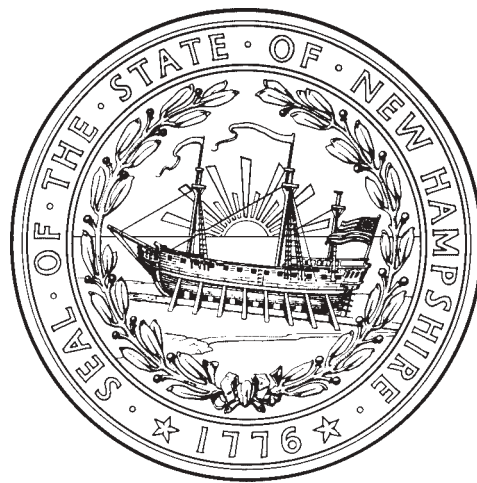


April 15, 2004
Nos. 11 - 12

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – APRIL 8, 2004 SESSION
COMMENCEMENT – APRIL 15, 2004 SESSION

SENATE JOURNAL 11 (*Cont.*)

April 8, 2004

Out of Recess.

April 13, 2004
2004-1174-EBA
04/01

Enrolled Bill Amendment to HB 812

The Committee on Enrolled Bills to which was referred HB 812

AN ACT relative to state acquisition of privately-owned airports

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 812

This enrolled bill amendment makes 2 grammatical corrections in the bill.

Enrolled Bill Amendment to HB 812

Amend section 1 of the bill by replacing line 4 with the following:

by an owner after July 2, 1989, shall be offered for sale to the state of New Hampshire in the first

Amend RSA 422:19, III as inserted by section 1 of the bill by replacing line 2 with the following:

authority in the amount of \$5,000,000 for purchase of airports or option to purchase in accordance with

Senator Eaton moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

HB 1130, relative to certain insurance agents.

HB 1261, establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike.

HB 1275-FN-A, relative to the role of the department of health and human services in juvenile proceedings.

HB 1334, relative to retention of records of fish and game law violations by the fish and game department.

HB 1397, relative to youth suicide prevention.

HB 1416-FN, extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption.

HB 1426-FN, relative to testing for the human immunodeficiency virus.

Senator D'Allesandro moved adoption.

Adopted.

April 8, 2004
2004-1113-EBA
03/01

Enrolled Bill Amendment to HB 503

The Committee on Enrolled Bills to which was referred HB 503

AN ACT relative to septic system construction permits.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 503

This enrolled bill amendment corrects a reference in the bill.

Enrolled Bill Amendment to HB 503

Amend section 2 of the bill by replacing line 3 with the following:

485-A:5-b Municipal Responsibility.

Senator Eaton moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

HB 464-FN, establishing a criminal penalty for facilitating a drug or underage alcohol house party.

HB 1259, relative to the medical certification required for a walking disability plate or placard.

Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

SENATE JOURNAL 12

April 15, 2004

The Senate met at 10:00 a.m.

A quorum was present.

Dr. William Mahoney, Pastor of Eagle Brook Christian Church in Raymond, New Hampshire led the Senate in prayer.

Lord, God, we just listened to what I believe is Your inspired word and to true history that happened in real time and space, though thousands of years ago and at a different culture and time. The principle here, applies today, because God, You are the same. I thank You, Lord, for each person in this room who is serving, to do the best they can to follow their heart and conscience. To be governing and to be leading in our society. To administer justice, to create and to seek the enforcement of laws that benefit people in our society, and ask God that they would have the humility that Solomon had, and the wisdom that he had, to seek Your wisdom, and the faith and the confidence to believe that You will grant it to them. Bless this assembly and the decisions that they make today and each day. In Jesus Christ name, I pray. Amen

Senator Foster led the Pledge of Allegiance.

Senators Estabrook and Martel are excused for the day.

INTRODUCTION OF GUESTS**COMMITTEE REPORTS**

HB 803-FN-A-L, relative to the establishment of municipal economic development and revitalization districts by municipalities. Energy and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Below for the committee.

Energy and Economic Development
April 8, 2004
2004-1102s
03/10

Amendment to HB 803-FN-A-LOCAL

Amend the bill by replacing section 1 with the following:

1 Establishment of Districts; Limitations. Amend RSA 162-K:5 to read as follows:

162-K:5 Establishment of Districts; Limitations. Upon a finding that such action will serve public purposes, the legislative body of the municipality may create, within its jurisdiction, development districts. The area of a district [~~shall not be enlarged after 5 years~~] **may be enlarged** following the date of designation of the district. Municipalities establishing development districts shall comply with one of the following limitations:

I. The total acreage included in any one development district when designated shall not exceed [~~1½~~] **5** percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed [3] **10** percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed [5] **8** percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed [~~10~~] **16** percent of the most recent total assessed value of taxable real property in the municipality.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1221, urging the oversight committee on telecommunications to study aspects of federal universal service funding. Energy and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Below for the committee.

Energy and Economic Development
April 8, 2004
2004-1100s
03/10

Amendment to HB 1221

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

Amend the bill by replacing section 1 with the following:

1 Oversight Committee on Telecommunications Study. The oversight committee on telecommunications, established in RSA 374:22-h, is hereby urged to study the reasons for the net loss of money from the state, the low rate of funding for schools and libraries, and to identify viable ways of remedying the situation, whether by:

I. Decreasing payments to the fund, if possible.

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

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

MOTION TO TABLE

Senator Below moved to have **HB 1221** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1221, urging the oversight committee on telecommunications to study aspects of federal universal service funding.

HB 1301, relative to extensions to the intent to cut. Energy and Economic Development Committee. Ought to Pass, Vote 4-0. Senator Gallus for the committee.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

Sen. D'Allesandro, Dist. 20

Sen. Gallus, Dist. 1

Sen. Johnson, Dist. 2

Sen. Kenney, Dist. 3

Sen. Boyce, Dist. 4

Sen. Below, Dist. 5

Sen. Green, Dist. 6

Sen. Flanders, Dist. 7

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9

Sen. Eaton, Dist. 10

Sen. Peterson, Dist. 11

Sen. O'Hearn, Dist. 12

Sen. Foster, Dist. 13

Sen. Larsen, Dist. 15

Sen. Gatsas, Dist. 16

Sen. Barnes, Dist. 17

Sen. Sapareto, Dist. 19

Sen. Morse, Dist. 22

Sen. Prescott, Dist. 23

Sen. Cohen, Dist. 24

April 15, 2004

2004-1217s

08/04

Floor Amendment to HB 1301

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

AN ACT relative to extensions to the intent to cut and relative to the care, maintenance, and repair of the law enforcement memorial.

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

5 Law Enforcement Memorial; Maintenance. Amend RSA 4:9-a, II(a) to read as follows:

II. (a) The director of the division of plant and property management, subject to the direction and supervision of the commissioner of administrative services, shall act as the custodian of the law enforcement memorial, and shall have charge of all matters relating to the care, maintenance, and repair of, and additions to, the memorial. ***For the purpose of this section the provisions of RSA 21-I shall not apply.***

6 Law Enforcement Memorial; Maintenance. Amend RSA 4:9-d, IV to read as follows:

IV. The committee, through the New Hampshire law enforcement community, shall privately raise all the money necessary for the planning, design, [and] construction, ***and maintenance*** of the law enforcement memorial. Notwithstanding subparagraph II(b), the committee shall have the authority to expend the money which is raised without the approval of governor and council.

2004-1217s

AMENDED ANALYSIS

This bill establishes a new violation for beginning a timber cutting operation before the appropriate notices are filed, and makes various date changes to the timber cutting statutes.

This bill also exempt the care, maintenance, and repair of the law enforcement memorial from the provisions of RSA 21-I, relative to the department of administrative services.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1399-FN-A, establishing the telecommunications planning and development fund. Energy and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Below for the committee.

Energy and Economic Development
April 8, 2004
2004-1101s
03/10

Amendment to HB 1399-FN-A

Amend paragraph II of section 5 of the bill by replacing it with the following:

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1131, establishing a committee to study exotic aquatic weeds and species. Environment Committee. Ought to pass with amendment, Vote 2-1. Senator Below for the committee.

Environment
April 7, 2004
2004-1093s
06/01

Amendment to HB 1131

Amend RSA 487:30, II(a) as inserted by section 1 of the bill by replacing it with the following:

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

- (1) Five members of the house of representatives, appointed by the speaker of the house.
- (2) One member of the senate, appointed by the president of the senate.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1136, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist. Environment Committee. Ought to pass with amendment, Vote 3-0. Senator Johnson for the committee.

Environment
April 7, 2004
2004-1086s
09/01

Amendment to HB 1136

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

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

Amend the bill by replacing section 2 with the following:

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

V. A homeowner from preparing a plan to provide vehicular and utility access to the homeowner's primary residence within 50 feet from the edge of a traveled way; provided, that he or she complies with rules adopted by the department of environmental services and standards adopted by the board.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 Reference Change. Amend RSA 147-A:5-a, I to read as follows:

I. Any laboratory conducting tests for the presence of hazardous waste, other than water ~~[analysis tests conducted pursuant to RSA 148-B:4]~~ **testing laboratories accredited under RSA 485:44**, may apply for certification by the department.

7 Reference Changes. RSA 507-B:10, VI -X are repealed and reenacted to read as follows:

VI. RSA 485, relative to the safe drinking water act.

VII. RSA 485-A, relative to pollution and waste disposal

VIII. RSA 149-M, relative to solid waste management.

2004-1086s

AMENDED ANALYSIS

This bill:

I. Exempts homeowners from certain environmental permitting, and establishes detailed qualifications to be certified as soil scientists.

II. Requires the department of environmental services to recognize an exemption from the dredge and fill permitting requirements for a 2-year period.

III. Corrects certain statutory references.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning. Environment Committee. Ought to pass with amendment, Vote 3-0. Senator Below for the committee.

Environment

April 7, 2004

2004-1096s

06/10

Amendment to HB 1148

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

AN ACT defining a wetland for the purpose of fill and dredge in wetlands and relative to the wetlands council appeal process.

Amend the bill by replacing section 2 with the following:

2 Appeals; Receipt by Wetlands Council. Amend RSA 482-A:10, IV to read as follows:

IV. An appeal from a decision of the department after reconsideration shall be filed with the wetlands council within 30 days of the department's decision. ***An appeal shall be considered timely filed and received by the wetlands council if postmarked or hand delivered to the wetlands council on or before the thirtieth day from the date of the department's decision.*** Filing of the appeal shall be made by certified mail ***or hand delivery*** to the ~~[chairperson of the]~~ **wetlands** council, with a copy sent to the department. An appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable.

2004-1096s

AMENDED ANALYSIS

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

This bill also establishes a criterion for timely filing of an appeal to the wetlands council.

MOTION TO TABLE

Senator Below moved to have **HB 1148** laid on the table.

Adopted.

LAID ON THE TABLE

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Peterson for the committee.

Senate Executive Departments and Administration

April 9, 2004

2004-1122s

08/03

Amendment to HB 1296

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

AN ACT establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food, and relative to food service licensure.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

Amend paragraph 1 of section 2 of the bill by replacing it with the following:

I. The committee shall be comprised of 3 members of the house of representatives, appointed by the speaker of the house.

Amend the bill by replacing section 4 with the following:

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

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

6 Food Service Licensure; Definition. Amend RSA 143-A:3, V to read as follows:

V. "Occasional food service establishment" means any food service establishment operated by a private or public organization or institution, whether profit or nonprofit, which prepares food or drink for sale or for service, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge, no more than ~~[4 days]~~ **48 hours** during a 30-day period.

2004-1122s

AMENDED ANALYSIS

This bill establishes a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

This bill also clarifies the definition of occasional food service establishment in the food service licensure statute.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1423-FN, relative to reimbursement of travel expenses for judges. Executive Departments and Administration Committee. Ought to Pass, Vote 3-1. Senator Peterson for the committee.

Adopted.

Ordered to third reading.

HB 265, relative to the health care delivery system. Insurance Committee. Inexpedient to Legislate, Vote 3-0. Senator Flanders for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1393, relative to the appeal of the lower court's decision in a child protection case. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Sapareto for the committee.

Committee report of inexpedient to legislate is adopted.

HB 1417, relative to examination of persons called as jurors in civil cases. Judiciary Committee. Ought to Pass, Vote 4-0. Senator Foster for the committee.

Adopted.

Ordered to third reading.

HB 664-FN, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. Public Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

Senator Sapareto offered a floor amendment.

Sen. Sapareto, Dist. 19

April 15, 2004

2004-1224s

05/04

Floor Amendment to HB 664-FN

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect July 5, 2005.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Boyce.

Seconded by Senator Prescott.

The following Senators voted Yes: Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Sapareto, D'Allesandro, Morse, Cohen.

The following Senators voted No: Gallus, Boyce, Prescott.

Yeas: 18 - Nays: 3

Adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 336-L, relative to certain costs in the development of a high school in the town of Bedford.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 336-L, relative to certain costs in the development of a high school in the town of Bedford.

Senator Roberge move to concur.

Adopted.

HB 761, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions. Public Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Green for the committee.

Public Affairs

April 7, 2004

2004-1075s

06/04

Amendment to HB 761

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

AN ACT enabling municipalities to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

2004-1075s

AMENDED ANALYSIS

This bill:

I. Adds density rights to innovative land use controls.

II. Enables municipalities to require innovative land use controls on certain lands, when supported by the master plan.

III. Gives planning boards the power to require preliminary subdivision review.

IV. Removes an applicant's option to forego a preapplication review when such review is required by subdivision regulations.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1133, relative to disclosures required prior to a condominium sale. Public Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Public Affairs

April 7, 2004

2004-1081s

05/04

Amendment to HB 1133

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

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

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

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

(h) A copy of the condominium declaration, by-laws, and any formal rules of the association.

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

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1155, clarifying alternative budget adoption procedures in school administrative units. Public Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Roberge for the committee.

Public Affairs
 April 7, 2004
 2004-1078s
 04/05

Amendment to HB 1155

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

1 School Administrative Units; Alternative Budget Procedure. Amend RSA 194-C:9-a, I(a) to read as follows:

(a) Each school district, within a school administrative unit that is composed of 2 or more ~~town~~ school districts, may vote to adopt the provisions of RSA 194-C:9-b to determine the means for adopting the school administrative unit budget by placing a question on the warrant of their next annual school district meeting. The question shall be voted on in accordance with the ballot and voting procedures in effect in that school district.

2 School Administrative Units; Alternative Budget Procedure. Amend RSA 194-C:9-a, I(c) to read as follows:

(c) If a majority of the voters **voting** in the school districts within the school administrative unit approve the question, then RSA 194-C:9-b shall apply starting with the next annual school district meeting of the school districts within that school administrative unit, and shall continue until rescinded. ***Each school district moderator shall cause a vote to be taken, record the number of yeas and nays, and report the results to the secretary of the school administrative unit board who shall accumulate the total vote for all the school districts within the school administrative unit. The secretary of the school administrative unit board shall announce the results and certify the same to the department of revenue administration.***

3 School Administrative Units; Alternative Budget Procedure. Amend RSA 194-C:9-a, III to read as follows:

III. In order to rescind the adoption of RSA 194-C:9-b, each school district within the school administrative unit shall comply with the petition procedure set forth in RSA 197:6 and upon such compliance, a question shall be placed on the warrant of the next annual school district meeting. The wording of the question shall be: "Shall the voters of the _____ school district within school administrative unit number ____ rescind the adoption of RSA 194-C:9-b, relative to the alternative school administrative unit budget adoption procedure, and adopt the provisions of RSA 194-C:9 as the method for governing the adoption of the school administrative unit budget?" If a majority of the voters **voting** in the school districts within the school administrative unit approve the question, then the provisions of RSA 194-C:9 shall govern the procedure for adopting the school administrative unit budget in such school administrative unit. ***Each school district moderator shall cause a vote to be taken, record the number of yeas and nays, and report the results to the secretary of the school administrative unit board who shall accumulate the total vote for all the school districts within the school administrative unit. The secretary of the school administrative unit board shall announce the results and certify the same to the department of revenue administration.***

4 School Administrative Units; Alternative Budget Procedure. RSA 194-C:9-b is repealed and reenacted to read as follows:

194-C:9-b Alternative Budget Procedure.

I. In a school administrative unit composed of 2 or more school districts which has adopted the provisions of RSA 194-C:9-a, the school administrative unit budget adopted according to RSA 194-C:9, I shall be placed before the voters of each school district of that school administrative unit in a separate warrant article at the annual school district meeting. Notwithstanding RSA 32 and RSA 40:13, the budget adopted by the school administrative unit board shall not be amended or changed in any way prior to the vote. Each school district moderator shall cause a vote to be taken, record the number of yeas and nays, and report the results to the secretary of the school administrative unit board who shall accumulate the total vote for all the school districts within the school administrative unit. The secretary of the school administrative unit board shall announce the results and certify the same to the department of revenue administration. A majority of voters voting in favor shall result in adoption of the budget proposed by the school administrative unit board. If the article receives less than a majority vote, the budget amount accepted shall be that of the previous year adjusted for continuing contracts. Wording of the warrant article shall be as follows:

"Shall the voters of ____ (name of school district) _____ adopt a school administrative unit budget of \$_____ for the forthcoming fiscal year in which \$_____ is assigned to the school budget of this school district?"

This year's adjusted budget of \$_____, with \$_____ assigned to the school budget of this school district, will be adopted if the article does not receive a majority vote of all the school district voters voting in this school administrative unit."

II. This section shall not apply to a school administrative unit that includes a city.

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

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1225-FN-A, making administrative changes to the historic agricultural structure matching grants program. Public Affairs Committee. Ought to Pass, Vote 4-0. Senator Larsen for the committee.

Adopted.

Ordered to third reading.

HB 1419, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services. Public Institutions, Health and Human Services Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

HB 53, relative to the sale of salvage and rebuilt vehicles. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Transportation

April 8, 2004

2004-1111s

03/01

Amendment to HB 53

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

AN ACT relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

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

2 Authority to Suspend or Revoke License; Abandoned Vehicle. Amend RSA 263:56, I(g)-(h) to read as follows:

(g) Has by reckless or unlawful operation of motor vehicle caused or materially contributed to an accident resulting in death or injury to any other person or serious property damage; ~~or~~

(h) Is a hazard to the public safety as evidenced by proper evidence or information received from a law enforcement agency of misconduct or misuse or abuse of driving privileges; **or**

(i) Has been determined to be the owner of an abandoned vehicle that has been removed pursuant to a request by a peace officer.

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

2004-1111s

AMENDED ANALYSIS

This bill requires the title and registration for a rebuilt vehicle to indicate that it is a "rebuilt vehicle." This bill also permits the director of the division of motor vehicles to suspend or revoke the license of person who has been determined to be the owner of an abandoned vehicle that has been removed pursuant to a request by a peace officer.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 243, relative to motor vehicle exhaust noise standards. Transportation Committee. Ought to pass with amendment, Vote 3-0. Senator Kenney for the committee.

Senate Transportation
April 8, 2004
2004-1110s
03/01

Amendment to HB 243

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

1 Equipment of Vehicles; Muffler; Prevention of Noise. Amend RSA 266:59, III to read as follows:

III. No person shall modify the exhaust system of a motor vehicle in any manner which will amplify or increase the noise emitted above that emitted by the original muffler installed in the vehicle and ~~[such]~~ **any modified or** original muffler shall comply with all the requirements of this section.

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

2004-1110s

AMENDED ANALYSIS

This bill clarifies that the statutory limits on noise from motor vehicle exhaust systems apply to both original and modified mufflers.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1166, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads. Wildlife and Recreation Committee. Ought to Pass, Vote 3-0. Senator Cohen for the committee.

Adopted.

Ordered to third reading.

HB 1309, relative to noise pollution from shooting ranges. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 4-1. Senator Sapareto for the committee.

Wildlife & Recreation
April 7, 2004
2004-1076s
03/04

Amendment to HB 1309

Amend RSA 159-B:8, I as inserted by section 2 of the bill by replacing it with the following:

I. "Noise" shall mean the intensity, duration, and character of sounds from shooting.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Senator Foster Rule #42 on HB 1309.

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts. Environment Committee. Ought to pass with amendment, Vote 2-1. Senator Johnson for the committee.

Environment
April 7, 2004
2004-1094s
06/01

Amendment to HB 1262

Amend the bill by replacing paragraph I of section 2 with the following:

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

- (a) Six members of the house of representatives, appointed by the speaker of the house.
- (b) The commissioner of the department of environmental services, or designee.
- (c) A member appointed by New Hampshire the Beautiful, Inc.
- (d) A member appointed by the Northeast Resource Recovery Association.
- (e) Two public members, appointed by the speaker of the house of representatives.

Amendment adopted.

Senator Johnson offered a floor amendment.

Sen. Johnson, Dist. 2

April 14, 2004

2004-1205s

06/10

Floor Amendment to HB 1262

Amend the bill by replacing paragraph I of section 2 with the following:

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

- (a) Six members of the house of representatives, appointed by the speaker of the house.
- (b) The commissioner of the department of environmental services, or designee.
- (c) A member nominated by New Hampshire the Beautiful, Inc. and appointed by the governor.
- (d) A member nominated by the Northeast Resource Recovery Association and appointed by the governor.
- (e) Two public members, appointed by the speaker of the house of representatives.

Floor amendment adopted.

Senator Green offered a floor amendment.

Sen. Green, Dist. 6

Sen. Gallus, Dist. 1

April 15, 2004

2004-1229s

01/09

Floor Amendment to HB 1262

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

AN ACT establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 Water and Air Pollution Control Facilities; Percentage Exemption Removed; Real Estate Exemption Inserted. Amend RSA 72:12-a, I through V to read as follows:

I.(a) Any person, firm or corporation which builds, constructs, installs, or places in use in this state any treatment facility, device, appliance, or installation wholly ~~or partly~~ for the purpose of reducing, controlling, or eliminating any source of air or water pollution shall be entitled to have the value of said facility ~~and any real estate necessary therefor, or a percentage thereof determined in accordance with this section.~~, **device, appliance, or installation** exempted from the taxes levied under this chapter for the period of years in which the facility, device, appliance, or installation is used in accordance with the provisions of this section. ***This subparagraph shall not apply to privately-owned landfills or ancillary facilities located at the landfill.***

(b) If the pollution control facility, device, appliance, or installation requires additional real estate not otherwise occupied for other uses, and such real estate cannot be used for any other purpose while in use for pollution control, then the real estate shall be considered part of the facility, device, appliance, or installation for purpose of tax exemption under this section. The tax exemption shall be limited to the area actually necessary for pollution control as determined by the department of environmental services. This subparagraph shall not apply to privately-owned landfills and ancillary facilities located at the landfills.

II. The party seeking the exemption shall file an application with the department of environmental services if the exemption sought is for a water pollution control facility or an air pollution control facility, with a copy to the taxing authorities in the municipality where the facility is situated. Said application shall describe the facilities and their function or functions and shall state the applicant's total investment therein and the portion allocable to each function.

III. The department shall investigate and determine whether the purpose of the facility is solely ~~[or only partially]~~ pollution control. ~~[If the department finds that the purpose of the facility is only partially pollution control it shall determine by an allocation of the applicant's investment in the facility what percentage of the facility is used to control pollution.]~~ In making its investigation, the department may inspect the facility and request such other information from the applicant as is reasonably necessary to assist it in making its determination.

IV. Upon making its determination, the department shall notify the applicant and the taxing authorities of the municipality where the facility is situated whether the purpose of the facility is solely pollution control~~[- or, if not, what percentage of the applicant's investment in the facility should be allocated to pollution control].~~

7 Facilities Previously Exempted; Percentage Exemption Removed. Amend RSA 72:12-b to read as follows:

72:12-b Facilities Previously Exempted. Upon application by either the municipality or the owner of any pollution control facility previously exempted under RSA 149:5-a the department of environmental services shall review a determination made under RSA 149:5-a ~~[and determine the exempt percentage in the manner provided by RSA 72:12-a]~~; provided, however, that the period of exemption shall not be extended by any such redetermination. Either the municipality or the owner of the facility may request a rehearing or appeal from such determination in accordance with the provisions of RSA 541.

2004-1229s

AMENDED ANALYSIS

This bill establishes a commission to study ways to encourage municipal recycling efforts.

This bill also removes the tax exemption for pollution control facilities, devices, appliances, or installations that are:

- I. Only partly for the purpose of reducing pollution.
- II. Installed as part of privately-owned landfills.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1348-FN, relative to registration of business organizations. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-1. Senator Peterson for the committee.

Senate Executive Departments and Administration

April 9, 2004

2004-1121s

03/09

Amendment to HB 1348-FN

Amend the bill by replacing section 1 with the following:

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

I. A corporate name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 292:1 and its articles of agreement.

II. Except as authorized by paragraphs III and IV, a corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

III. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section shall prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

Amend the bill by replacing section 5 with the following:

5 Business Corporation Act; Effective Time and Date of Document. Amend RSA 293-A:1.23 to read as follows:

293-A:1.23 Effective Time and Date of Document.

(a) Except as provided in [subsection] **subsections** (b) **and** (c) and RSA 293-A:1.24(c), a document accepted for filing is effective:

(1) At the close of business on the date it is filed, as evidenced by the secretary of state's date endorsement of the original document; or

(2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

(c) A document filed electronically shall be effective upon the date and time of acceptance by the secretary of state corporate database and application or as specified pursuant to subparagraph (b).

Amend the bill by replacing section 8 with the following:

8 Business Corporation Act; Corporate Name. RSA 293-A:4.01 is repealed and reenacted to read as follows:

293-A:4.01 Corporate Name.

(a) A corporate name shall:

(1) Contain the word "corporation," "incorporated," or "limited" or the abbreviation "corp.," "inc.," or "ltd.," or words or abbreviations of like import in another language.

(2) Not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 293-A:3.01 and its articles of incorporation.

(b) Except as authorized by subsections (c) and (d) of this section, a corporate name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subsection (b) of this section, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subsection (b) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

(g) The secretary of state and those acting on his or her behalf shall incur no liability, either personally or on behalf of the state of New Hampshire, as a result of negligent acts or omissions in the reservation or registration of any name under this chapter or any other name registration or reservation statute, including but not limited to RSA 349, or the handling and recording of documents pertaining to such reservation or registration.

Amend the bill by replacing sections 16-18 with the following:

16 Investment Trusts; Fees. RSA 293-B:14 is repealed and reenacted to read as follows:

293-B:14 Fees.

I. No documents required to be filed under this chapter shall be effective until the applicable fee required by this paragraph is paid. The secretary of state shall charge and collect the following fees:

- (a) A fee of \$50 for filing a certificate of trust.
- (b) A fee of \$35 for:
 - (1) Filing a certificate of amendment;
 - (2) Filing a certificate of cancellation; or
 - (3) Filing a certificate of merger or consolidation.
- (c) A fee of \$15 for:
 - (1) Filing an application for reservation of name;
 - (2) Filing a notice of transfer of reservation; or
 - (3) Filing a notice of cancellation of reservation.

II. In addition to the fee provided in subparagraph I(a), the secretary of state shall charge and collect a registration fee of \$50 from each New Hampshire investment trust at the time of filing a certificate of trust.

III. For the privilege of maintaining its certificate of trust in good standing and continuing to exercise its authority to transact the business of a New Hampshire investment trust in this state, the secretary of state shall charge and collect a fee of \$200 from each New Hampshire investment trust established under RSA 293-B, payable on or before April 1 of each year. Each New Hampshire investment trust that fails or refuses to pay the fees required for any year on or before April 1 shall be subject to an additional fee of \$25 per month.

IV. The certificate of trust of New Hampshire investment trust may be revoked pursuant to RSA 293-A:14.21 by the secretary of state if the corporation fails to comply with any provision of this chapter applicable to it.

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

I.(a) A New Hampshire investment trust name shall not contain language stating or implying that the New Hampshire investment trust is organized for a purpose other than that permitted by RSA 293-B:3 and its certificate of trust.

(b) Except as authorized by subparagraphs (c) and (d), a New Hampshire investment trust name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(c) A New Hampshire investment trust may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (b), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (b) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A New Hampshire investment trust may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user New Hampshire investment trust:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a New Hampshire investment trust under the same name as the trade name.

18 Professional Corporations; Corporate Name. RSA 294-A:7 is repealed and reenacted to read as follows:

294-A:7 Corporate Name. The name of a domestic professional corporation or of a foreign professional corporation authorized to transact business in this state:

I. Shall end with one of the following words or abbreviations: "professional corporation," "professional association," "Prof. Corp.," "Prof. Ass'n," "P.C.," or "P.A." or similar abbreviations of these words;

II. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

III.(a) Except as authorized by subparagraph (b), a professional corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(b) Subparagraph (a) shall not apply if:

(1) The similarity results from the use in the professional corporate name of personal names of its stockholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(2) The applicant files with the secretary of state an application for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(A) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(B) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(C) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A professional corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user professional corporation:

- (1) Has merged with the other entity;
 - (2) Has been formed by reorganization of the other entity; or
 - (3) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (d) This chapter does not control the use of fictitious names.

(e) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a professional corporation under the same name as the trade name.

IV. Shall otherwise conform to any rule adopted by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation.

Amend the bill by replacing section 23 with the following:

23 Cooperative Marketing and Rural Electrification Associations; Use of Name Regulated. RSA 301:43-a is repealed and reenacted to read as follows:

301:43-a Use of Name Regulated.

I. A cooperative name shall not contain language stating or implying that the association is organized for a purpose other than that permitted by RSA 301:3 and its certificate of organization.

II. Except as authorized by paragraphs III and IV, a cooperative name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

III. A cooperative may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying cooperative; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying cooperative; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A cooperative may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user cooperative:

- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic cooperative under the same name as the trade name.

Amend the bill by replacing section 30 with the following:

30 Name of Registered Limited Liability Partnership. RSA 304-A:45 is repealed and reenacted to read as follows:

304-A:45 Name of Registered Limited Liability Partnership. The name of a registered limited liability partnership:

I. Shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

II. Except as authorized by paragraphs III and IV, a registered limited liability partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

III. A registered limited liability partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A registered limited liability partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user registered limited liability partnership:

- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic registered limited liability partnership under the same name as the trade name.

Amend the bill by replacing section 36 with the following:

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

I. The name of each limited partnership as set forth in its certificate of limited partnership:

(a) Shall contain without abbreviation the words "limited partnership" as the last words of its name;

(b) May not contain the name of a limited partner unless (1) it is also the name of a general partner or the corporate name of a corporate general partner, or (2) the business of the limited partnership had been carried on under that name before the admission of that limited partner.

II. A limited partnership name shall not contain language stating or implying that the limited partnership is organized for a purpose other than that permitted by RSA 304-B:6 and its certificate of limited partnership.

III. Except as authorized by paragraphs IV and V, a limited partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

IV. A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited partnership under the same name as the trade name.

Amend the bill by replacing section 46 with the following:

46 Limited Liability Companies; Name Set Forth in Certificate. RSA 304-C:3 is repealed and reenacted to read as follows:

304-C:3 Name Set Forth in Certificate.

I. The name of each limited liability company as set forth in its certificate of formation:

(a) Shall contain the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation; and

(b) May contain the name of a member or manager.

II. A limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

III. Except as authorized by paragraphs IV and V, a limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

IV. A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited liability company; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited liability company:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited liability company under the same name as the trade name.

Amend the bill by replacing section 50 with the following:

50 Foreign Limited Liability Companies; Name, Registered Office, Registered Agent. RSA 304-C:66, I-II is repealed and reenacted to read as follows:

I. A foreign limited liability company may register with the secretary of state under its name, provided however:

(a) That the name must be one that could be registered by a domestic limited liability company;

(b) That the name under which a foreign limited liability company is registering must include the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation;

(c) That a foreign limited liability company may use a fictitious name under which it may register and transact business in this state if its real name has been determined by the secretary of state to be unavailable;

(d) A foreign limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

(e) Except as authorized by subparagraphs (f) and (g), a foreign limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(f) A foreign limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (e), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (e) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) A foreign limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign limited liability company:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(h) This chapter does not control the use of fictitious names.

(i) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign limited liability company under the same name as the trade name.

II. Each foreign limited liability company shall have and maintain in New Hampshire:

(a) A registered office that may be the same as any of its places of business in New Hampshire.

(b) A registered agent, which agent may be:

(1) An individual who resides in this state and whose business office is identical with the registered office; or

(2) A corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office; or

(3) A limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(4) A limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend the bill by replacing section 53 with the following:

53 Limited Liability Companies; Fees. Amend RSA 304-C:81, I(c)-(g) to read as follows:

(c) Upon the receipt for filing of a certificate of formation under RSA 304-C:12, **a fee in the amount of \$50; upon the receipt for filing of** a certificate of amendment under RSA 304-C:13, a certificate of merger under RSA 304-C:21, a certificate of conversion under RSA 304-C:17-a, or a restated certificate of formation under RSA 304-C:17, a fee in the amount of \$35[-]; and upon the receipt for filing of a certificate of cancellation of a domestic limited liability company under RSA 304-C:59, a fee in the amount of \$35.

(d) Upon receipt for filing of an annual report under RSA 304-C:80, a fee in the amount of \$100; for failure or refusal to file an annual report or pay the filing fee ~~by April 15~~ **on or before April 1** of any year, an additional late filing fee in the amount of ~~[\$50]~~ **\$25 per month**; and upon receipt for filing of an application for reinstatement pursuant to RSA 304-C:54, a fee of ~~[\$75]~~ **\$135**.

(e) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$1 per page and \$5 for the certificate.

(f) Upon the receipt for filing of an application for registration as a foreign limited liability company under RSA 304-C:64, **a fee in the amount of \$50; upon the receipt for filing of** ~~or~~ a certificate of cancellation under RSA 304-C:68, a fee in the amount of ~~[\$200;]~~ **\$35**; and upon receipt for filing of an amendment to an application under RSA 304-C:67, a fee in the amount of ~~[\$15]~~ **\$35**.

(g) Upon the receipt for filing of a statement under RSA 304-C:66, III, a fee in the amount of \$15, **and** upon the receipt for filing of a statement under RSA 304-C:66, IV, a fee in the amount of \$15[-~~and upon the receipt for filing of a statement under RSA 304-C:66, V, a fee in the amount of \$2.50~~].

Amend the bill by replacing section 57 with the following:

57 Registration of Foreign Partnerships; Name. RSA 305-A:2-e is repealed and reenacted to read as follows:

305:2-e Name.

I. Except as authorized by paragraphs II and III, a foreign partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

II. A foreign partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph I, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph I gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

III. A foreign partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

IV. This chapter does not control the use of fictitious names.

V. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign partnership under the same name as the trade name.

Amend the bill by replacing section 60 with the following:

60 Trade Names; Registration, Generally. Amend RSA 349:1, III-V to read as follows:

~~III. [The secretary of state shall decline to register any trade name similar or likely to be confused with or mistaken for any trade name or for any registration as described in paragraph I or II of this section or any name reserved under RSA 293-A, 304-A, 304-B:2, or 304-C:4 unless the holder or holders of the name gives written consent to use the same or deceptively similar name.]~~

~~IV. The secretary of state shall decline to register any trade name the same as, or deceptively similar to, an agency or instrumentality of the United States or this state or subdivision thereof or of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of such party.~~

~~V.] The provisions of this chapter shall not apply to rating organizations or insurers which engage in joint underwriting or joint reinsurance which are referred to in, and subject to, the provisions of RSA 413.~~

IV.(a) Except as authorized by subparagraphs (b) and (c), a trade name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(b) An applicant may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying trade name; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying trade name; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) An applicant may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation has acquired all or substantially all of the assets, including the name, of the other entity.

Amend the bill by inserting after section 62 the following and renumbering the original section 63 to read as 66:

63 Corporations; Penalties Imposed. Amend RSA 293-A:1.36 to read as follows:

293-A:1.36 Penalties Imposed. Each corporation, domestic or foreign, that fails or refuses to file its annual report or to pay all associated fees related thereto, or both, for any year ~~[by April 15]~~ ***on or before April 1*** shall be subject to an additional fee as set out in RSA 293-A:1.22(a)(12).

64 Partnerships; Late Fee. Amend RSA 304-A:47, III to read as follows:

III. Each domestic and foreign registered limited liability partnership that fails or refuses to pay its annual fee for any year ~~[by April 15]~~ ***on or before April 1*** shall be subject to an additional fee as set out in RSA 304-A:51, II.

65 Partnerships; Late Filing Fee. Amend RSA 304-A:51, II(c) to read as follows:

(c) Late filing fee under RSA 304-A:47, IV ~~[\$50]~~ ***\$25 per month***

Amendment adopted.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

April 15, 2004

2004-1223s

03/09

Floor Amendment to HB 1348-FN

Amend the bill by inserting after section 65 the following and renumbering the original section 66 to read as 67:

66 Department of State; Office Fees; Convenience Fee. Amend RSA 5:10 to read as follows:

5:10 Office Fees. Except as otherwise provided, the following fees shall be paid to the secretary of state for the use of the state: For every commission issued to a justice of the peace or to a notary public, \$50; for every certificate pertaining to the existence of a corporation, trade name, or other business entity, or writ served on the same, \$5; for every such certificate in long form, \$10; for every apostille provided under the Hague Convention of 1961 and for every certificate for a notary public or justice of the peace, \$10; for every other certificate under seal of the state, \$5; for engrossing private acts, \$1 for each page of 240 words; for expedited service of every 10 documents or any part thereof, \$25. ***If the secretary of state collects a fee electronically for any registration, any document, or any other purpose, the secretary of state shall collect an additional convenience fee for each fee paid electronically, including by Internet or facsimile, by adding 2 percent to the total fee.***

Floor amendment adopted.

Senator Foster offered a floor amendment.

Sen. Below, Dist. 5
Sen. Foster, Dist. 13
April 15, 2004
2004-1227s
10/03

Floor Amendment to HB 1348-FN

Amend the bill by replacing section 1 with the following:

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

I. A corporate name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 292:1 and its articles of agreement.

II. Except as authorized by paragraphs III and IV, a corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

III. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section shall prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

Amend the bill by replacing section 5 with the following:

5 Business Corporation Act; Effective Time and Date of Document. Amend RSA 293-A:1.23 to read as follows:

293-A:1.23 Effective Time and Date of Document.

(a) Except as provided in [subsection] **subsections** (b) **and** (c) and RSA 293-A:1.24(c), a document accepted for filing is effective:

(1) At the close of business on the date it is filed, as evidenced by the secretary of state's date endorsement of the original document; or

(2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

(c) A document filed electronically shall be effective upon the date and time of acceptance by the secretary of state corporate database and application or as specified pursuant to subparagraph (b).

Amend the bill by replacing section 8 with the following:

8 Business Corporation Act; Corporate Name. RSA 293-A:4.01 is repealed and reenacted to read as follows:

293-A:4.01 Corporate Name.

(a) A corporate name shall:

(1) Contain the word "corporation," "incorporated," or "limited" or the abbreviation "corp.," "inc.," or "ltd.," or words or abbreviations of like import in another language.

(2) Not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 293-A:3.01 and its articles of incorporation.

(b) Except as authorized by subsections (c) and (d) of this section, a corporate name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subsection (b) of this section, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subsection (b) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

- (1) Has merged with the other entity;
- (2) Has been formed by reorganization of the other entity; or
- (3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

(g) The secretary of state and those acting on his or her behalf shall incur no liability, either personally or on behalf of the state of New Hampshire, as a result of negligent acts or omissions in the reservation or registration of any name under this chapter or any other name registration or reservation statute, including but not limited to RSA 349, or the handling and recording of documents pertaining to such reservation or registration.

Amend the bill by replacing sections 16-18 with the following:

16 Investment Trusts; Fees. RSA 293-B:14 is repealed and reenacted to read as follows:

293-B:14 Fees.

I. No documents required to be filed under this chapter shall be effective until the applicable fee required by this paragraph is paid. The secretary of state shall charge and collect the following fees:

- (a) A fee of \$50 for filing a certificate of trust.
- (b) A fee of \$35 for:
 - (1) Filing a certificate of amendment;
 - (2) Filing a certificate of cancellation; or
 - (3) Filing a certificate of merger or consolidation.
- (c) A fee of \$15 for:
 - (1) Filing an application for reservation of name;
 - (2) Filing a notice of transfer of reservation; or
 - (3) Filing a notice of cancellation of reservation.

II. In addition to the fee provided in subparagraph I(a), the secretary of state shall charge and collect a registration fee of \$50 from each New Hampshire investment trust at the time of filing a certificate of trust.

III. For the privilege of maintaining its certificate of trust in good standing and continuing to exercise its authority to transact the business of a New Hampshire investment trust in this state, the secretary of state shall charge and collect a fee of \$200 from each New Hampshire investment trust established under RSA 293-B, payable on or before April 1 of each year. Each New Hampshire investment trust that fails or refuses to pay the fees required for any year on or before April 1 shall be subject to an additional fee of \$25 per month.

IV. The certificate of trust of New Hampshire investment trust may be revoked pursuant to RSA 293-A:14.21 by the secretary of state if the corporation fails to comply with any provision of this chapter applicable to it.

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

I.(a) A New Hampshire investment trust name shall not contain language stating or implying that the New Hampshire investment trust is organized for a purpose other than that permitted by RSA 293-B:3 and its certificate of trust.

(b) Except as authorized by subparagraphs (c) and (d), a New Hampshire investment trust name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

- (2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.
- (3) The fictitious name of another foreign corporation authorized to transact business in this state.
- (4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.
- (5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(c) A New Hampshire investment trust may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (b), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (b) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A New Hampshire investment trust may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user New Hampshire investment trust:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a New Hampshire investment trust under the same name as the trade name.

18 Professional Corporations; Corporate Name. RSA 294-A:7 is repealed and reenacted to read as follows:

294-A:7 Corporate Name. The name of a domestic professional corporation or of a foreign professional corporation authorized to transact business in this state:

I. Shall end with one of the following words or abbreviations: "professional corporation," "professional association," "Prof. Corp.," "Prof. Ass'n," "P.C.," or "P.A." or similar abbreviations of these words;

II. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

III.(a) Except as authorized by subparagraph (b), a professional corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(b) Subparagraph (a) shall not apply if:

(1) The similarity results from the use in the professional corporate name of personal names of its stockholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(2) The applicant files with the secretary of state an application for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(A) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(B) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(C) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A professional corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user professional corporation:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(d) This chapter does not control the use of fictitious names.

(e) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a professional corporation under the same name as the trade name.

IV. Shall otherwise conform to any rule adopted by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation.

Amend the bill by replacing section 23 with the following:

23 Cooperative Marketing and Rural Electrification Associations; Use of Name Regulated. RSA 301:43-a is repealed and reenacted to read as follows:

301:43-a Use of Name Regulated.

I. A cooperative name shall not contain language stating or implying that the association is organized for a purpose other than that permitted by RSA 301:3 and its certificate of organization.

II. Except as authorized by paragraphs III and IV, a cooperative name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

III. A cooperative may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying cooperative; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying cooperative; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A cooperative may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user cooperative:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic cooperative under the same name as the trade name.

Amend the bill by replacing section 30 with the following:

30 Name of Registered Limited Liability Partnership. RSA 304-A:45 is repealed and reenacted to read as follows:

304-A:45 Name of Registered Limited Liability Partnership. The name of a registered limited liability partnership:

I. Shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

II. Except as authorized by paragraphs III and IV, a registered limited liability partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

III. A registered limited liability partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A registered limited liability partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user registered limited liability partnership:

- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic registered limited liability partnership under the same name as the trade name.

Amend the bill by replacing section 36 with the following:

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

I. The name of each limited partnership as set forth in its certificate of limited partnership:

- (a) Shall contain without abbreviation the words "limited partnership" as the last words of its name;
- (b) May not contain the name of a limited partner unless (1) it is also the name of a general partner or the corporate name of a corporate general partner, or (2) the business of the limited partnership had been carried on under that name before the admission of that limited partner.

II. A limited partnership name shall not contain language stating or implying that the limited partnership is organized for a purpose other than that permitted by RSA 304-B:6 and its certificate of limited partnership.

III. Except as authorized by paragraphs IV and V, a limited partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

IV. A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, or likely to be confused with or mistaken for the name of the applying limited partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying limited partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited partnership:

- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited partnership under the same name as the trade name.

Amend the bill by replacing section 46 with the following:

46 Limited Liability Companies; Name Set Forth in Certificate. RSA 304-C:3 is repealed and reenacted to read as follows:

304-C:3 Name Set Forth in Certificate.

I. The name of each limited liability company as set forth in its certificate of formation:

- (a) Shall contain the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation; and
- (b) May contain the name of a member or manager.

II. A limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

III. Except as authorized by paragraphs IV and V, a limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

IV. A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, or likely to be confused with or mistaken for the name of the applying limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying limited liability company; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited liability company:

- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited liability company under the same name as the trade name.

Amend the bill by replacing section 50 with the following:

50 Foreign Limited Liability Companies; Name, Registered Office, Registered Agent. RSA 304-C:66, I-II is repealed and reenacted to read as follows:

I. A foreign limited liability company may register with the secretary of state under its name, provided however:

- (a) That the name must be one that could be registered by a domestic limited liability company;
- (b) That the name under which a foreign limited liability company is registering must include the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation;
- (c) That a foreign limited liability company may use a fictitious name under which it may register and transact business in this state if its real name has been determined by the secretary of state to be unavailable;
- (d) A foreign limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.
- (e) Except as authorized by subparagraphs (f) and (g), a foreign limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(f) A foreign limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (e), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (e) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) A foreign limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign limited liability company:

- (1) Has merged with the other entity;

- (2) Has been formed by reorganization of the other entity; or
- (3) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (h) This chapter does not control the use of fictitious names.
- (i) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign limited liability company under the same name as the trade name.

II. Each foreign limited liability company shall have and maintain in New Hampshire:

- (a) A registered office that may be the same as any of its places of business in New Hampshire.
- (b) A registered agent, which agent may be:
 - (1) An individual who resides in this state and whose business office is identical with the registered office; or
 - (2) A corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office; or
 - (3) A limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or
 - (4) A limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend the bill by replacing section 53 with the following:

53 Limited Liability Companies; Fees. Amend RSA 304-C:81, I(c)-(g) to read as follows:

- (c) Upon the receipt for filing of a certificate of formation under RSA 304-C:12, ***a fee in the amount of \$50; upon the receipt for filing of*** a certificate of amendment under RSA 304-C:13, a certificate of merger under RSA 304-C:21, a certificate of conversion under RSA 304-C:17-a, or a restated certificate of formation under RSA 304-C:17, a fee in the amount of \$35[-]; and upon the receipt for filing of a certificate of cancellation of a domestic limited liability company under RSA 304-C:59, a fee in the amount of \$35.
- (d) Upon receipt for filing of an annual report under RSA 304-C:80, a fee in the amount of \$100; for failure or refusal to file an annual report or pay the filing fee ~~by April 15~~ ***on or before April 1*** of any year, an additional late filing fee in the amount of ~~[\$50]~~ ***\$25 per month***; and upon receipt for filing of an application for reinstatement pursuant to RSA 304-C:54, a fee of ~~[\$75]~~ ***\$135***.
- (e) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$1 per page and \$5 for the certificate.
- (f) Upon the receipt for filing of an application for registration as a foreign limited liability company under RSA 304-C:64, ***a fee in the amount of \$50; upon the receipt for filing of*** ~~or~~ a certificate of cancellation under RSA 304-C:68, a fee in the amount of ~~[\$200;]~~ ***\$35***; and upon receipt for filing of an amendment to an application under RSA 304-C:67, a fee in the amount of ~~[\$15]~~ ***\$35***.
- (g) Upon the receipt for filing of a statement under RSA 304-C:66, III, a fee in the amount of \$15, ***and*** upon the receipt for filing of a statement under RSA 304-C:66, IV, a fee in the amount of \$15[-~~and upon the receipt for filing of a statement under RSA 304-C:66, V, a fee in the amount of \$2.50~~].

Amend the bill by replacing section 57 with the following:

57 Registration of Foreign Partnerships; Name. RSA 305-A:2-e is repealed and reenacted to read as follows:
305:2-e Name.

I. Except as authorized by paragraphs II and III, a foreign partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

- (a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.
- (b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

II. A foreign partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph I, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph I gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying foreign partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying foreign partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

III. A foreign partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

IV. This chapter does not control the use of fictitious names.

V. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign partnership under the same name as the trade name.

Amend the bill by replacing section 60 with the following:

60 Trade Names; Registration, Generally. Amend RSA 349:1, III-V to read as follows:

~~III. [The secretary of state shall decline to register any trade name similar or likely to be confused with or mistaken for any trade name or for any registration as described in paragraph I or II of this section or any name reserved under RSA 293-A, 304-A, 304-B:2, or 304-C:4 unless the holder or holders of the name gives written consent to use the same or deceptively similar name.~~

~~IV. The secretary of state shall decline to register any trade name the same as, or deceptively similar to, an agency or instrumentality of the United States or this state or subdivision thereof or of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of such party.~~

~~V.] The provisions of this chapter shall not apply to rating organizations or insurers which engage in joint underwriting or joint reinsurance which are referred to in, and subject to, the provisions of RSA 413.~~

IV.(a) Except as authorized by subparagraphs (b) and (c), a trade name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

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

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

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

(b) An applicant may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying trade name; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying trade name; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) An applicant may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation has acquired all or substantially all of the assets, including the name, of the other entity.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Roberge having voted with the prevailing side, moved reconsideration of **SB 336**, relative to certain costs in the development of a high school in the town of Bedford, whereby we concurred with the House amendment.

Motion failed.

Senator Below offered the following Resolution:

2004 SESSION

04-3265

03/01

SENATE RESOLUTION 5

A RESOLUTION urging an Independent Safety Assessment for Vermont Yankee.

SPONSORS: Sen. Below, Dist 5; Sen. Larsen, Dist 15; Sen. Eaton, Dist 10; Sen. Green, Dist 6; Sen. D'Allesandro, Dist 20; Sen. Odell, Dist 8; Sen. Cohen, Dist 24; Sen. Estabrook, Dist 21; Sen. Foster, Dist 13; Sen. Peterson, Dist 11; Sen. O'Hearn, Dist 12; Sen. Kenney, Dist 3

COMMITTEE:

ANALYSIS

This senate resolution urges an Independent Safety Assessment for Vermont Yankee.

04-3265

03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Four

A RESOLUTION urging an Independent Safety Assessment for Vermont Yankee.

Whereas, Vermont Yankee is a 540 megawatt nuclear generating station located in Vernon, Vermont; and

Whereas, Vermont Yankee began operation in 1972 and is now one of the oldest operating nuclear power stations in the nation; and

Whereas, Vermont Yankee was purchased by Entergy Nuclear in 2002; and

Whereas, Vermont Yankee operates as a merchant generating facility subject to cost pressures imposed by a competitive regional market in New England; and

Whereas, Entergy now proposes to perform an extended power uprate of the facility, increasing reactor power and electric output of Vermont Yankee by 20 percent; and

Whereas, Vermont Yankee is one of 103 operating nuclear power plants in the United States; and

Whereas, only 10 nuclear plants have performed an extended power uprate of 13 percent or more; and

Whereas, only 4 facilities have experience with an extended power uprate that is cumulative to 20 percent; and

Whereas, only one nuclear plant, Clinton Nuclear Power Station in Illinois, which is only ½ the age of Vermont Yankee, has sought a 20 percent power uprate through a single application; and

Whereas, no nuclear plant as old as Vermont Yankee has ever sought such a power increase; and

Whereas, a reactor power uprate of 20 percent is the maximum permitted limit of extended power uprates; and

Whereas, Vermont Yankee does not meet current design criteria and could neither be licensed nor built today; and

Whereas, the Entergy proposal has no precedent; and

Whereas, the Entergy proposal raises major concerns for public safety in light of the facility's age, the limited experience with extended uprates, and the pressures on a new merchant generating facility created by the competitive marketplace in which the facility now operates; and

Whereas, the benefits to the people of New Hampshire and Vermont from such an extended power uprate may be realized if there are no unanticipated negative impacts to safety or reliability encountered after the uprate; and

Whereas, prior to increasing the plant's power output, the approval of regulatory bodies, including the federal Nuclear Regulatory Commission (NRC) and the Vermont Public Service Board, is required; and

Whereas, it is essential that the state and federal regulatory authorities have access to a comprehensive and objective inspection report detailing all aspects of Vermont Yankee's physical condition and operational status before making any regulatory decisions which can have an impact on the safety of Vermont Yankee employees and the residents of the surrounding communities; and

Whereas, the NRC in the past has conducted an Independent Safety Assessment (ISA) as documented in an NRC report issued on October 7, 1996; and

Whereas, such a diagnostic evaluation would provide an in-depth physical examination and diagnostic evaluation of several selected safety-related plant systems; and

Whereas, NRC's standard review for extended power uprates is focused on review of the uprate application and does not include a comprehensive physical examination and diagnosis such as that included in an ISA; and

Whereas, the safety of the Vermont Yankee facility, its employees, and nearby residents is a matter of great concern to the citizens of New Hampshire and Vermont and the New Hampshire general court; now, therefore, be it

Resolved by the Senate:

That the New Hampshire senate urges the NRC to approve only any uprate at the Vermont Yankee nuclear power facility when an ISA, or the equivalent, has been completed at Entergy Nuclear Vermont Yankee which independently:

1. Assesses the conformance of the facility to its design and licensing bases, for operating at both 100 percent and 120 percent of its originally-intended power production level, including appropriate reviews at the plant's site and its corporate offices;

2. Identifies all deviations, exemptions, and/or waivers from (a) regulatory requirements applicable to Vermont Yankee and (b) regulatory requirements applicable to a new nuclear reactor (i.e. today's safety regula-

tions) and verifies that adequate safety margins are retained despite the cumulative effect of such deviations, exemptions, and/or waivers for both the present licensed power level and under the proposed extended power uprate;

3. Assesses the facility's operational safety performance giving risk perspectives where appropriate;
4. Evaluates the effectiveness of licensee self-assessments, corrective actions, and improvement plans; and
5. Determines the root cause or causes of safety-significant findings and draws conclusions on overall performance; and

That the clerk of the senate transmit copies of this resolution to Nils J. Diaz, NRC Chair, and to the chairman and commissioners of the New Hampshire public utilities commission.

Adopted.

MOTION TO TAKE OFF THE TABLE

Senator Gallus moved to have **HB 1138** taken off the table.

Adopted.

HB 1138, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

Question is on the adoption of the committee report of ought to pass.

Adopted.

Ordered to third reading.

RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 53, relative to the sale of salvage and rebuilt vehicles.

HB 243, relative to motor vehicle exhaust noise standards.

HB 664-FN, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

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

HB 1131, establishing a committee to study exotic aquatic weeds and species.

HB 1133, relative to disclosures required prior to a condominium sale.

HB 1136, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.

HB 1138, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

HB 1155, clarifying alternative budget adoption procedures in school administrative units.

HB 1166, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

HB 1225-FN-A, making administrative changes to the historic agricultural structure matching grants program.

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts.

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

HB 1301, relative to extensions to the intent to cut.

HB 1309, relative to noise pollution from shooting ranges.

HB 1348-FN, relative to registration of business organizations.

HB 1417, relative to examination of persons called as jurors in civil cases.

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

HB 1423-FN, relative to reimbursement of travel expenses for judges.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, receiving Messages, and processing Enrolled Bill Reports and Amendments, and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.