Bill as Introduced

HB 1227 – AS INTRODUCED

2000 SESSION

00-2039
03/10

HOUSE BILL ***1227***

AN ACT relative to universal waste.

SPONSORS: Rep. J. Phinizy, Sull 7; Rep. Tuthill, Sull 5; Rep. B. Hall, Hills 20; Rep. Messier, Hills 46; Rep. Owen, Merr 6

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill defines universal waste and requires the commissioner of environmental services to adopt rules relative to standards for universal waste management.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

00-2039
03/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to universal waste.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Public Health; Hazardous Waste Management; Definitions; Universal Waste. Amend RSA 147-A:2 by inserting after paragraph XVII the following new paragraph:

XVII-a. "Universal waste" means batteries, pesticides, mercury-containing devices, mercury-containing lamps, cathode ray tubes, and antifreeze. For purposes of this paragraph, the following words shall have the following meanings:

(a) "Battery" means a device consisting of one or more electrically connected electrochemical cells, which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, a cathode, and an electrolyte, plus such connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(b) "Cathode ray tube" means an intact glass tube used to provide the visual display in televisions, computer monitors, and certain scientific instruments, such as oscilloscopes.

(c) "Electric lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infrared (IR) regions of the electromagnetic spectrum. Examples of electric lamps include, but are not limited to, incandescent, fluorescent, high-intensity discharge, and neon lamps.

(d) "Mercury-containing device" means any electrical product or component, excluding batteries and lamps, which contains elemental mercury that is necessary for its operation and which is housed within an outer metal, glass, or plastic casing. Mercury-containing devices include, but are not limited to, thermostats, thermocouples, thermometers, manometers, barometers, sphygmomanometers, electric switches and relays, and certain gas flow regulators.

(e) "Mercury-containing lamp" means an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp.

(f) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or intended for use as a plant regulator, defoliant, or desiccant.

(g) "Thermostat" means any temperature control device that contains metallic mercury in an ampule attached to a bimetal-sensing element.

2 New Paragraph; Public Health; Hazardous Waste Management; Rulemaking; Universal Waste. Amend RSA 147-A:3 by inserting after paragraph XXV the following new paragraph:

XXVI. Standards for universal waste management.

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

Committee Minutes

1-13-2000

HB 1227

Motion to Reconsider:

1 Dunlap
2nd ~~Messier~~ Musler

~~Passed on voice vote~~

Rep. Phinizy gave reasons for holding the bill

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1227 Date

Committee E + A

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con

Hearing Minutes

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1227

BILL TITLE: relative to universal waste.

DATE: January 12, 2000

LOB ROOM: 303 **Time Public Hearing Called to Order:** 2:00 pm

Time Adjourned: 2:10 pm

(please circle if present)

Committee Members: Reps. Musler, Leishman, Messier, L. Pratt, McRae, Philbrick, Babson, Phinney, Marshall, Dunlap, Franks, Scanlan, Cobb, Harmon, B. Hall, Owen, Melcher, Meader, M. Ouellette, Phinizy, Shelton and Tuthill.

Bill Sponsors: Rep.s Phinizy, Tuthill, Hall, Messier and Owen

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Phinizy: sponsor, requests interim study, DES in work committees has expanded definitions, would like to hold back until these are finished.

Ken Marschner: DES, opposes the bill, universal waste are sub set with hazardous waste draft rules, advisory committee meeting 1.14.2000 existing statutes can accomplish all this bill would do. RSA 147 A2, A3 II and A3 IV Petition process in rules for how new universal waste would enter system. Build redundancy

Rep Cobb: Reason for interim study?

Rep. Hall: Develop a system of managing consumer waste i.e. batteries, cathode ray tubes, antifreeze, remove from waste stream for recycling

Respectfully submitted,
Karen K. McRae
Rep. Karen McRae, Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

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Bill Sponsors: Reps. Phinizy, Tuthill, Hall, Messier and Owen

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. ~~Hall~~ Phinizy, sponsor, requests interim study - DES, in work committee, has expanded definitions, would like to hold back until these are finished

Ken Marshner, DES, oppose, universal waste are subset of hazardous waste, draft rules — advisory committee meeting Friday, Jan 14 — existing statutes can accomplish all this bill would do

RSA 147 A 2
A 3 ~~I~~ II
A 3 IV

petition process in rules for how new universal waste would enter system; build redundancy

? by the committee
Cobb - ? reason for interim study
Hall - Rules? - ans. develop a system of managing consumer wastes ie batteries, cathode ray tubes, antifreeze, remove from waste stream for recycling
Philbrick -

Testimony

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456

January 12, 2000

Representative George T. Musler, Chair
House Environment & Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

Subject: **HB 1227 Relative to Universal Wastes**

Dear Chairman Musler and Members of the Committee:

Thank you for the opportunity to comment on HB 1227. Universal wastes are post-consumer type products that have hazardous qualities which may, when mismanaged, threaten public health and the environment. The proposed Universal Waste Rule (UWR) establishes a system under which these wastes can be collected and recycled more conveniently, thereby decreasing the amount which is improperly disposed. For inclusion in the UWR, the Department proposes to include mercury containing lamps and devices, cathode ray tubes from computer monitors or televisions, antifreeze, certain batteries and pesticides.

As you are aware, the Department expended considerable effort this past summer to work with a subcommittee of Environment & Agriculture to review the merits and implications of the universal wastes rules. Department staff worked closely with Representative James Phinizy's subcommittee explaining and providing draft copies of the proposed universal waste rules. Currently, a universal waste rules advisory committee is meeting to further receive input from a larger circle of vested parties to enhance the quality of the rules. Representatives David Babson and Gary Gilmore are serving on the advisory committee.

This bill provides a statutory definition for universal wastes gleaned from the definition found in the draft universal waste rules and provides rulemaking authority to adopt management standards for universal wastes. However, the existing statute for regulating hazardous wastes, RSA 147-A, New Hampshire's Hazardous Waste Management Act (Act), provides sufficient authority to adopt universal waste rules without any change to the statute. Universal wastes are hazardous wastes that would meet the current statutory definition for "hazardous wastes" found in RSA 147-A:2 VII. Likewise, under the rulemaking provisions of the Act, RSA 147-A:3 II currently allows rulemaking for the "[l]isting of wastes or combinations of wastes which are deemed to be hazardous." Similarly, RSA 147-A:3 IV provides rulemaking authority for "[t]he storage, treatment, containerization, transportation, and disposal of hazardous waste."

In consideration of the above, the Department does not see a need for the proposed amendments to RSA 147-A proposed within HB 1227. Further, listing by name what product(s) constitute a universal waste in a statutory definition inhibits future flexibility and increases the time needed to initiate change, when change is needed. The hazardous waste rules currently lists well over

400 specific chemical compounds that meet the definition of a hazardous waste in RSA 147-A, but are not specifically singled out by name in the statute. As currently proposed, the universal waste rules will provide a rigorous review mechanism for the addition of any new universal waste or for the removal of a universal waste in the rules. If any changes are proposed to the universal waste rule, the rulemaking process and our own procedures would allow for further review by an advisory committee, the public hearing process, and the Joint Legislative Committee on Administrative Rules. We are confident that these steps would provide ample opportunity for input and revision to any proposed change and that this process eliminates the need for the redundancy of a statutory change when a universal waste rule change is initiated.

Again, we thank you for the opportunity to offer testimony on HB 1227, and please contact Philip J. O'Brien, Director of the Waste Management Division (271-2905), or me if you have any questions regarding the Department's testimony on this bill.

Sincerely,

Robert W. Varney,
Commissioner

cc: Rep. James Phinizy

ozone action
Telephone: (603) 512-5349
FAX: (603) 227-0425

1/20/2000

FAX

To: Rep. Peter Leishman

FROM: Gary Wood - NH Field Organizer

RE: Global Warming 2000 Campaign

ozone action

January 20, 2000

Dear Colleague:

I am writing to invite you to join Senators Cohen, Russman, Larsen, Pignatelli, a growing number of New Hampshire State Representatives, Mayor Sirrell of Portsmouth, Chairman Low and the Selectmen of Rye in calling on the presidential candidates to articulate their plans to stop global warming.

The debate over how to solve global warming is heating up, and your leadership is needed now more than ever to bring about common sense solutions. Candidates across party lines agree: global warming is a serious threat. The next step must be for them to articulate their plans to significantly reduce global warming pollution to protect our communities.

As you know, scientists agree that global warming is happening and will have serious impacts on the people of New Hampshire. Among the likely impacts are an increase in smog, less winter snowfall, more winter rain, earlier spring snowmelt, a decrease by 25-50 percent of hardwood forests and a possible reduction in crop yields[1], bringing enormous economic costs that disaster funds and the ski and tourism industries cannot afford.

Over the next month, the presidential primary gives us a brief window of opportunity to highlight the fact that it is critical for the leaders of the next millennium to have a plan to deal with this threat.

By signing onto the following statement, you will build on the momentum created by the 600 U.S. city and county officials who signed the "Mayor and Local Official Statement on Global Warming" calling on the federal government to step up efforts to stop global warming. Your leadership can be the final push needed to compel our national leaders to implement common sense solutions to protect our communities and our environment.

In addition, I encourage you to fight global warming in another way — by helping your city or county become an "Earth Day 2000 Community." The theme of Earth Day 2000 is "Clean Energy Now!" and hundreds of communities across the country are taking advantage of the opportunity offered by Earth Day to initiate sustainable energy projects. For further information, contact Michael Closson at mclosson@earthday.net.

To sign on to this statement, simply complete the enclosed form and fax it back to 603-227-0425. Please feel free to contact me at Ozone Action (ozonenh@hotmail.com or 603-512-5349) with any questions.

Thank you for your support and leadership on this issue.

Sincerely,

Gary Wood
New Hampshire Field Organizer
Ozone Action

[1] United States EPA predictions based on the findings of the International Panel on Climate Change (IPCC), the world's premier scientific body on global warming comprised of 2,600 top climate scientists, and measurements from the Hadley Center for Climate Prediction and Research.

Local Officials Call for Action on Global Warming

As mayors and local elected officials concerned about the impacts of global warming on our communities, we urge the presidential candidates to lay out specific, concrete plans to reduce the domestic sources of global warming pollution.

Recent events have focused attention on the serious economic threat global warming poses to local communities. Between 1988 and 1997, heat waves, storms, floods, and other extreme weather events in the United States caused an estimated $140 billion in property damage.

FEMA and other federal disaster funds cannot begin to cover the economic and human losses that have been caused by these weather disasters. Local communities are forced to bear the brunt of the human and economic damage, and are witnessing a decline in the quality of life.

Meanwhile, scientific evidence of global warming continues to grow. In the first three months of 1999 alone, researchers analyzing tree rings and ice cores concluded that the 1990s were the warmest decade in the millennium; NASA found that Greenland's massive ice sheet is melting rapidly; and the American Geophysical Union released a warning that atmospheric warming "provides a compelling basis for legitimate public concern over future global and regional-scale changes resulting from increased concentration in greenhouse gases."

The good news is, a group of 2,600 economists, including seven Nobel Laureates, have demonstrated that we can reduce the impacts of global warming while not hurting America's Gross Domestic Product.

As local elected officials responsible for the well being of our communities, we urge the presidential candidates to develop and implement domestic policies and programs that work with local communities to reduce global warming pollution.

###

Mayor and Local Official Statement on Global Warming

I would like to be a signatory to the
Mayor and Local Official Statement on Global Warming

Signature _____ Date _____

First Name _____ Last Name _____

Elected Title _____

City/County _____ State _____

Phone _____ Fax _____

E-mail _____

☐ In addition, sign me up for a bi-weekly email update, which will include:

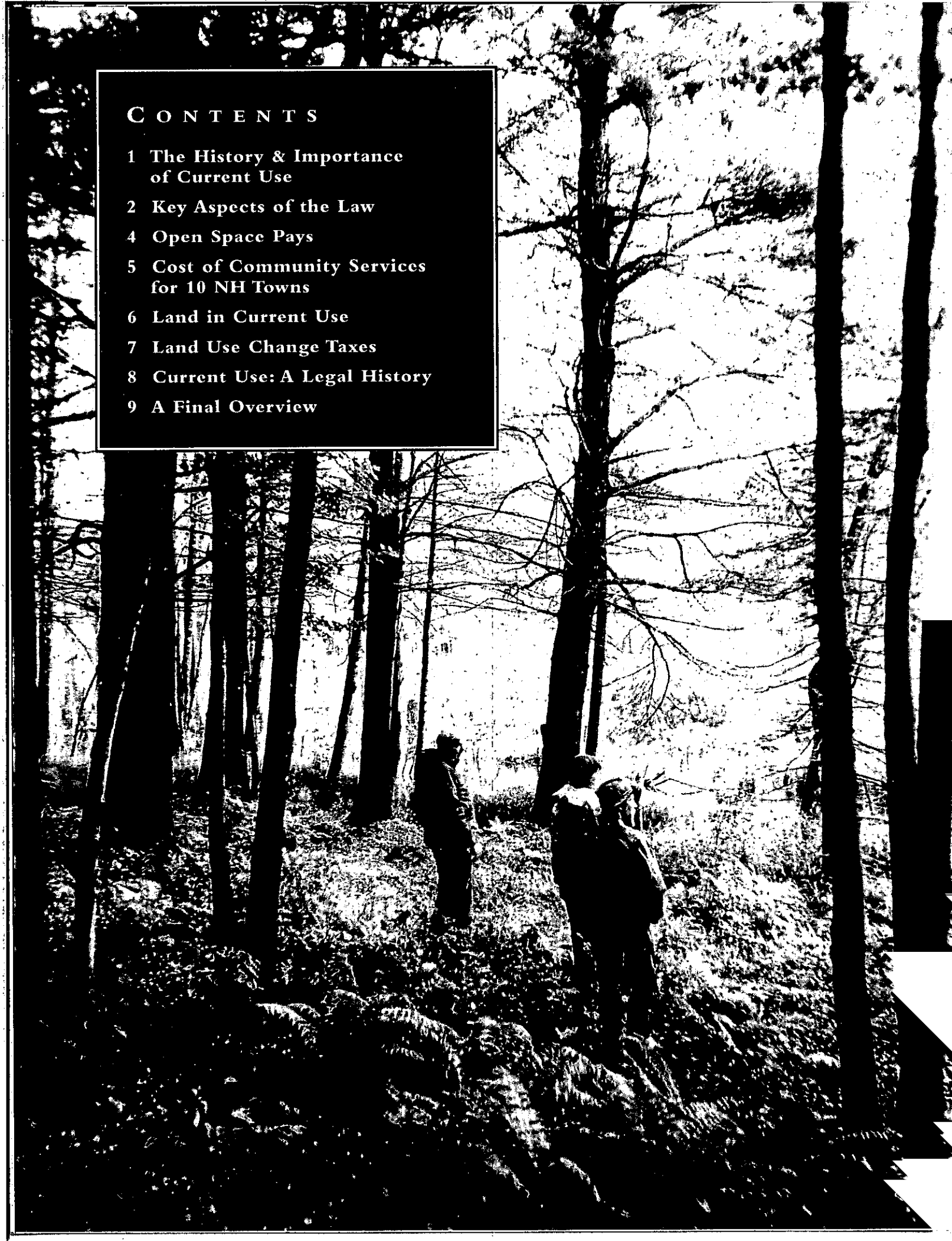
- Program highlights from other cities that are saving money while stopping global warming,
- Breaking science on how global warming impacts your community,
- Opportunities to highlight your local environmental successes locally and nationally,
- Updates on federal global warming legislation that affects my community.

☐ I would like more information on joining 500 other cities and counties on Earth Day by implementing a local clean energy program that saves money and protects the environment.

Please Fax to 603-227-0425 by January 24th, 2000
Or to 202-986-6041 after January 24th, 2000
No cover sheet is necessary.

A Layperson's Guide to
NEW HAMPSHIRE
CURRENT USE





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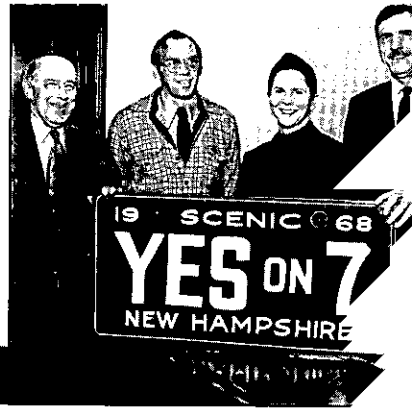
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6 Land in Current Use

7 Land Use Change Taxes

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The History & Importance of Current Use

A Message from Former Governor Walter Peterson

Richard Kelley, Paul Bofinger, Mirriam Jackson and Tudor Richards show off the "Yes on 7" license plate in support of the constitutional amendment allowing for current use. The amendment passed the 2/3 majority needed in the 1968 election.

LET ME TAKE YOU BACK OVER 30 YEARS, to the late 1960's. New Hampshire's population was growing, and our mostly rural state was giving way to poorly-planned subdivisions, strip malls and roads. Land values were rising as never before. Increasing property taxes were forcing farmers and woodlot owners to sell their lands. Traditional industries of agriculture and forestry were threatened.

WHAT COMMENCED was one of the most successful citizen's campaigns to amend the state constitution in our history. "YES on 7" became the rally cry of a broad-based coalition known as S.P.A.C.E. (Statewide Program of Action to Conserve our Environment) intent on providing a constitutional mechanism to allow land to be taxed based upon its "current use value," and not its "highest and best use value," as the constitution then required.

IN 1968, on the same ballot in which I was voted in as Governor, Proposition 7 was approved by the people of New Hampshire by the necessary two-thirds majority. A short five years later, on July 1, 1973, the NH General Court enacted RSA 79-A, the current use taxation law, to meet the constitutional directive and ensure fair taxation of undeveloped farm and forest lands. New Hampshire was not alone in this effort; many other growing states were busy enacting similar statutes.

IN 1998, New Hampshire landmark current use law celebrates 25 years as one of the nation's simplest and most effective open space taxation programs. As we've grown ever more dependent on the property tax to fund municipal services, the importance of current use has also grown.

TODAY, NEARLY 3 MILLION ACRES (almost 60% of the state's taxable private land) are enrolled in the program by some 27,000 landowners. Contrary to popular notions, the average family with land in current use has below average median household income. For these and many other New Hampshire landowners, current use is the vital means by which they can afford to keep their lands.

CURRENT USE HAS WORKED WELL to achieve its original purpose. And, while not without occasional legislative tinkering, the law has remained remarkably similar to the original law passed in 1973. This is no accident; our lawmakers understand and have strongly supported current use taxation over the years.

IN A STATE WHERE TOURISM is an important component of the economy, it's important to reflect on the value of fair taxation of undeveloped land. The rural scenery — the farm vistas and forested country roads — appreciated by visitors and residents alike, is testament to the foresight of leading citizens and lawmakers a quarter century ago.

TODAY, NEW HAMPSHIRE is growing once again. And while a strong economy is good, so to is this visionary program that helps to retain the special character of the Granite State. Let's make sure current use is around for the next quarter century. For if we do, we can be sure that the New Hampshire we all love will be conserved for the benefits of future generations.

Walter Peterson

WALTER PETERSON, *Governor, State of NH, 1969-1973*



Key Aspects of the Law

Common Questions Answered

"IT IS HEREBY DECLARED *to be in the public interest to encourage preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources.*"

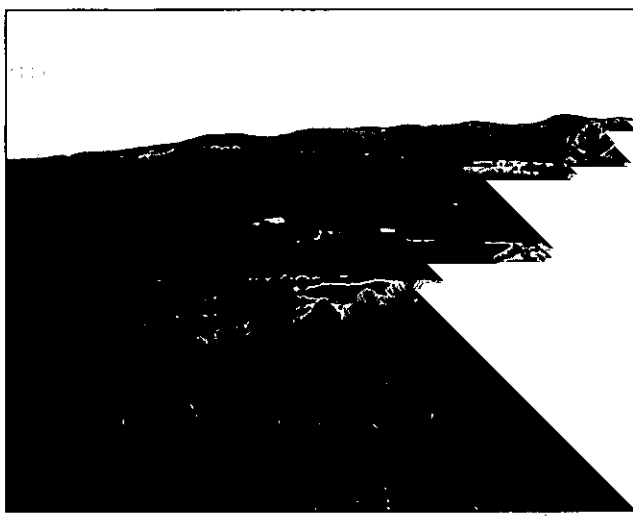
~ NH CURRENT USE LAW RSA 79-A

What is Current Use?

CURRENT USE is a taxing strategy aimed at making it easier for landowners to keep their open space undeveloped. Instead of being taxed at its real estate market value, land is taxed on its income-producing capability. In other words, land is taxed as a woodlot or a farm, not as a potential site for houses. Current use keeps property taxes at a lower, more predictable rate.

What kind of land is in Current Use?

UNDEVELOPED FARM LAND, forest land, certified tree farms, and Christmas tree farms may all enroll in current use. Other land, such as wetlands and other sites unsuitable for agriculture or forest products are also covered by the law. Typically, land holdings must be at least 10 acres, but owners of smaller wetland parcels or land devoted to agriculture may also be eligible. Buildings and other improvements, such as driveways and septic systems, are excluded from current use.



How does land get into Current Use?

NO LAND AUTOMATICALLY becomes enrolled in current use. Landowners must apply to their town, committing their land to open space conservation. The selectmen, town forester, or other assessing official appraises the land using criteria established by the state Current Use Board. Like other types of real estate, this valuation is equalized annually for the purpose of assessing taxes.

How are Current Use rates set?

EVERY YEAR, the state Current Use Board establishes the criteria and rates to be used for the following year. Public comment is solicited in forums held around the state. The Current Use Board carefully reviews market prices for agricultural and forest products to establish land's income earning potential, and sets the current use assessment rates using this information.



What is the Current Use Board?

MEMBERSHIP ON THE BOARD is established by state law. Three members represent towns and cities. Two are legislators. Others include state commissioners, the director of Fish & Game, a representative of town conservation commissions, and three members of the public, two of whom must own farm or forest land. Each public member is appointed by the Governor, and approved by the Executive Council.

Can land in current use be posted against trespassing?

YES, ALTHOUGH VERY LITTLE actually is. Owners receive additional tax savings if they keep their land open and without fee all year for hunting, fishing, snowshoeing, hiking, skiing and nature observation.

Does current use encourage good forest management?

THE CURRENT USE BOARD recognizes there are extra costs for well-managed land. Owners who meet criteria for responsible land stewardship may receive lower assessments. To qualify, owners must document their present forestry conditions, past accomplishments, and plans for forest improvement and harvest..

What happens when there is a change in use?

WHEN LAND IS DEVELOPED, or an owner otherwise changes its use to one not qualifying for current use, a land use change tax is charged. The rate is 10 percent of the "full and true value" of the land, and is usually assessed at the time the physical change has begun.





Open Space Pays

Value that Exceeds Cost



In New Hampshire, property taxes pay the lion's share of government services. As the state grows, each public dollar at all levels of government is stretched further and further. Understandably, towns seek new and expanded sources of tax revenue.

The Current Use Program often comes under scrutiny because it taxes land at its income earning capability, not its development value. However, recent studies of New Hampshire communities show that open space lands have a value that easily exceeds their costs.

"Cost of Community Services" studies compare the costs of residential, commercial/industrial, and open space land. The results show that residential development often costs communities far more than they generate in revenues. With more housing comes more demand for schools, water & sewer, landfills, roads, and other municipal services.

Open space, in comparison, more than pays for itself. The modest tax revenue generated by the working landscape of farms, forests and other undeveloped land consistently exceeds the cost of the minimal public services they require. The ratio of costs to services for open space and commercial/industrial land are often very similar. Of course, commercial/industrial land is assessed at a much higher rate than land in current use, but commercial and industrial properties demand far greater public services, such as fire and police protection.

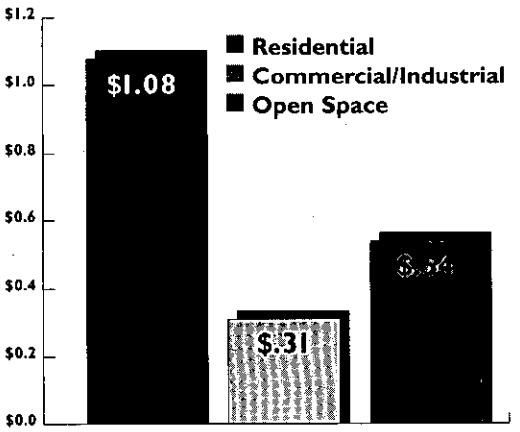
The full value of open space to communities goes beyond immediate tax revenues. There are values inherent in supporting the state's traditional forestry and agriculture industries; in keeping scenic rural landscape in attracting tourists; in maintaining habitat for game and non-game species of wildlife. There is emerging evidence that residential property near open space is more valuable. And, open space land helps stabilize property tax rates. It has been shown that tax bills for median-value homes are lower in communities with more undeveloped land per year-round resident.*

***Sources:** UNH Cooperative Extension Service; Peterborough Conservation Commission; American Farmland Trust; Ad-Hoc Associates

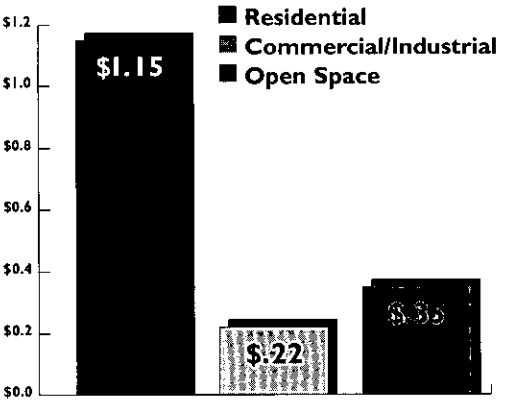
Cost of Community Services studies help towns plan for and manage growth. They provide town officials and residents with a better understanding of the relation between land use and the demand for municipal services. Studies of six New Hampshire towns (*see page 5*) indicate that for each dollar of tax revenues generated, open space land requires less than one dollar in public services. The same cannot be said for residential development. These studies join others conducted in New England that show open space land returns more in property taxes than it costs in public services. These studies are not anti-development; they are simply a tool for local officials to understand their property tax situation more thoroughly, so informed decisions can be made.

Source: S. MacFaden, Cost of Community Services Study, Peterborough Conservation Commission

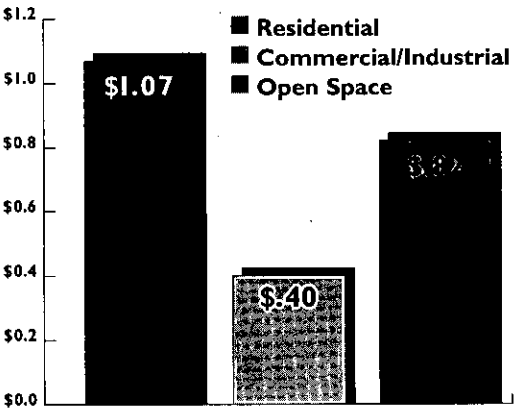
Cost of Community Services



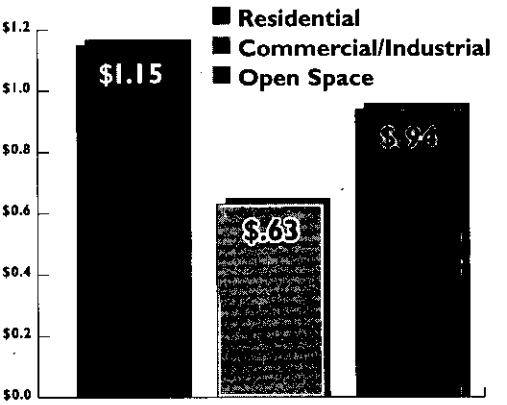
PETERBOROUGH 1995
Services required per $1.00 of tax revenue



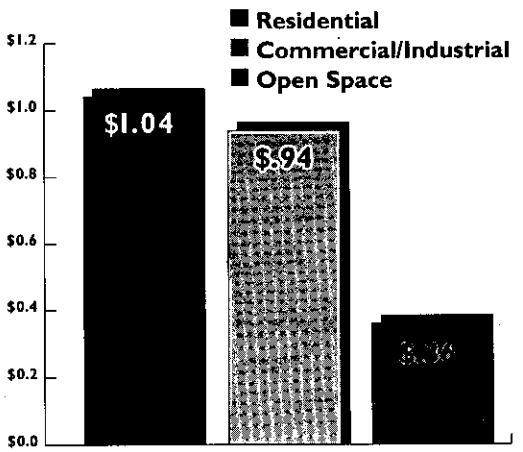
DEERFIELD 1994
Services required per $1.00 of tax revenue



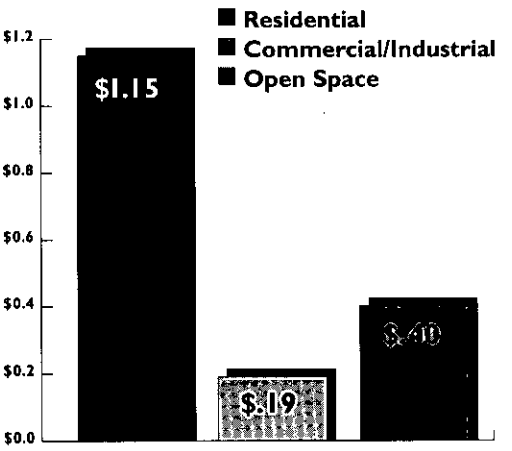
EXETER 1996
Services required per $1.00 of tax revenue



DOVER 1992
Services required per $1.00 of tax revenue



FREMONT 1994
Services required per $1.00 of tax revenue



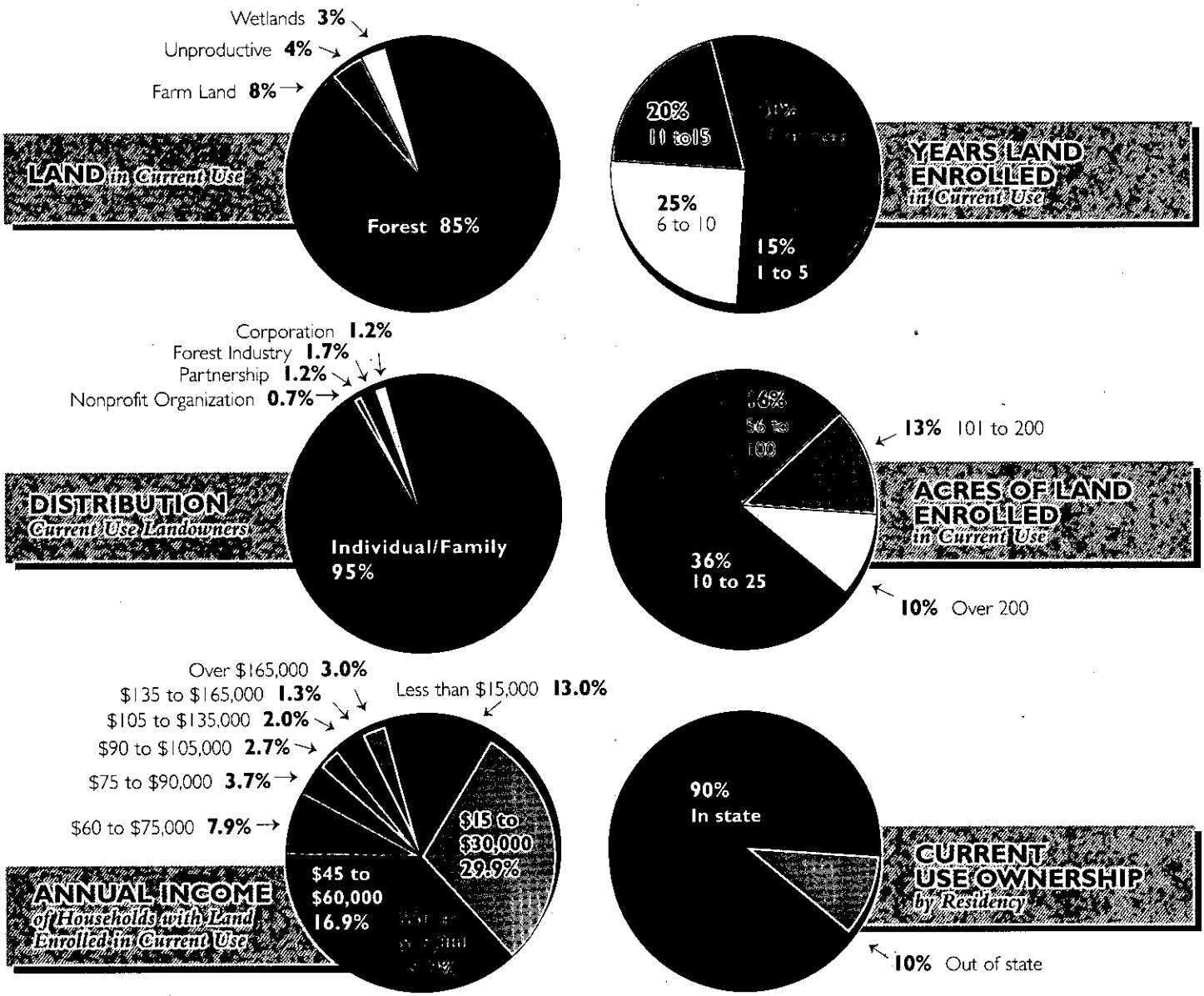
STRATHAM 1994
Services required per $1.00 of tax revenue



Land in Current Use

Who Owns It

OVER HALF OF NEW HAMPSHIRE'S 5.7 million acres are in current use. This land is owned by a representative cross section of the state's citizens. Most of it is owned by low- and middle-income families, many of whom have held it for many years. Large parcels make up a relatively small portion of current use ownerships. And, by far, state residents own the land.



SOURCE: UNH Institute for Policy and Social Science Research, 1993

Land Use Change Taxes

Open Space Returns "Lost" Revenue

"TAXPAYERS *are adequately reimbursed for their investment in open space.*"

~ DR. DOUGLAS E. MORRIS, UNH DEPT. OF RESOURCE ECONOMICS, 1989

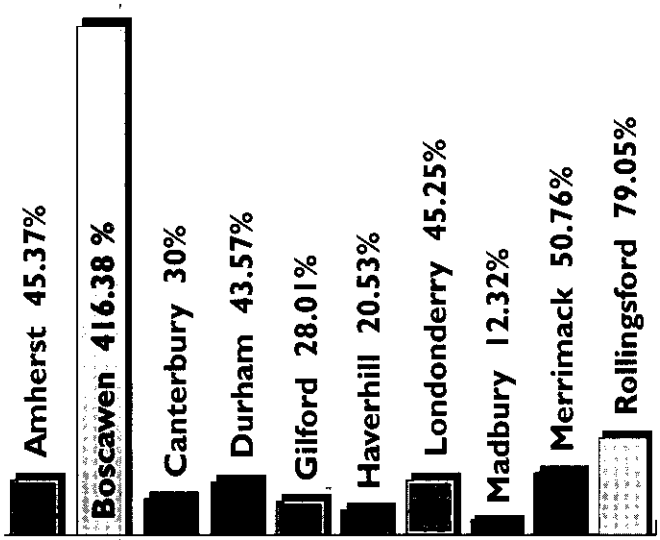
WHEN LAND IS DEVELOPED, do towns get back the taxes they forego when land was put into current use? The answer is an undeniable "yes." The mechanism is the ***Land Use Change Tax***. This 10 percent tax is assessed on the full market value of land when it leaves the current use program.

STUDIES OF THE LAND USE CHANGE TAX show that when land comes out of current use, towns receive all of their foregone tax revenue, and then some. From 1980 to 1994, 581 parcels of land came out of current use in ten selected New Hampshire towns. The towns collected over $4.2 million through the Land Use Change Tax - over one and one-half times more than they would have received had they simply taxed the land at higher rates all along, rather than allowing the land to be in current use.*

THESE STUDIES INDICATE that as open space land appreciates in value, towns are more than able to recapture revenue through the Land Use Change Tax.

Weighted Average Internal Rates of Return to Towns from Land Use Change Tax – Ten NH Towns, 1988-1994

Additional revenue to the town received from the Land Use Change Tax over the amount the town would have received in taxes had the land not been placed in current use. For example, Amherst received 45% more tax revenue from the Land Use Change Tax over what they would have received without having the land in current use.



*SOURCES: D.E. Morris, *Town Incomes from the Land Use Change Tax, 1980 - 1987* (UNH, Dept. of Resource Economics); C. Levesque, *Land Use Change Tax Incomes from Ten Selected New Hampshire Towns, 1988-1994*



Current Use

A Legal History

THE CURRENT USE PROGRAM is a legislative initiative that continues to be refined by the Legislature and the Current Use Board. Over its 25-year history, legal opinions have also served to shape and clarify the purpose, scope, and intent of the program.

■ ***The court issued an opinion on changes to the law that would impact landowners already enrolled in current use.***

In an advisory opinion to the legislature, the NH Supreme Court said that any fundamental change in the terms of the current use lien would result in retrospective taxation, and thus be unconstitutional. After the legislature proposed increasing the land use change tax, the court gave an opinion that those individuals already enrolled in current use could not be subject to increased taxes without being offered an opportunity to leave the program, noting that "an application of an increased land use change tax or a penalty on land already enrolled in current use would constitute an unconstitutional retrospective law."

~ *Opinion of the Justices, June 1993*

■ ***The courts have addressed what uses are appropriate for land in current use.***

Developers of a subdivision sought to place land in current use that they were required to keep as open space under local zoning regulations. The court ruled that current use could not be used to satisfy zoning density requirements, saying "permitting current use treatment for land used to meet local density requirements would encourage, rather than discourage, intensive use."

~ *Dana Patterson, Inc. v. Town of Merrimack, 1989*

Land managed for game habitat, rather than traditional forestry, is acceptable for current use, the court ruled. It recognized that the public interest in the conservation of "land, water, forest, and wildlife resources" may be better served by "less than optimal commercial use of forest land."

~ *Blue Mountain Forest Association v. Town of Croyden, 1979*

■ ***The court has defined when the land use change tax can be assessed.***

As a result of a challenge by a subdivision developer, the court ruled that land does not lose its eligibility for current use until there is an actual, not just planned, change in use. When the actual change is made, the land use change tax may be assessed.

~ *J. Frost v. Town of Candia, 1979*



A Final Overview

Current Use: A Law that Works



NEW HAMPSHIRE
CURRENT USE

THE CURRENT USE PROGRAM has played a critical role in encouraging the conservation of open space since 1973. If anything, its place as a tool for maintaining forest and agricultural land will only grow in importance, as New Hampshire faces even greater pressures from growth.

NEW HAMPSHIRE'S POPULATION has nearly doubled in the last 30 years. At 15,000 new residents a year, the state's population is growing faster than any state in the Northeast. The state Division of Forest and Lands estimates that annually, an average of 13,000 acres of forest land is lost to residential and commercial development.

THE CONSEQUENCES OF LOSING OPEN SPACE land are serious. In 1997, the ***New Hampshire Comparative Risk Project*** ranked environmental problems by their threat to New Hampshire's quality of life. Four of the top five problems are directly linked to the loss of undeveloped land. They include surface water degradation, loss of land habitat to development, alteration of streams and shorelines, and loss of water habitat to filling and draining. Completing the top ten risks is degradation of forest habitat by fragmentation.



IN ITS "AGENDA FOR CONTINUED ECONOMIC OPPORTUNITY," the state Business and Industry Association asserts, "We want New Hampshire to continue to be a state where the physical elements of quality of life — environmental quality, historic architecture, and the visual aesthetics of the countryside — are important to us and are preserved."

THE DIVISION OF FORESTS AND LANDS calls the current use law "the best tool currently available for conserving forest land." The Northern Forest Lands Council, in its report "Finding Common Ground," called current use valuation "essential to helping landowners maintain their land in forest uses." It recommended that states strengthen their current use tax programs, and cited aspects of New Hampshire's program as a worthy model.

OUR LINK WITH THE PAST is through our future. An effective current use program, by encouraging the conservation of well-managed forests and agricultural land, helps maintain the identity of New Hampshire's history and heritage.

Statewide Program of
Action to Conserve
Our Environment
(S.P.A.C.E.)

54 Portsmouth Street

Concord, NH 03301

603-224-3306

S.P.A.C.E.

The Statewide Program of Action to Conserve our Environment (S.P.A.C.E.) is New Hampshire's Current Use Coalition. It is a private, not-for-profit advocacy coalition of groups dedicated to conserving open space land. Formed in 1966, S.P.A.C.E. led the grassroots campaign to amend the state constitution to allow for current use valuation of real estate.

S.P.A.C.E. is active in all aspects of the Current Use law. Its work includes advocacy, education, supporting research, and working with the state and towns on the administration and monitoring of the Current Use Program.

S.P.A.C.E. Organizational Members

Audubon Society of New Hampshire

Harris Center for Conservation Education

New England Forestry Foundation

New Hampshire Association of Conservation Commissions

New Hampshire Farm Bureau Federation

New Hampshire Fruit Growers Association

New Hampshire Municipal Association

New Hampshire Snowmobile Association

New Hampshire Timberland Owners Association

New Hampshire Travel Council

New Hampshire Wildlife Federation

Society for the Protection of New Hampshire Forests

Written by
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Editorial Assistance by
Eric Kingsley & Charles Levesque

Designed by
Margaret Baker-Salmon

Photography by
The Society for the Protection of NH Forests & Charles Levesque

Voting Sheets

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1227

BILL TITLE: **relative to universal waste.**

DATE: 1-12-2000

LOB ROOM: **303**

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, OTP/A, ITL, Re-Refer, (Interim Study) (Please circle one.)

Moved by Rep. Tuthill

Seconded by Rep. Hall

Vote: 5-6 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, (ITL), Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Philbrick

Seconded by Rep. McRae

Vote: 7-4 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Karen K. McRae

Rep. Karen K. McRae, Clerk

OFFICE OF THE HOUSE CLERK 2000 SESSION

ENVIRONMENT AND AGRICULTURE

Bill #: 1227 **Title:** Relative to Universal Waste

PH Date: 1/12/2000 **Exec Session Date:** 1/12/2000

Motion: Interim Study **Amendment #:**

MEMBER	YEAS	NAYS
Musler, George T, Chairman		
Leishman, Peter R, V Chairman		
Messier, Irene M	✓	
Pratt, Leighton C		
McRae, Karen K, Clerk		✓
Philbrick, Donald R		✓
Babson, David L		
Phinney, William R		
Marshall, Kenneth R		
Dunlap, Patricia C	✓	
Franks, Suzan L R		
Scanlan, David M		✓
Cobb, John S		✓
Harmon, Hobart M		
Hall, Betty B	✓	
Owen, Derek		
Melcher, Harold P		✓
Meader, David R	✓	
Ouellette, Mary M		
Phinizy, James		
Shelton, Richard C		✓
Tuthill, John G	✓	
	5	6
TOTAL VOTE:	5	6

Printed: 12/30/1999

HB 1227

not a ~~quorum~~ quorum

because Karen voted

OFFICE OF THE HOUSE CLERK 2000 SESSION

ENVIRONMENT AND AGRICULTURE

Bill #: 1227 **Title:** Relative to Universal Waste

PH Date: 1/12/2000 **Exec Session Date:** 1/12/2000

Motion: _____ **Amendment #:** _____

MEMBER	YEAS	NAYS
Musler, George T, Chairman		
Leishman, Peter R, V Chairman		
Messier, Irene M		✓
Pratt, Leighton C		
McRae, Karen K, Clerk	✓	
Philbrick, Donald R	✓	
Babson, David L		
Phinney, William R		
Marshall, Kenneth R		
Dunlap, Patricia C	✓	
Franks, Suzan L R		
Scanlan, David M	✓	
Cobb, John S	✓	
Harmon, Hobart M		
Hall, Betty B		✓
Owen, Derek		
Melcher, Harold P	✓	
Meader, David R		✓
Ouellette, Mary M		
Phinizy, James	✓	
Shelton, Richard C	✓	
Tuthill, John G		✓
	7	4
TOTAL VOTE:	7	4

Printed: 12/30/1999

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1227

BILL TITLE: **relative to universal waste.**

DATE: **February 15, 2000**

LOB ROOM: **303**

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Tuthill

Seconded by Rep. Hall

Vote: 5-6 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Philbrick

Seconded by Rep. McRae

Vote: 7-4(Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: _____

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Karen K. McRae

Rep. Karen K. McRae, Clerk

OFFICE OF THE HOUSE CLERK 2000 SESSION

ENVIRONMENT AND AGRICULTURE

Bill #: 1227 **Title:** Universal Waste

PH Date: 2/15/00 **Exec Session Date:** 2/15/00

Motion: Interim Study **Amendment #:**

MEMBER	YEAS	NAYS
Musler, George T, Chairman		
Leishman, Peter R, V Chairman	✓	
Messier, Irene M	✓	
Pratt, Leighton C	✓	
McRae, Karen K, Clerk	a	
Philbrick, Donald R	✓	
Babson, David L	✓	
Phinney, William R		
Marshall, Kenneth R		
Dunlap, Patricia C	✓	
Franks, Suzan L R	✓	
Scanlan, David M	✓	
Cobb, John S	✓	
Harmon, Hobart M		
Hall, Betty B	✓	
Owen, Derek	✓	
Melcher, Harold P		
Meader, David R	✓	
Phinizy, James		
Shelton, Richard C	✓	
Tuthill, John G		
Vaillancourt, Steve		
	13	ϕ

Regular calendar

TOTAL VOTE:
Printed: 2/15/2000

OFFICE OF THE HOUSE CLERK 2000 SESSION

ENVIRONMENT AND AGRICULTURE

Bill #: 1227 Title: Reconsideration

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Musler, George T, Chairman	✓	
Leishman, Peter R, V Chairman		
Messier, Irene M	✓	
Pratt, Leighton C	✓	
McRae, Karen K, Clerk		✓
Philbrick, Donald R		
Babson, David L	✓	
Phinney, William R	✓	
Marshall, Kenneth R		
Dunlap, Patricia C	✓	
Franks, Suzan L R		
Scanlan, David M		
Cobb, John S	✓	
Harmon, Hobart M	✓	
Hall, Betty B	✓	
Owen, Derek		
Melcher, Harold P	✓	
Meader, David R	✓	
Ouellette, Mary M		
Phinizy, James	✓	
Shelton, Richard C	✓	
Tuthill, John G		
	13	1
TOTAL VOTE:	13	1

Printed: 12/30/1999

Committee Report

COMMITTEE REPORT

COMMITTEE: **Environment and Agriculture**

BILL NUMBER: **HB 1227**

TITLE: relative to universal waste.

DATE: January 12, 2000 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☒ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The Department of Environmental Services has the authority to adopt rules relative to universal waste. There is currently a subcommittee within the Environment and Agriculture Committee studying universal waste issues and if future legislation is needed they can address it. The majority of the committee felt this bill was unnecessary and voted to send it to interim study.

Vote 7-4.

Rep. Donald R. Philbrick
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

RC 2/3

COMMITTEE REPORT

COMMITTEE: **Environment and Agriculture**

BILL NUMBER: **HB 1227**

TITLE: relative to universal waste.

DATE: January 12, 2000 CONSENT CALENDAR YES ☐ NO ☒

NOT A QUORUM - see Kim if any questions 1/26

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☒ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The Department of Environmental Services has the authority to adopt rules relative to universal waste. There is currently a subcommittee within the Environment and Agriculture Committee studying universal waste issues and if future legislation is needed they can address it. The majority of the committee felt this bill was unnecessary and voted to send it to interim study.

Vote 7-4.

Rep. Donald R. Philbrick
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Environment and Agriculture

HB 1227, relative to universal waste. REFER TO COMMITTEE FOR INTERIM STUDY

Rep. Donald R. Philbrick for Environment and Agriculture: The Department of Environmental Services has the authority to adopt rules relative to universal waste. There is currently a subcommittee within the Environment and Agriculture Committee studying universal waste issues and if future legislation is needed they can address it. The majority of the committee felt this bill was unnecessary and voted to send it to interim study Vote 7-4.

Interim Study

HB 1227

THE DEPARTMENT OF ENVIRONMENTAL SERVICES HAS THE AUTHORITY TO ADOPT RULES RELATIVE TO UNIVERSAL WASTE. THERE IS CURRENTLY A SUBCOMMITTEE WITHIN THE ENVIRONMENT AND AGRICULTURE COMMITTEE STUDYING UNIVERSAL WASTE ISSUES AND IF FUTURE LEGISLATION IS NEEDED THEY CAN ADDRESS IT. THE MAJORITY OF THE COMMITTEE (7-4) FELT THIS BILL WAS UNNECESSARY AND ~~IT WOULD BE REDUNDANT~~ voted TO SEND IT TO INTERIM STUDY. ~~PREVIOUS VOTE TO SEND THIS BILL TO INTERIM STUDY FAILED~~ Vote 7-4

Donald R Phillips

Lee R Ford

1471 –
Cancelled

COMMITTEE REPORT

COMMITTEE: **ENVIRONMENT AND AGRICULTURE**

BILL NUMBER: **HB 1227**

TITLE: relative to universal waste.

DATE: 1-12-2000 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote 7-4.

Rep. Philbrick
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

COMMITTEE REPORT

COMMITTEE: **Environment and Agriculture**

BILL NUMBER: **HB 1227**

TITLE: relative to universal waste.

DATE: February 16, 2000 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☒ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The Department of Environmental Services has the authority to adopt rules relative to universal waste. There is currently a subcommittee within the Environment and Agriculture Committee studying universal waste issue and if future legislation is needed they can address it. The majority of the Committee felt this bill was unnecessary and voted to send it to Interim Study.

Vote 13-0.

Rep. Donald R. Philbrick
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Environment and Agriculture

HB 1227, relative to universal waste. REFER TO COMMITTEE FOR INTERIM STUDY

Rep. Donald R. Philbrick for Environment and Agriculture: The Department of Environmental Services has the authority to adopt rules relative to universal waste. There is currently a subcommittee within the Environment and Agriculture Committee studying universal waste issue and if future legislation is needed they can address it. The majority of the Committee felt this bill was unnecessary and voted to send it to Interim Study. Vote 13-0.

Interim Study

HB 1227

THE DEPARTMENT OF ENVIRONMENTAL SERVICES HAS THE AUTHORITY TO ADOPT RULES RELATIVE TO UNIVERSAL WASTE. THERE IS CURRENTLY A SUBCOMMITTEE WITHIN THE ENVIRONMENT AND AGRICULTURE COMMITTEE STUDYING UNIVERSAL WASTE ISSUES AND IF FUTURE LEGISLATION IS NEEDED THEY CAN ADDRESS IT. THE MAJORITY OF THE COMMITTEE (7-4) FELT THIS BILL WAS UNNECESSARY AND ~~IT WOULD BE REDUNDANT~~ voted TO SEND IT TO INTERIM STUDY. ~~A PREVIOUS VOTE TO SEND THIS BILL TO INTERIM STUDY FAILED~~ Vote 7-4

Donald R Phillips

Rep Lee R Levesque

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: Environment + Agriculture

BILL NUMBER: HB 1227

TITLE: _____

_____

DATE: 10-3-00

☒ **RECOMMENDED FOR FUTURE LEGISLATION**

LSR No. _____ **(If legislation is already filed, please list LSR no.)**

X (☒) **NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT: **(May be handwritten)**

The committee sees the necessity of additional legislation in the future because the department wants to regulate through rules and individual members will deal with the ~~introduction of legislation~~. It is felt that until rules regarding universal waste are formulated and completed, this legislation is premature although may be valid at some time in the future

COMMITTEE VOTE: 16-0 **(Attach Committee Voting Sheet)**

PLEASE NOTE:
- Reports are due **November 1, 2000**, at the House Clerk's Office with the committee voting sheet attached.
- Place a copy of the committee report and all subcommittee work documents in bill file.

Rep. Karen K. McRae
For the Committee

Rev. 6/5/00

ENVIRONMENT AND AGRICULTURE

Bill #: HB 1227 Title: _____

PH Date: ___/___/___ Exec Session Date: 10/3/00

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Musler, George T, Chairman	✓	
Leishman, Peter R, V Chairman	✓	
Messier, Irene M	✓	
Pratt, Leighton C	✓	✓
McRae, Karen K, Clerk	✓	
Philbrick, Donald R	✓	
Babson, David L	✓	
Phinney, William R		
Marshall, Kenneth R	✓	
Dunlap, Patricia C	✓	
Franks, Suzan L R	✓	
Scanlan, David M	✓	
Cobb, John S	✓	
Harmon, Hobart M		
Hall, Betty B	✓	
Owen, Derek	✓	
Melcher, Harold P	✓	
Meader, David R		
Phinizy, James	✓	
Shelton, Richard C		
Tuthill, John G		
Vaillancourt, Steve		
	16	0

TOTAL VOTE:
Printed: 2/15/2000