Bridge. Pursuant to RSA 4:43, the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath is hereby named the Raymond S. Burton Bridge.

1999-1830s

AMENDED ANALYSIS

This bill requires the department of transportation to hire an architectural consultant to conduct a study of the state house complex's space needs. This bill makes an appropriation to the department of transportation for the purposes of the study from funds authorized by 1991, 355:115 and 1998, 226:1.

The bill also names the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.

Senate Transportation

June 25, 1999

1999-1841s

10/09

Amendment to HB 525

Amend RSA 261:86, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Is a former prisoner of war and was captured and incarcerated for 30 days or more while serving in a qualifying war or armed conflict as defined in RSA 72:28, IV, and who was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances. The plates shall be transferable upon death to the surviving spouse of the prisoner of war. The surviving spouse shall be entitled to the plate as long as he or she lives, unless he or she remarries.

Amend RSA 261:86, I(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Survived Pearl Harbor and was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances. The plates shall be issued upon payment of the regular registration and number plate fees. The plates shall be transferable upon death to the surviving spouse of the Pearl Harbor survivor. The surviving spouse shall be entitled to the plate as long as he or she lives, unless he or she remarries.

Senate Transportation

June 25, 1999

1999-1825s

05/09

Amendment to HB 584-FN

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

1 Administrative Review and Hearings. Amend RSA 265:91-b, III to read as follows:

III. In the case of either an administrative review or a hearing, the hearing ~~[officer]~~ **examiner** shall issue ~~[his ruling]~~ **his or her recommendation** on the order of suspension or revocation within 15 days of the request for administrative review or the hearing date. The ~~[ruling]~~ **recommendation** shall be in writing and a copy shall be provided to the parties. The ~~[ruling]~~ **recommendation** shall be final unless ~~[an]~~ **a review or** appeal is filed under RSA 265:91-d **or RSA 265:91-e**.

2 Review. RSA 265:91-d is repealed and reenacted to read as follows:

265:91-d Review. Within 10 days following the examiner's ruling, a person whose license has been suspended or revoked, or the law enforcement officer, may petition the director for a review of the ruling. The filing of the petition shall not stay a suspension or revocation of the person's driver's license or privilege to drive if imposed, or the restoration of the person's driver's license or privilege to drive. The review shall determine whether the ruling is erroneous as a matter of law or cannot be sustained by the facts as presented at the hearing. After a review of the ruling, the director shall issue within 10 days a finding either affirming the ruling or granting a new hearing. Any grant of a new hearing shall be accompanied by a written explanation setting forth the specific error of law or the reason why the ruling cannot be sustained by the facts.

3 New Section; Appeal. Amend RSA 265 by inserting after section 91-d the following new section:

265:91-e Appeal. Any person aggrieved by a decision of the department under this section, after the administrative hearing or review, may appeal the decision as provided in RSA 263:75. The court shall have the full authority to determine whether any license suspension or revocation should be stayed during the pendency of the appeal.

4 Authority to Suspend or Revoke License. Amend RSA 263:56, III(a) to read as follows:

(a) In the case of a person whose license is suspended or revoked pursuant to RSA 263:56, I(g) the director may suspend or revoke a license for not more than ~~[3]~~ **7** years.

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

Senate Transportation

June 25, 1999

1999-1828s

05/09

Amendment to HB 616-FN-A

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

AN ACT establishing a house study committee to consider issues related to the driver training fund and exempting persons covered under the Americans with Disabilities Act from certain driver's license requirements.

Amend paragraph I as inserted by section 2 by replacing it with the following:

I. The membership of the committee shall consist of 3 house members, 2 of whom shall be members of the house transportation committee, and 2 members of the house finance committee, appointed by the speaker of the house.

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

6 Waiver of Certain License Requirements. Amend RSA 263:19 to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his sixteenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle driver's school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required.

II. Any person wishing to qualify for a driver's license who submits proof that the person has a disability covered by the Americans with Disabilities Act may request a waiver of a

requirement of this section from the commissioner. The commissioner or his or her agents may approve such requests at their discretion.

Amend the bill by replacing section 7 with the following:

7 Effective Date. This act shall take effect upon passage.

1999-1828s

AMENDED ANALYSIS

This bill establishes a house study committee to consider issues related to the driver training fund, and exempts persons covered under the Americans with Disabilities Act from certain driver's license requirements.

Senate Transportation

June 25, 1999

1999-1826s

05/09

Amendment to HB 639-FN

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

1 Antique Motorcycle Registration Fees. Amend RSA 261:141, III(f) to read as follows:

(f) For antique motorcycles *manufactured in the calendar year 50 years prior to the current calendar year or earlier* -- \$2.40. *Antique motorcycles manufactured in the calendar year 49 years prior to the current calendar year or later shall be charged a registration fee of \$12.*

2 Antique Motor Vehicle Registration Fees. Amend RSA 261:141, III(r) to read as follows:

(r) For antique motor vehicles other than antique motorcycles *manufactured in the calendar year 50 years prior to the current calendar year or earlier* -- \$6. *Antique motor vehicles other than antique motorcycles manufactured in the calendar year 49 years prior to the current calendar year or later shall be charged a maximum of \$31.20 (\$2.60 per month) for vehicles weighing over 3000 lbs, and a maximum of \$19.20 (\$1.60 per month) for vehicles weighing less than 3000 lbs.*

3 Effective Date. This act shall take effect July 1, 1999.

1999-1826s

AMENDED ANALYSIS

This bill restricts reduced registration fees for antique motor vehicles and motorcycles to motor vehicles and motorcycles manufactured 50 years prior to the current calendar year or earlier.

Senate Transportation

June 25, 1999

1999-1829s

05/10

Amendment to HB 676-FN-A

Amend RSA 266:1-a, I as inserted by section 1 of the bill by replacing it with the following:

I. The commissioner of safety shall establish a force of motor vehicle inspectors to assist the director in enforcing the motor vehicle inspection laws and rules. A motor vehicle inspector appointed by the commissioner pursuant to this section shall be a peace officer, certified under RSA 188-F:26, and shall be dedicated to enforcement duties related to the inspection process, including inspection station auditing, investigation of alleged inspection station malfeasance, rejected vehicle follow-up, and sticker monitoring. A motor vehicle inspector appointed under this section shall have the authority to enter any motor vehicle inspection station authorized under RSA 266:1, during the station's business hours, to fulfill his or her duties.

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

COMMITTEE OF CONFERENCE

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

MEETING: Wednesday, May 26, 1999, Room 206, LOB, 1:00 p.m.

Senate Conferees: Senators Pignatelli, Fernald, Squires

House Conferees: Representatives R. Lyman, I. Pratt, D. Bickford, E. Moran

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

Senate Conferees: Senators Wheeler, J. King, Fraser

House Conferees: Representatives G. Daniels, M. Gilman, R. Clegg, J. Kelley

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B.

Senate Conferees: Senators

House Conferees: Representatives K. Herman, Avery, McGough, T. Reardon

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology.

House Conferees: Representatives D. Babson, G. Chandler, H. Harmon, H. Melcher

HB 333, relative to contracts between participating providers and managed care entities.

House Conferees: Representatives J. Bradley, T. Norelli, R. Maxfield, J. Densmore

HB 369, establishing a committee on educational programs on tobacco use for minors.

Senate Conferees: Senators

House Conferees: Representatives McGough, Langley, Francoeur, Garrish

HB 408, relative to drug formularies under managed care entities.

Senate Conferees: Senators

House Conferees: Representatives K. Herman, Francoeur, McGough, Taylor

HB 428, relative to school administrative units.

Senate Conferees: Senators Disnard, Johnson, J. King

House Conferees: Representatives R. McKinley, B. Ward, D. Larrabee, C. Jean

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

MEETING: Tuesday, June 29, 1999, Room 203, LOB, 4:00 p.m.

Senate Conferees: Senators Gordon, Trombly, Roberge

House Conferees: Representatives S. Packard, R. Letourneau, G. LaPorte, J. Gleason

HB 562, relative to the date of decision for appeals of zoning matters.

House Conferees: Representatives D. Hess, P. Lockwood, L. Foster, A. Simon

HB 664, establishing a study committee on rights of ownership to cemetery plots.

MEETING Monday, June 28, 1999, Room 301, LOB

Senate Conferees: Senators Trombly, Disnard, Roberge

House Conferees: Representatives B. Patten, M. Griffin, R. Zerba, T. Rice

HB 689-FN, establishing a committee to study campaign contributions and expenditures.

MEETING: Tuesday, June 29, 1999, Room 308, LOB, 9:15 a.m.

Senate Conferees: Senators McCarley, Wheeler, Krueger

House Conferees: Representatives L. Horton, F. Davis, J. Splaine, R. Clegg

SB 30, relative to the cruelty to animals law.

MEETING: Wednesday, June 23, 1999, Room 103, SH, 3:00 p.m.

Senate Conferees: Senators Wheeler, Trombly, Disnard

House Conferees: Representatives E. Weare, R. Fesh, W. Mikowski, Welch

SB 47, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

Senate Conferees: Senators Disnard, Trombly, F. King

House Conferees: Representatives M. Dyer, R. Langer, N. Stickney, F. Reidy

SB 70, changing the safe drinking water standard for MTBE.

Senate Conferees: Senators Wheeler, Cohen, Russman

House Conferees: Representatives Bradley, Norelli, Maxfield, Densmore

SB 101, relative to landlord-tenant obligations.

MEETING: Wednesday, June 23, 1999, Room 104, LOB, 2:15 p.m.

Senate Conferees: Senators Trombly, Disnard, Russman

House Conferees: Representatives P. Bergin, P. Woods, J. Wall, J. Craig

SB 124, establishing a committee to study the integration of technology at the state and municipal level.

Senate Conferees: Senators D'Allesandro, McCarley, Klemm

House Conferees: Representatives H. Lynde, L. Guay, R. Maxfield, L. Bergeron

SB 140, relative to ear and body piercing.

MEETING: Wednesday, June 30, 1999, Room 105-A, State House

Senate Conferees: Senators Wheeler, Squires, McCarley

House Conferees: Representatives J. Dalrymple, J. Manning, G. Seldin, P. Batula

SB 204, establishing the New Hampshire excellence in higher education endowment trust fund.

MEETING: Wednesday, June 23, 1999, Room 302, SH, 9:30 a.m.

Senate Conferees: Senators Larsen, Gordon, Cohen

House Conferees: Representatives E. Hoadley, P. Davis, C. Snyder, J. Alger

HEARINGS

TUESDAY, JUNE 29, 1999

● **PLEASE NOTE THE FOLLOWING IS A RECESSED HEARING FROM JUNE 22ND:**

ENERGY & ECONOMIC DEVELOPMENT, Room 105A, SH

2:45 p.m. **HB 314**, relative to the escrowing of certain utility payments.

(WORK SESSION TO FOLLOW ON HOUSE BILL 464)

(EXECUTIVE SESSION TO FOLLOW ON PENDING LEGISLATION)

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 101, LOB

EXECUTIVE SESSION TO FOLLOW SENATE SESSION

MEETINGS

MONDAY, JUNE 28, 1999

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

9:30 a.m. Regular Meeting

DEVELOPMENTAL DISABILITY WAITLIST (RSA 171-A:1-b) Room 205, LOB

10:00 a.m. Regular Meeting

PUBLIC HIGHER EDUCATION STUDY COMMITTEE (RSA 187-A:25-a), Room 207, LOB

10:00 a.m. Committee will be taking input from legislators as to their concerns with public higher education in New Hampshire.

JOINT LEGISLATIVE HISTORICAL COMMITTEE (RSA 17-I:1) Room 208, LOB

1:30 p.m. Joint Meeting

TUESDAY, JUNE 29, 1999

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

1:00 p.m. Regular Meeting

THE DEPARTMENT OF TRANSPORTATION Plymouth regional Senior Center, 8 Depot Street, Plymouth

7:00 p.m. Public Hearing Holderness-Plymouth, Bridge Replacement NH 175A Over Pemigewasett River)

THURSDAY, JULY 1, 1999

THE DEPARTMENT OF TRANSPORTATION UNH Elliot Alumni Center, The 1925 Room, Edgewood Road, Durham

7:00 p.m. Combined Public Officials/Public Informational Meeting

WEDNESDAY, JULY 14, 1999

FISCAL COMMITTEE OF THE GENERAL COURT (RSA 14:30a,l) Room 210-211, LOB

9:00 a.m. Regular Business

9:30 a.m. Audit: State of New Hampshire, Department of Education, Special Education Catastrophic Aid Program, Performance Audit Report July 1999)

FRIDAY, JULY 16, 1999

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2) Room 306-308, LOB

9:00 a.m. Meeting

MONDAY, JULY 19, 1999

NATURAL, CULTURAL & HISTORIC RESOURCE CONSERVATION COMMISSION (SB 493, Chapter 161, 1998) Room 308, LOB

1:00-4:00 Regular Meeting

MONDAY, JULY 26, 1999

THE DEPARTMENT OF TRANSPORTATION Exeter Office Building, Nowak Room, 10 Front Street, Exeter

7:00 p.m. Public Hearing (Exeter, Lincoln Street, Railroad Platform & Parking Area)

FRIDAY, AUGUST 6, 1999

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

9:00-12:00 Meeting

FRIDAY, AUGUST 20, 1999

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2) Room 306-308, LOB

9:00 a.m. Meeting

MONDAY, AUGUST 23, 1999

NATURAL, CULTURAL & HISTORIC RESOURCE CONSERVATION COMMISSION (SB 493, Chapter 161, 1998) Room 308, LOB

1:00-4:00 Regular Meeting

FRIDAY, SEPTEMBER 3, 1999

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

9:00-12:00 Meeting

FRIDAY, SEPTEMBER 10, 1999

BOARD OF CLAIMS (RSA 541-B:3) Room 202, LOB

8:30-5:00 Regular Meeting

FRIDAY, SEPTEMBER 17, 1999

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2) Room 306-308, LOB

9:00 a.m. Meeting

MONDAY, SEPTEMBER 27, 1999

NATURAL, CULTURAL & HISTORIC RESOURCE CONSERVATION COMMISSION (SB 493, Chapter 161, 1998) Room 308, LOB

1:00-4:00 Regular Meeting

FRIDAY, OCTOBER 1, 1999

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

9:00-12:00 Meeting

FRIDAY, OCTOBER 15, 1999

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2) Room 306-308, LOB

9:00 a.m. Meeting

FRIDAY, NOVEMBER 5, 1999

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

9:00-12:00 Meeting

FRIDAY, NOVEMBER 19, 1999

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2) Room 306-308, LOB

9:00 a.m. Meeting

FRIDAY, DECEMBER 3, 1999

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

9:00-12:00 Meeting

FRIDAY, DECEMBER 17, 1999

JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2) Room 306-308, LOB

9:00 a.m. Meeting

NOTICES

Report of the Joint Committee on Address

for the Removal of Chief Justice Brock

HA 1

The committee has voted unanimously not to recommend the address for the removal of Chief Justice Brock. Part II, Article 73 of the New Hampshire Constitution provides that the:

Governor with consent of the council may remove any commissioned officer for reasonable cause upon the address of both houses of the legislature, provided nevertheless that the cause for removal shall be stated fully and substantially in the address and shall not be a cause which is sufficient ground for impeachment, and provided further that no officer shall be so removed unless he shall have had an opportunity to be heard in his defense by a joint committee of both houses of the legislature.

The committee does not believe that HA 1 meets the criteria established in the constitution. The conduct described by the 5 items listed in HA 1 does not rise to the level of conduct that requires removal. The members do not believe that HA 1 either stated a reasonable cause for removal or that the causes in HA 1 were fully and substantially stated.

The committee began by examining Part II, Article 73 in the New Hampshire Constitution. The provision was included in our original constitution and was amended in 1966 to spell out certain requirements for the address and to provide due process for the respondent. The committee held several organizational meetings to develop clear rules of committee procedure. This was particularly important because there have been no addresses before the legislature since the adoption of the 1966 amendment. The committee believes that based on the 1966 amendment to Article 73, the address is a legislative procedure to be used with great care and in circumstances where there is reasonable

cause for removal. The committee discussed and formally adopted Special Rules of Procedure. Two separate days of hearings were held to provide the sponsors of the bill, the public, and the Chief Justice opportunities to testify.

The Special Rules of Procedure included the 1966 amendments in the Constitution which require the address to:

- a. state a reasonable cause for removal;
- b. be fully and substantially stated; and
- c. not be a cause which is sufficient ground for impeachment.

Members believe that there is a certain level of misperception about both the independence of each of the three branches of government as well as the level of cooperation that is necessary between the branches. The committee believes that a priority should be placed on establishing a better working relationship between the judiciary and the public and an improved relationship between the three branches.

Vote 12-0. Ought Not to Pass.

Rep. Henry Mock, Chair Sen. Debora Pignatelli, Vice-Chair

Rep. Sheila Francoeur Sen. Lou D'Allesandro

Rep. Betsy Patten Sen. Carl Johnson

Rep. John Pratt Sen. Frederick King

Rep. John Thomas Sen. John King

Rep. Janet Wall Sen. James Squires

FISCAL NOTES NOW AVAILABLE IN THE SENATE CLERK'S OFFICE:

HB 108, HB 109, HB 116, HB 118, HB 119, HB 120, HB 124, HB 200, HB 224, HB 237, HB 245, HB 274, HB 395, HB 412, HB 453, HB 477, HB 479, HB 494, HB 495, HB 522, HB 537, HB 546, HB 549, HB 565, HB 574, HB 579, HB 616, HB 624, HB 625, HB 639, HB 641, HB 650, HB 652, HB 655, HB 672, HB 676, HB 685, HB 692, HB 693, HB 694, HB 695, HB 696, HB 715, HB 719, HB 722, HB 733, HB 734, HB 735, HB 738, HB 740, SB 15, SB 45, SB 46, SB 47, SB 48, SB 49, SB 50, SB 68, SB 70, SB 71, SB 113, SB 114, SB 122, SB 153, SB 167, SB 170, SB 176, SB 178, SB 187, SB 207, SB 209, SB 212, SB 213, SB 217, SB 226, SB 227, SB 228, SB 228, SB 409