Bill as Introduced

HB 1449-A – AS INTRODUCED

2002 SESSION

02-2428
06/10

HOUSE BILL ***1449-A***

AN ACT relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

SPONSORS: Rep. Calawa, Hills 17; Rep. R. Cooney, Rock 26; Rep. Whalley, Merr 5; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3; Sen. D'Allesandro, Dist 20

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill establishes a pilot program in the department of environmental services to develop protected instream flows and river management programs for the Lamprey River and the Piscataquog River – south branch and makes an appropriation for the pilot program. The bill also establishes an instream flow technical review committee and a water management planning area advisory committee for each river designated for an instream flow and river management plan under RSA 483.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

02-2428
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Two

AN ACT relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

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

1 Findings. The general court finds that it is in the interests of the state to do a comprehensive study regarding the establishment of protected instream flows and river management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interests of the state to initially restrict instream flow rules to 2 rivers to ensure that adequate funding is available to develop the necessary protected instream flows and river management plans and to ensure that the department of environmental services will devote adequate attention to the effective and fair administration of the first application of instream flow regulation under the provisions of RSA 483. The general court also finds that the study findings and the proposed protected instream flow and river management plan for each river should be adopted by the legislature to allow for a public hearing with input from affected water users and the public.

2 New Section; Pilot Program Relative to Instream Flow Rules for the Lamprey River and the Piscataquog River – South Branch. Amend RSA 483 by inserting after section 11 the following new section:

483:11-a Pilot Program; Instream Flows; Lamprey River and Piscataquog River – South Branch. The commissioner shall adopt instream flow rules pursuant to RSA 541-A relative to the Lamprey River as delineated in RSA 483:15, I and the Piscataquog River – south branch, as delineated in RSA 483:15, X(c). The protected instream flows and river management plans adopted pursuant to this pilot program may not restrict water use or require changes in river management practices relative to either one of the rivers or their tributary drainage areas. Notwithstanding any other provision of law, the commissioner shall not adopt protected instream flows or river management plans or rules relative to any other designated rivers without further authorization from the legislature after the completion of the pilot program. The authority for the pilot program shall terminate when the legislature has approved the protected instream flow and river management plans adopted by the department for the Lamprey River and the Piscataquog River – south branch.

3 New Sections; Committees Established. Amend RSA 483 by inserting after section 483:8-a the following new sections:

483:8-b Instream Flow Technical Review Committees; Establishment; Duty.

I. There are established instream flow technical review committees to implement the provisions of this chapter for each designated river. Prior to beginning a protected instream flow study for each designated river, an instream flow technical review committee shall be appointed and convened. There shall be 11 members of the committee appointed as described by this section.

II. The duty of the committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committee may seek input from appropriate state and federal agencies as necessary.

III. The committee shall serve until the department establishes and formally adopts the protected instream flow rules pursuant to RSA 541-A for the designated river for which the committee was appointed.

IV. A committee member shall have either education or experience in instream flow protection. The members shall be as follows:

(a) Two members, appointed by the senate president.

(b) Two members, appointed by the speaker of the house.

(c) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the designated river, recreational interests on the designated river, agricultural interests on the designated river, and dam owners on the designated river. There shall be at least one representative of each listed interest group where applicable, provided that no interest group is represented by more than 2 members.

V. An instream flow technical review committee shall make an interim report regarding its progress and findings on or before November 11, 2002 to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

483:8-c Water Management Planning Area Advisory Committees; Establishment; Duty.

I. There are established water management planning area advisory committees to implement the provisions of this chapter for each designated river. Prior to beginning the protected instream flow study for each designated river a water management planning area advisory committee shall be appointed and convened. There shall be 11 members of the committee appointed as described in this section.

II. The committee shall:

(a) Provide information towards the completion of a protected instream flow for the designated river for which the committee was appointed;

(b) Provide information towards the completion of a water management plan for the designated river for which the committee was appointed;

(c) Review and comment on the river management plan for the designated river for which the committee was appointed; and

(d) Assist the department in hearings, negotiations, and public meetings related to establishment of protected instream flows and adoption of water management plans for the designated river for which the committee was appointed.

III. The committee shall serve until the department establishes the water management plan for the designated river for which the committee was appointed.

IV. The members shall be as follows:

(a) Two members of the senate, appointed by the senate president.

(b) Two members of the house of representatives, appointed by the speaker of the house.

(c) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the designated river, recreational interests on the designated river, agricultural interests on the designated river, and dam owners on the designated river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

V. A water management planning area advisory committee shall make an interim report regarding its progress and findings on or before November 11, 2002 to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

4 Appropriation. There is hereby appropriated the sum of $450,000 for fiscal year 2003 to the department of environmental services for the pilot program established in this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Effective Date. This act shall take effect July 1, 2002.

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HB 1449-A - FISCAL NOTE

AN ACT relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

FISCAL IMPACT:

The Department of Environmental Services states this bill will increase state expenditures by $310,851 in FY 2003 and FY 2004, and by $89,526 in FY 2005. There will be no fiscal impact on state, county, and local revenue or county and local expenditures.

This bill appropriates $450,000 from the state general fund to the Department of Environmental Services for the fiscal year ending June 30, 2003.

METHODOLOGY:

The Department states this bill establishes a pilot program that requires DES to develop protected instream flows and water management plans for the Lamprey River and the Piscataquog River-South Branch, and makes an appropriation of $450,000 in FY 2003. This bill also establishes an Instream Flow Technical Advisory Committee and a Water Management Planning Area Advisory Committee for each river. The development of protected instream flows and river management programs will require a Protected Instream Flow (PISF) Study as described in rules, and a Water Management Plan (WMP) development, both of which will be conducted by a contractor. A DES Hydrogeologist will coordinate contractor efforts and oversight committees and provide technical support and assessments. Further, the two committees will require administrative support to manage meetings and write the interim reports required by this bill. The Department assumes the pilot program would be completed in three years, but the funding would need to be appropriated before hiring a contractor. Contractor costs for developing PISF studies and WMP's are based on the number of affected water users (AWU) and affected dams (AD), and the length of the designated reach to be protected, as well as some fixed base costs for document preparation, river surveys and meetings. Base costs to conduct a PISF/WMP are $110,000. Additional costs include $3,000 for each designated river mile, $6,750 each AWU, and $3,250 each AD. The Department estimates the costs as follows:

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HB 1449-A - FISCAL NOTE

River	Designated Miles	Affected Water Users	Affected Dams
Lamprey	12	4	19
Piscataquog	10.8	2	16
Total	22.8	6	35

Base Cost @ $110,000 X 2 Rivers	$220,000
Designated Miles X $3,000/mile	68,400
AWU X $6,750/AWU	40,500
AD X $3,250/AD	113,750
Total Contractor Costs	$442,650

DES staff costs are based on a Hydrogeologist position at labor grade 27 with fringe benefits, equipment, travel and supplies. Salary and fringe benefits are estimated at $63,526 annually, and equipment, travel and supplies are estimated at $6,000 annually, for a total cost of $69,526. Committee administrative support staff is estimated at $20,000 annually for a part-time position. The Department states the fiscal impact as follows, assuming contractor costs are apportioned over the first two fiscal years only:

	FY 2003	FY 2004	FY 2005
PISF/WMP Contractor Costs ($442,650/2)	$221,325	$221,325	$ 0
DES Hydrogeologist Costs	69,526	69,526	69,526
Administrative Support Staff	20,000	20,000	20,000
Total	$310,851	$310,851	$89,526

The Department states long-range state and municipal costs associated with implementing the plan once it has been prepared are not included.

Amendments

Rep. R. Cooney, Rock 26
March 4, 2002
2002-2876h
04/09

Amendment to HB 1449-A

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

AN ACT establishing a pilot program to study instream flow on the Lamprey River and the Souhegan River, and making an appropriation therefor.

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

1 Findings. The general court finds that it is in the interests of the state to do a comprehensive study regarding the establishment of protected instream flows and water management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interests of the state to initially restrict instream flow rules to 2 rivers to ensure that adequate funding is available to develop the necessary protected instream flows and water management plans and to ensure that the department of environmental services will devote adequate attention to the effective and fair administration of the first application of instream flow regulation under the provisions of RSA 483. The general court also finds that the proposed protected instream flow and water management plan for each river should be approved by the legislature to allow for a public hearing with input from affected water users and the public.

2 Pilot Program Established; Instream Flow Rules for the Lamprey River and the Souhegan River.

I. There is established a pilot program for the purpose of studying instream flow on the Lamprey River and the Souhegan River, and their respective tributary drainage areas.

II. The commissioner of the department of environmental services shall adopt instream flow rules pursuant to RSA 541-A relative to the Lamprey River, as designated in RSA 483:15, I, and the Souhegan River, as designated in RSA 483:15, XIII. For each of the designated rivers, the instream flow rules shall require that a protected instream flow study be conducted prior to the commissioner of the department of environmental services adopting a protected instream flow and a water management plan. [Approval of Legislature missing - to be inserted.]

III. The commissioner of the department of environmental services shall not adopt protected instream flow rules or water management plans or rules relative to any other designated rivers until the expiration of the pilot program.

3 Instream Flow Technical Review Committees; Establishment; Duties.

I.(a) There are established instream flow technical review committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, an instream flow technical review committee shall be appointed and convened. There shall be 11 members of the committee appointed as described by this paragraph.

(b) The duty of the committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committee may seek input from appropriate state and federal agencies as necessary.

(c) The committee shall serve until the department formally adopts and the legislature approves the protected instream flow for the river for which the committee was appointed.

(d) A committee member shall have either education or experience in instream flow protection. The members shall be as follows:

(1) Two members of the senate, appointed by the senate president.

(2) Two members of the house of representatives, appointed by the speaker of the house.

(3) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the river, recreational interests on the river, agricultural interests on the river, and dam owners on the river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) The instream flow technical review committee shall make annual reports regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

II.(a) There are established water management planning area advisory committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, a water management planning area advisory committee shall be appointed and convened. There shall be 11 members of the committee appointed as described in this paragraph.

(b) The committee shall, with respect to the river for which the committee was appointed:

(1) Provide information towards the development of the protected instream flow and the water management plan;

(2) Review and comment on the water management plan; and

(3) Assist the department in hearings, negotiations, and public meetings related to the adoption of the protected instream flow and the water management plan.

(c) The committee shall serve until the department formally adopts and the legislature approves the water management plan relative to the river for which the committee was appointed.

(d) The members shall be as follows:

(1) Two members of the senate, appointed by the senate president.

(2) Two members of the house of representatives, appointed by the speaker of the house.

→ Public Water Supply ←

(3) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the river, recreational interests on the river, agricultural interests on the river, and dam owners on the river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) A water management planning area advisory committee shall make an interim report regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

III. The commissioner shall by November 1, 2005:

(a) Conduct protected instream flow studies and adopt protected instream flows and water management plans relative to the Lamprey River and the Souhegan River; and

(b) Submit a report that details the activities and results of the pilot program, including any recommendations for proposed legislation, to the senate president, the speaker of the house of representatives, the governor, and the state library. The report shall also include the completed instream flow studies and the adopted protected instream flows and water management plans.

4 Position Established. There is established in the department an instream flow protection coordinator, who shall be a classified employee qualified by reason of education and experience, and who shall administer the pilot program. The instream flow protection coordinator shall serve as secretary and staff to the instream flow technical review committees and the water management planning area advisory committees.

5 Appropriation. There is hereby appropriated the sum of $660,000 for fiscal year ending June 30, 2003 to the department of environmental services for the pilot program established in this act.

The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend 2000, 242:5 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, [~~2003~~] ***2004***.

7 Repeal. Sections 1-4 of this act, relative to a pilot program for instream flow studies on the Lamprey River and the Souhegan River, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2006.

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

2002-2876h

AMENDED ANALYSIS

This bill establishes a pilot program in the department of environmental services to study instream flows for the Lamprey River and the Souhegan River and makes an appropriation for the pilot program. The bill also establishes an instream flow technical review committee and a water management planning area advisory committee for each river designated for an instream flow and river management plan under RSA 483.

Rep. R. Cooney, Rock 26
March 4, 2002
2002-2876h
04/09

Amendment to HB 1449-A

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AN ACT establishing a pilot program to study instream flow on the Lamprey River and the Souhegan River, and making an appropriation therefor.

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

1 Findings. The general court finds that it is in the interests of the state to do a comprehensive study regarding the establishment of protected instream flows and water management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interests of the state to initially restrict instream flow rules to 2 rivers to ensure that adequate funding is available to develop the necessary protected instream flows and water management plans and to ensure that the department of environmental services will devote adequate attention to the effective and fair administration of the first application of instream flow regulation under the provisions of RSA 483. The general court also finds that the proposed protected instream flow and water management plan for each river should be approved by the legislature to allow for a public hearing with input from affected water users and the public.

2 Pilot Program Established; Instream Flow Rules for the Lamprey River and the Souhegan River.

I. There is established a pilot program for the purpose of studying instream flow on the Lamprey River and the Souhegan River, and their respective tributary drainage areas.

II. The commissioner of the department of environmental services shall adopt instream flow rules pursuant to RSA 541-A relative to the Lamprey River, as designated in RSA 483:15, I, and the Souhegan River, as designated in RSA 483:15, XIII. For each of the designated rivers, the instream flow rules shall require that a protected instream flow study be conducted prior to the commissioner of the department of environmental services adopting a protected instream flow and a water management plan. [Approval of Legislature missing - to be inserted.]

III. The commissioner of the department of environmental services shall not adopt protected instream flow rules or water management plans or rules relative to any other designated rivers until the expiration of the pilot program.

3 Instream Flow Technical Review Committees; Establishment; Duties.

I.(a) There are established instream flow technical review committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, an instream flow technical review committee shall be appointed and convened. There shall be 11 members of the committee appointed as described by this paragraph.

(b) The duty of the committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committee may seek input from appropriate state and federal agencies as necessary.

(c) The committee shall serve until the department formally adopts and the legislature approves the protected instream flow for the river for which the committee was appointed.

(d) A committee member shall have either education or experience in instream flow protection. The members shall be as follows:

(1) Two members of the senate, appointed by the senate president.

(2) Two members of the house of representatives, appointed by the speaker of the house.

(3) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the river, recreational interests on the river, agricultural interests on the river, and dam owners on the river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) The instream flow technical review committee shall make annual reports regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

II.(a) There are established water management planning area advisory committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, a water management planning area advisory committee shall be appointed and convened. There shall be 11 members of the committee appointed as described in this paragraph.

(b) The committee shall, with respect to the river for which the committee was appointed:

(1) Provide information towards the development of the protected instream flow and the water management plan;

(2) Review and comment on the water management plan; and

(3) Assist the department in hearings, negotiations, and public meetings related to the adoption of the protected instream flow and the water management plan.

(c) The committee shall serve until the department formally adopts and the legislature approves the water management plan relative to the river for which the committee was appointed.

(d) The members shall be as follows:

(1) Two members of the senate, appointed by the senate president.

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(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) A water management planning area advisory committee shall make an interim report regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

III. The commissioner shall by November 1, 2005:

(a) Conduct protected instream flow studies and adopt protected instream flows and water management plans relative to the Lamprey River and the Souhegan River; and

(b) Submit a report that details the activities and results of the pilot program, including any recommendations for proposed legislation, to the senate president, the speaker of the house of representatives, the governor, and the state library. The report shall also include the completed instream flow studies and the adopted protected instream flows and water management plans.

4 Position Established. There is established in the department an instream flow protection coordinator, who shall be a classified employee qualified by reason of education and experience, and who shall administer the pilot program. The instream flow protection coordinator shall serve as secretary and staff to the instream flow technical review committees and the water management planning area advisory committees.

5 Appropriation. There is hereby appropriated the sum of $660,000 for fiscal year ending June 30, 2003 to the department of environmental services for the pilot program established in this act.

The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend 2000, 242:5 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, [~~2002~~]*2004*.

7 Repeal. Sections 1-4 of this act, relative to a pilot program for instream flow studies on the Lamprey River and the Souhegan River, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2006.

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

2002-2876h

AMENDED ANALYSIS

This bill establishes a pilot program in the department of environmental services to study instream flows for the Lamprey River and the Souhegan River and makes an appropriation for the pilot program. The bill also establishes an instream flow technical review committee and a water management planning area advisory committee for each river designated for an instream flow and river management plan under RSA 483.

Rep. R. Cooney, Rock 26
March 4, 2002
2002-2876h
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Amendment to HB 1449-A

Not Used

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

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

1 Findings. The general court finds that it is in the interests of the state to do a comprehensive study regarding the establishment of protected instream flows and water management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interests of the state to initially restrict instream flow rules to 2 rivers to ensure that adequate funding is available to develop the necessary protected instream flows and water management plans and to ensure that the department of environmental services will devote adequate attention to the effective and fair administration of the first application of instream flow regulation under the provisions of RSA 483. The general court also finds that the proposed protected instream flow and water management plan for each river should be approved by the legislature to allow for a public hearing with input from affected water users and the public.

2 Pilot Program Established; Instream Flow Rules for the Lamprey River and the Souhegan River.

I. There is established a pilot program for the purpose of studying instream flow on the Lamprey River and the Souhegan River, and their respective tributary drainage areas.

II. The commissioner of the department of environmental services shall adopt instream flow rules pursuant to RSA 541-A relative to the Lamprey River, as designated in RSA 483:15, I, and the Souhegan River, as designated in RSA 483:15, XIII. For each of the designated rivers, the instream flow rules shall require that a protected instream flow study be conducted prior to the commissioner of the department of environmental services adopting a protected instream flow and a water management plan. [Approval of Legislature missing - to be inserted.]

III. The commissioner of the department of environmental services shall not adopt protected instream flow rules or water management plans or rules relative to any other designated rivers until the expiration of the pilot program.

3 Instream Flow Technical Review Committees; Establishment; Duties.

I.(a) There are established instream flow technical review committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, an instream flow technical review committee shall be appointed and convened. There shall be 11 members of the committee appointed as described by this paragraph.

(b) The duty of the committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committee may seek input from appropriate state and federal agencies as necessary.

(c) The committee shall serve until the department formally adopts and the legislature approves the protected instream flow for the river for which the committee was appointed.

(d) A committee member shall have either education or experience in instream flow protection. The members shall be as follows:

(1) Two members of the senate, appointed by the senate president.

(2) Two members of the house of representatives, appointed by the speaker of the house.

(3) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the river, recreational interests on the river, agricultural interests on the river, and dam owners on the river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) The instream flow technical review committee shall make annual reports regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

II.(a) There are established water management planning area advisory committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, a water management planning area advisory committee shall be appointed and convened. There shall be 11 members of the committee appointed as described in this paragraph.

(b) The committee shall, with respect to the river for which the committee was appointed:

(1) Provide information towards the development of the protected instream flow and the water management plan;

(2) Review and comment on the water management plan; and

(3) Assist the department in hearings, negotiations, and public meetings related to the adoption of the protected instream flow and the water management plan.

(c) The committee shall serve until the department formally adopts and the legislature approves the water management plan relative to the river for which the committee was appointed.

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(1) Two members of the senate, appointed by the senate president.

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(f) A water management planning area advisory committee shall make an interim report regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

III. The commissioner shall by November 1, 2005:

(a) Conduct protected instream flow studies and adopt protected instream flows and water management plans relative to the Lamprey River and the Souhegan River; and

(b) Submit a report that details the activities and results of the pilot program, including any recommendations for proposed legislation, to the senate president, the speaker of the house of representatives, the governor, and the state library. The report shall also include the completed instream flow studies and the adopted protected instream flows and water management plans.

4 Position Established. There is established in the department an instream flow protection coordinator, who shall be a classified employee qualified by reason of education and experience, and who shall administer the pilot program. The instream flow protection coordinator shall serve as secretary and staff to the instream flow technical review committees and the water management planning area advisory committees.

5 Appropriation. There is hereby appropriated the sum of $660,000 for fiscal year ending June 30, 2003 to the department of environmental services for the pilot program established in this act.

The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend 2000, 242:5 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, [~~2002~~]***2004***.

7 Repeal. Sections 1-4 of this act, relative to a pilot program for instream flow studies on the Lamprey River and the Souhegan River, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2006.

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

2002-2876h

AMENDED ANALYSIS

This bill establishes a pilot program in the department of environmental services to study instream flows for the Lamprey River and the Souhegan River and makes an appropriation for the pilot program. The bill also establishes an instream flow technical review committee and a water management planning area advisory committee for each river designated for an instream flow and river management plan under RSA 483.

Rep. R. Cooney, Rock 26
March 5, 2002
2002-2881h
04/10

Amendment to HB 1449-A

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

AN ACT establishing a pilot program to study instream flow on the Lamprey River and the Souhegan River, and making an appropriation therefor.

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

1 Findings. The general court finds that it is in the interests of the state to do a comprehensive study regarding the establishment of protected instream flows and water management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interests of the state to initially restrict instream flow rules to 2 rivers to ensure that adequate funding is available to develop the necessary protected instream flows and water management plans and to ensure that the department of environmental services will devote adequate attention to the effective and fair administration of the first application of instream flow regulation under the provisions of RSA 483. The general court also finds that the proposed protected instream flow and water management plan for each river should be approved by the legislature to allow for a public hearing with input from affected water users and the public.

2 Pilot Program Established; Instream Flow Rules for the Lamprey River and the Souhegan River.

I. There is established a pilot program for the purpose of studying instream flow on the Lamprey River and the Souhegan River, and their respective tributary drainage areas.

II. The commissioner of the department of environmental services shall adopt instream flow rules pursuant to RSA 541-A relative to the Lamprey River, as designated in RSA 483:15, I, and the Souhegan River, as designated in RSA 483:15, XIII. For each of the designated rivers, the instream flow rules shall require that a protected instream flow study be conducted prior to the commissioner of the department of environmental services adopting a protected instream flow and a water management plan.

III. The commissioner of the department of environmental services shall not adopt rules relative to protected instream flows pursuant to RSA 483:9-c, or water management plans or rules relative to any other rivers designated in RSA 483:15 until the expiration of the pilot program.

3 Instream Flow Technical Review Committees; Establishment; Duties.

I.(a) There are established instream flow technical review committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River.

Prior to beginning a protected instream flow study for each river, an instream flow technical review committee shall be appointed and convened. There shall be 11 members of the committee appointed as described by this paragraph.

(b) The duty of the committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committee may seek input from appropriate state and federal agencies as necessary.

(c) The committee shall serve until the department formally adopts and the legislature approves the protected instream flow for the river for which the committee was appointed.

(d) A committee member shall have either education or experience in instream flow protection. The members shall be as follows:

(1) Two members of the senate, appointed by the senate president.

(2) Two members of the house of representatives, appointed by the speaker of the house.

(3) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the river, recreational interests on the river, agricultural interests on the river, and dam owners on the river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) The instream flow technical review committee shall make annual reports regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

II.(a) There are established water management planning area advisory committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, a water management planning area advisory committee shall be appointed and convened. There shall be 11 members of the committee appointed as described in this paragraph.

(b) The committee shall, with respect to the river for which the committee was appointed:

(1) Provide information towards the development of the protected instream flow and the water management plan;

(2) Review and comment on the water management plan; and

(3) Assist the department in hearings, negotiations, and public meetings related to

the adoption of the protected instream flow and the water management plan.

(c) The committee shall serve until the department formally adopts and the legislature approves the water management plan relative to the river for which the committee was appointed.

(d) The members shall be as follows:

(1 Two members of the senate, appointed by the senate president.

(2) Two members of the house of representatives, appointed by the speaker of the house.

(3) Seven members, appointed by the governor and council, nominated by and representing the following interests: conservation, business interests on the river, recreational interests on the river, agricultural interests on the river, and dam owners on the river. There shall be at least one representative of each listed interest group, where applicable, provided that no interest group is represented by more than 2 members.

(e) The members of the committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. Legislative members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(f) A water management planning area advisory committee shall make an interim report regarding its progress and findings on or before November 11 of each year of its existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

III. The commissioner of the department of environmental services shall by November 1, 2005:

(a) Conduct protected instream flow studies and adopt protected instream flows and water management plans relative to the Lamprey River and the Souhegan River; and

(b) Submit a report that details the activities and results of the pilot program, including any recommendations for proposed legislation, to the senate president, the speaker of the house of representatives, the governor, and the state library. The report shall include the completed instream flow studies and the adopted protected instream flows and water management plans. No protected instream flows or water management plans shall take effect until approved by the legislature.

4 Position Established. There is established in the department an instream flow protection coordinator, who shall be a classified employee qualified by reason of education and experience, and who shall administer the pilot program. The instream flow protection coordinator shall serve as secretary and staff to the instream flow technical review committees and the water management planning area advisory committees.

5 Appropriation. There is hereby appropriated the sum of $660,000 for fiscal year ending June 30, 2003 to the department of environmental services for the pilot program established in this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not

otherwise appropriated.

6 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend 2000, 242:5 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, [~~2002~~] ***2004***.

7 Repeal. Sections 1-4 of this act, relative to a pilot program for instream flow studies on the Lamprey River and the Souhegan River, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2006.

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

2002-2881h

AMENDED ANALYSIS

This bill establishes a pilot program in the department of environmental services to study instream flows for the Lamprey River and the Souhegan River, and makes an appropriation for the pilot program. The bill also establishes an instream flow technical review committee and a water management planning area advisory committee for each river designated for an instream flow and river management plan under RSA 483.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1449-A Date February 12, 2002

Committee Resources, Recreation + Development

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

Name	Address	Phone	Representing	(check one) Pro	Con
SEN GARY FRANCOEUR	SH RM 302	271-2106	CoSponsor	✓	
Ralph B. PEARS	P.O. Box 680, Kennebunkport, ME 04046	207-468-1165	Monadnock Mtn. Watch Co	✓	
Rep MARY Ann Blanchard	ROCK 33		Portsmouth		✓
REP MICHAEL WHALLEY	MERR 5			✓	
LIAM CAHILL			Sen. D'Allesandro	✓	
MAURA CARROLL	P.O. BOX 617 Concord	224-7447	N.H. MUNICIPAL ASSN	✓	
Robert Beaurivage	281 Lincoln St. Manchester N.H.	624-6494	N.H. Water Works Assoc.	✓	
BRUCE BERKE		228-2370	SKI NH		

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 1449-A

BILL TITLE: Relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

DATE: February 12, 2002

LOB ROOM: 305 **Time Public Hearing Called to Order:** 1:00 p.m.

Time Adjourned: 3:31 p.m.

(please circle if present)

Committee Members: Reps. Royce, Lawton, R. Cooney, Roberts, Fields, Czech, Gallus, D. Russell, Bruno, D. Christensen, Dewhirst, Odell, Quimby, Spang, C. Williams, Lefebvre, Lovett, Zerba, McGuire and Rush

Bill Sponsors: Rep. Calawa, Hills 17; Rep. R. Cooney, Rock 26; Rep. Whalley, Merr 5; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3; Sen. D'Allesandro, Dist 20

TESTIMONY

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

*** Rep. Leon Calawa, Jr.** - Prime sponsor of the bill. Written testimony attached.

Rep. Mary Ann Blanchard - Opposes the bill. Stated that she is a member of the SB 330 study committee and opposes this bill.

Gary Abbott, Associated General Contractors - Supports the bill. Stated his support for this bill.

*** Mary Brown, NH Wildlife Federation** - Opposes the bill. Written testimony attached.

*** Ralph B. Pears, Monadnock Mountain Spring Water Company** - Supports the bill. Written testimony attached.

Dr. Kenneth Kimball, Appalachian Mountain Club - Opposes the bill. Stated that he feels it inappropriate that the legislature can negate years worth of work by many organizations and individuals. He feels that is exactly what this bill would permit. He strongly opposes this bill in its present form.

*** Harry Stewart, NH Department of Environmental Services (DES)** - Opposes the bill. Written testimony attached.

Rep. Michael Whalley - Supports the bill. Stated that he represents the house leadership who strongly support this bill.

*** Brian Hart, Forest Society** - Opposes the bill. Written testimony attached.

Ted Sutton, SKI New Hampshire - Supports the bill with amendment. Stated that he has been involved in this issue over many years. It is an important issue to many including the ski industry. He stated his support of the bill with the amendment.

Maurice L. Arel, Pennichuck Water Works - Supports the bill. Stated his support of the bill.

Carl Paulsen, NH Rivers Council - Opposes the bill. Stated his opposition to the bill.

*** Michael S. Giaimo, Business & Industry Association of NH** - Supports the bill with modification. Written testimony attached.

Respectfully submitted,

Rep. Richard T. Cooney
Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 1449-A

BILL TITLE: Relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

DATE: February 12, 2002

LOB ROOM: 305 **Time Public Hearing Called to Order:** ~~1:00~~ 1:09 p.m.

Time Adjourned: 3:31

(please circle if present)

Committee Members: Reps. Royce, Lawton, R. Cooney, Roberts, Fields, Czech, Gallus, D Russell, Bruno, D. Christensen, Dewhirst, Odell, Quimby, Spang, C. Williams, Lefebvre, Lovett, Zerba, McGuire and Rush.

Bill Sponsors: Rep. Calawa, Hills 17; Rep. R. Cooney, Rock 26; Rep. Whalley, Merr 5; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3; Sen. D'Allesandro, Dist 20

TESTIMONY

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

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 1449

BILL TITLE: RELATIVER TO THE New Hampshire rivers management and protection program and making an approptiation therefor.

DATE: February 13, 2002

LOB ROOM: 305 **Time Public Hearing Called to Order:** 1:00 PM

Time Adjourned: 3:31 PM

(please circle if present)

Committee Members: Reps. Royce, Lawton, R. Cooney, Roberts, Fields, Czech, Gallus, D. Russell, Bruno, D. Christensen, Dewhirst, Odell, Quimby, Spang, C. Williams, Lefebvre, Lovett, Zerba, McGuire and Rush.

Bill Sponsors: Rep Calawa

TESTIMONY

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

Public Hearing opened at 1:00 PM By Chairman Royce

REP. CALAWA – PRIME SPONSOR – SUPPORTS

Written Testimony, Attached.

REP. BLANCHARD – ROCK 33 – OPPOSES

Stated that she is a member of the SB 330 study committee and opposes this bill.

GARY ABBOTT – ASSOCIATED GENERAL CONTRACTORS

Stated his support for this bill.

MARY BROWN – NH WILDLIFE FEDERATION – OPPOSES

Written Testimony, Attached.

RALPH B. PEARS – MONADNOCH MOUNTAIN SPRING WATER CO. – SUPPORTS

Written Testimony, Attached.

DR. KENNETH KIMBALL – APPALACHIAN MOUNTAIN CLUB – OPPOSES

Stated that he feels it inappropriate that the legislature can negate years worth of work by many organizations and individuals. He feels that is exactly what this bill would permit. He strongly opposes this bill in its present form.

HARRY STEWART – DES – OPPOSES

Written Testimony, Attached.

REP. WHALLEY – MERR 5 – SUPPORTS

Stated that he represents the house leadership who strongly support this bill.

TED SUTTON – LOON MTN. RECREATION CORP. – SUPPORTS WITH AMENDMENT

Stated that he has been involved in this issue over many years. It is an important issue to many including the ski industry. He stated his support of the bill with the amendment.

MAURICE L. AVEL – PENNICHUCK WATERWORKS – SUPPORTS

Stated his support of the bill.

CARL PAULSEN – NH RIVERS COUNCIL – OPPOSES

Stated his opposition to the bill.

MICHAEL S. GIAIMO – BUSINESS AND INDUSTRY ASSOC – SUPPORS WITH AMENDMENT

Written Testimony, Attached.

HEARING CLOSED AT 3:31 PM

Sub-Committee Actions

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 1449-A

BILL TITLE: Relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

DATE: 2/19/02, 2/20/02, & 3/5/02

Subcommittee Members: Reps. Bruno, Russell, Spang, Lefebvre, and Gallus

Comments and Recommendations:

Amendments:

Sponsor: Rep. R. Cooney	OLS Document #:	2002	2876h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Gallus

Seconded by Rep. Russell

Vote: 3-1

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

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Pierre Bruno
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 1449-A

BILL TITLE: Relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

DATE: 2/19/02 @ 10:00 + 2-20-02 @ 9:00

Subcommittee Members: Reps. Bruno, Russell, Spang, Lefebvre, & Gallus

Comments and Recommendations:

Amendments:

Sponsor: Rep. Cooney — OLS Document #: 2002-2876h 3/5 @ 10:00

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

reps: Bruno
Russell
Spang
Gallus

Motions: ~~OTP~~, ~~OTP/A~~, ITL, Interim Study (Please circle one.)

Moved by Rep. Gallus

Seconded by Rep. Russell

Vote: 3-1 GALLUS yes, Russell yes, Bruno yes, Spang -no

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

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Sub Committee 1449-A

10:04 AM Rep Bruno opened Meeting
Joel Presented NEW Amendment Drafted
By Rep Cooney.
Discussion By Reps Cooney, Spang, Lawton,

+ Rep Spang Concerned about why we don't just Adopt Jan 8th Draft of Rules.

+ Rep Cooney Says Rules in Draft Version Have Come a long Way, but extremely important Issue and P.I.L.T Program Should go Forward and Legislature Should have Final OVERSITE.

+

+ Rep. Bruno Rep Cooney Would not Prefer Program have INSTREAM Flows on Those Rivers, Rep Cooney yes But not unfeasible, But would see how They would work.

+ Reps Russell - To Rep Spang Public hearings would be Called giving Local People a Voice

+ Motion, Auto Pass with Amendment By Rep Gallus 2nd Rep Russell

+ Joel - Would Rules go into effect Should Legislature Not approve or Disapprove.

Sub Committee Vote Vote 3-1

	Y	N
Gallus	Y	
~~Cooney~~		
SPANG		N
Russell	Y	
Bruno	Y	

S1

Sub Comittee 1449

11:05 Meeting Called To order By Rep Bruns.

Rep Cooney = Brought Comittee up to date on Study Comittee and Pilot Progrm on 2 Rivers Lamphay + Pig-Cotogmy to give science on Water Shade. And then To get Everyone Together on Water Mangemt & P/Son. Cooney Like Pilot Program.

Rep Spang = Moved to ITL Not Seconded. No one in Conservation Comunity Thrilled about 2 Rivers in Study Program To Bad to defer Rules, New Rules Printed Jan 14th Big Change is Establishment of Water Mangemt & Technical Comittee (Made up of Scientists) Environ Needs To Be a Technical Comittee many of Tech people Taken out By Chmyer + Substitutes users. (Users should be in Mangemt Comittee Not Technical Committees) Lobe Groups Should be involved, Sportsmen Conservation groups + Local River Mangemt Committees. all Stakeholders Should be at Table Like Correct definition of Rules Who Should be included on Committees. Don't Like Highly Political People Appointed to Committees.

✚ Rep Spang - Things another reason of of Water Mangent Plans or Rules call for Public Hearings. Whole Process can be Thown out W. Water if goes Back to Legislature could be not implimated. Tech + Mangent Groups should be allowed to Put found Rules when Final with DES Approved with No Further Legislative Approval.

Rep Corey Rivers ~~Selected~~ Selected By Rating of Potential Risks Two Selected Because Cost would Be ~~$250,000~~ 1 Less on Piscataqua Than Shoalhegan.

✱ Rep. Lowton - Committee should be Technical in Representive but Members should also be representive of more Thyghout the State, Should be able To balance all issues Not just black & White Technical Issues.

Rep Bruno - or Committee is Relying on DES Technical Advisories To these Committees.

Rep Spang other issues should be addressed By Water Mangent Committee

Rep. Bruno — Scientists would be assigned what you can use Margaret group would end up Fighting over who gets what, would be Letting Down ~~the~~ public responsibility

Rep. Spang — Hydrologist, People who know about Polution, Need Science people, ~~Many~~ many whom are biologist,

Rep Collins — Why was Piscataqua Selected over Soukegan if it was Selected on # 2 River, where do additional Cost Come From.

Rep Bruno — Bill would appropriate 450,000 to implement Bill,

Paul Cunnion — # of Affected Water Users & Dam owners, would be a better Study on Shoukegan River,

Rep Spang — Back to Draft Rules Committee Should Look at

Rep Bruno — Time To Bring Meeting to Close

Rep Collins — Would Like Shoukegan River Put Back in.

Reg. Bruno will Meet Wednesday Morning, No Hill
Recess to after EXEC Session This afternoon

Committee Adjourned 11:05

Testimony

FILE

New Hampshire Wildlife Federation

Affiliate of the National Wildlife Federation

54 Portsmouth Street, Concord, NH 03301

Phone: (603) 224-5953 *E-mail: nhwf@aol.com*

Fax: (603) 226-7147 *Web: www.nhwf.org*

February 12, 2002

Dear members of the Resources, Recreation and Development Committee,

The New Hampshire Wildlife Federation has over 7,500 members statewide and 54 local sporting and conservation club affiliates. We strongly oppose HB 1449.

More than a decade has passed since the DES began the legislatively mandated rule-making process to draft Instream flow rules. All interested groups participated in that effort. More than $200,000 dollars of DES resources and $50,000 in special state appropriations has been spent. It's time to move forward.

We urge the committee to reject this bill which will only delay the process and set a precedent of second-guessing state departments charged with rule making duties. The legislature has all the oversight necessary with the JLCAR committee. Please allow the Commissioners suggestion of proceeding with a two-river pilot program implementing the proposed rules. If there are problems, the legislature can always come back and address them. No one will be harmed, all the potential bugs can be worked out, and the state will move forward instead of backward with regards to a sensible water policy.

Thank you for the opportunity to express our views.

Sincerely,

Mary E. Brown

Mary E. Brown
Executive Director

FILE

BIA **Business & Industry Association** of New Hampshire

To promote and preserve the economic well-being of New Hampshire.

February 12, 2002

Representative H. Charles Royce, Chairman
Resources, Recreation & Development Committee
Room 305 of the Legislative Office Building
Concord, New Hampshire 03301

In RE: HB 1449 A- NH Rivers Management and Protection Program

Dear Chairman Royce and Representatives on the Res., Rec., & Development Comm.,

Thank you very much for the opportunity to discuss HB 1449 A- an act relative to the New Hampshire rivers management and protection program. The Business & Industry Association of New Hampshire (BIA) appreciates this chance to engage in dialogue regarding such an important issue.

The BIA supports the intention, goal and overriding themes of this bill. We believe that it is prudent to engage in a pilot study so as to ensure that sound science is used in the formation of potential river management plans and subsequent rules. A pilot study also takes into account the economic burden on the state which is incorporated with studying instream flow.

A concern that the BIA has is in the development of rules before the study is concluded. We suggest, and believe that it is in accordance with the majority vote of the SB 330 committee, that the studies on the rivers be conducted before rules are drafted. Accordingly, we suggest that the language of the bill require that (1) a comprehensive study be conducted first (2) rules and water management plans be proposed to the legislature for approval second (3) rules and water management plans be proposed to the Joint Legislative Committee on Administrative Rules third, and (4) the rules be adopted as approved by the legislature after going through the rules process. This process, we believe gives the legislature the oversight needed to make certain that the rules comport with the statute

In short, we support this bill, with a few suggestions. For your review and consideration, I have incorporated these suggestions into an amended bill, which is attached to this letter. In the interest of time, I will happily discuss this bill further at subsequent hearings.

Respectfully submitted,

Michael S. Giaimo, Esq.- VP of Environmental Affairs

122 N. Main St. Concord, NH 03301 603/224-5388 FAX 603/224-2872 NH WATS 800/540-5388 www.nhbia.org

In the Year of Our Lord Two Thousand and Two

AN ACT: relative to the New Hampshire rivers management and protection program

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

1. Findings. The general court finds that it is in the interest of the state to do a comprehensive study regarding the establishment of protected instream flows and river management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interest of the state to perform a limited study so as to ensure that adequate funding is available, and subsequently that prudent river management plans are developed. The general court also finds that the study findings and the proposed protected instream flow and river management plan for each river shall be publicly reviewed allowing for a public hearing with input from the affected water users and the public. After public hearings the legislature may adopt or deny the flow and management plans.

2. New Section; Pilot Program Relative to Instream Flow Rules for the Lamprey and the Piscataquog Rivers- South Branch. Amend RSA 483 by inserting after § 11, the following new section:

483:11-a Pilot Program; Instream Flows: Lamprey River and Piscataquog River - South Branch. The department shall conduct a comprehensive study regarding the establishment of protected instream flows and river management plans for the Lamprey River (as delineated in RSA 483:15) and the Piscataquog River- south branch (as delineated in RSA 483:15). The commissioner shall then propose instream flow rules and water management plans relative to the Lamprey River and the Piscataquog River – south branch, but only after the conclusion of a comprehensive study regarding the establishment of protected instream flows and river management plans for the two rivers and their tributary drainage areas. The protected instream flows and water management plans proposed pursuant to this pilot program may not restrict water use or require changes in river management practices relative to either of the rivers or their tributary drainage areas until first approved by the legislature following public hearings and input from affected water users and the public and then adopted by the commissioner pursuant to RSA 541-A. The authority for the pilot program shall terminate when the commissioner has adopted the protected instream flows and river management plans approved by the legislature. Notwithstanding any other provision of law, the commissioner shall not adopt protected instream flows or river management plans or rules relative to any other designated river without further authorization from the legislature after the completion of this pilot program.

3. New Sections; Committees Established. Amend RSA 483 by inserting after RSA 483 § 8 (a) the following new section:

RSA 483 § 8 (b) Instream Flow Technical Review Committees; Establishment; Duty

I. There are established instream flow technical review committees to implement the provisions of this chapter for each designate river. Prior to beginning a protected instream flow study for each designate river, an instream flow technical review committee shall be appointed and convened. There shall be 9 members of the committee appointed as described by this section.

II. The duty of the committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committee may seek input from appropriate state and federal agencies as necessary.

III. The committee shall serve until the legislature authorizes the department to formally adopt the protected instream flow rules pursuant to RSA 541-A for the designated river for which the committee was appointed.

IV. A committee member shall have either education or experience in instream flow protection. The members shall be as follows:

(a) Two members, appointed by the senate president.

(b) Two members, appointed by the speaker of the house.

(c) Five members, appointed by the governor and council, representing each of the following interests: an individual active in local conservation on the designated river, business interests on the designated river, recreational interests on the designated river, agricultural interests on the designated river, and dam owners on the designated river.

V. An instream flow technical review committee shall make an interim report regarding its progress and findings, six months after the effective date of this bill, to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

483:8-c Water Management Planning Area Advisory Committees; Establishment; Duty.

I. There are established water management planning area advisory committees to implement the provisions of this chapter for each designated river. Prior to beginning the protected instream flow study for each designated river a water management planning area advisory committee shall be appointed and convened. There shall be 9 members of the committee appointed as described in this section.

II. The committee shall:

(a) Provide information towards the completion of a protected instream flow for the designated river for which the committee was appointed;

(b) Provide information towards the completion of a water management plan for the designated river for which the committee was appointed;

(c) Review and comment on the river management plan for the designated river for which the committee was appointed; and

(d) Assist the department in hearings, negotiations, and public meetings related to establishment of protected instream flows and adoption of water management plans for the designated river for which the committee was appointed.

III. The committee shall serve until the legislature authorizes the department to formally adopt the protected instream flow rules pursuant to RSA 541-A for the designated river for which the committee was appointed.

IV. The members shall be as follows:

(a) Two members of the senate, appointed by the senate president.

(b) Two members of the house of representatives, appointed by the speaker of the house.

(c) Five members, appointed by the governor and council, representing each of the following interests: an individual active in local conservation on the designated river, business interests on the

designated river, recreational interests on the designated river, agricultural interests on the designated river, and dam owners on the designated river.

V. A water management planning area advisory committee shall make an interim report regarding its progress and findings, six months after the effective date of this bill, to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

4 Appropriation. There is hereby appropriated the sum of $450,000 for fiscal year 2003 to the department of environmental services for the pilot program established in this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Effective Date. This act shall take effect July 1, 2002.

LBAO

02-2428

2/5/02

HB 1449-A - FISCAL NOTE

AN ACT relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

FISCAL IMPACT:

The Department of Environmental Services states this bill will increase state expenditures by $310,851 in FY 2003 and FY 2004, and by $89,526 in FY 2005. There will be no fiscal impact on state, county, and local revenue or county and local expenditures.

This bill appropriates $450,000 from the state general fund to the Department of Environmental Services for the fiscal year ending June 30, 2003.

METHODOLOGY:

The Department states this bill establishes a pilot program that requires DES to develop protected instream flows and water management plans for the Lamprey River and the Piscataquog River-South Branch, and makes an appropriation of $450,000 in FY 2003. This bill also establishes an Instream Flow Technical Advisory Committee and a Water Management Planning Area Advisory Committee for each river. The development of protected instream flows and river management programs will require a Protected Instream Flow (PISF) Study as described in rules, and a Water Management Plan (WMP) development, both of which will be conducted by a contractor. A DES Hydrogeologist will coordinate contractor efforts and oversight committees and provide technical support and assessments. Further, the two committees will require administrative support to manage meetings and write the interim reports required by this bill. The Department assumes the pilot program would be completed in three years, but the funding would need to be appropriated before hiring a contractor. Contractor costs for developing PISF studies and WMP's are based on the number of affected water users (AWU) and affected dams (AD), and the length of the designated reach to be protected, as well as some fixed base costs for document preparation, river surveys and meetings. Base costs to conduct a PISF/WMP are $110,000. Additional costs include $3,000 for each designated river mile, $6,750 each AWU, and $3,250 each AD. The Department estimates the costs as follows:

FILE

Celebrating 100 YEARS

SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

54 Portsmouth Street
Concord, NH
03301-5400
Phone: 603/224-9945
Fax: 603/228-0423
info@spnhf.org
www.spnhf.org

February 12, 2002

The Honorable Chairman Charles Royce
House Resources, Recreation & Development Committee
Legislative Office Building - Room 305-307
Concord, NH 03301

RE: HB 1449 relative to the New Hampshire rivers management and protection program and making an appropriation therefor

Dear Mr. Chairman and Members of the Committee:

I testify today on behalf of the Society for the Protection of New Hampshire Forests (SPNHF) in strong opposition to HB 1449.

For the past 10 years, the New Hampshire Department of Environmental Services (DES) has been working, with voluminous input from conservationists, businesses, municipalities, farmers, and others concerned about rivers and water use, to develop instream flow rules. Unfortunately, HB 1449 will unnecessarily reshape and delay that process.

Under the provisions of HB 1449, the instream flow rules must be approved by the legislature prior to implementation. Typically, the Joint Legislative Committee on Administrative Rules (JLCAR) reviews the final rules put forward by agencies to implement statutes. HB 1449's process is contrary to the regular process with no clear explanation for why it is necessary. In doing so, HB 1449 creates a dangerous precedent that if applied to other programs or policies of the state, would lead to the delayed implementation of legislation, with no demonstrable value.

The findings section of HB 1449 suggests that one reason to require the legislative approval of the study findings and river management plan for each pilot river is to ensure input from affected water users and the public. This begs the question: Has there not been adequate public input from users and the public? As DES has testified to in the past, the implementation through rulemaking of the Rivers Management and Protection Act (RMPA) has been one of the most inclusive public processes undertaken by the Department. If there is a problem with public input, which SPNHF believes has not been demonstrated, there are other measures the legislature can pass to ensure public input while not requiring an additional review by the entire General Court.

Further, HB 1449 diminishes the value of science in determining the instream flow levels and required management practices. Those who withdraw water from our protected rivers, including industry, business, and municipalities, have consistently advocated for sound science to guide the policy behind the creation

of instream flow rules. Contrary to this expressed and appropriate desire, HB 1449 would undermine science-driven policy by squarely inserting politics into the process to an unprecedented degree. For example, the two committees created by HB 1449 will be filled with political appointments and elected officials, with no guarantee of appropriate scientific knowledge or background. In addition, requiring that the rules for each river be put before the legislature for approval could create situations where politicians from larger communities force changes in the river specific rules to the benefit of their constituency, and to the detriment of other communities.

HB 1449 even goes so far as to legislate that any river management plans or protected instream flows may not restrict water use or require changes in river management practices for either of the pilot rivers. The RMPA was passed not to restrict water use or change river management practices, but to protect the many instream flow values of rivers – including the use of water by municipalities as drinking water, by farmers for irrigation, by business for production, and recreationists for fishing and boating. If necessary, water use restrictions and changes in river management practices are some of the tools that may be imposed to ensure the adequate protection of these instream flow values. This provision scuttles the enforcement of the RMPA and ultimately the protection of instream flows.

I implore you to let the rulemaking process move forward, and reserve your judgment until after the completion of the pilot project currently proposed by DES. The current draft rules, as posted on the DES website, have substantially changed since the creation of the SB 330 study committee and the introduction of many instream flow-related bills. DES has taken a step in the right direction, and addressed many of the concerns behind HB 1449. For instance, the draft rules limit the application of the rules as a pilot project to only two rivers, the Lamprey and Souhegan Rivers. Further, the draft rules create similar committees to those outlined in HB 1449, while avoiding the politics of appointments by the Governor and Council.

SPNHF continues to remain confident that DES, the legislature, and all affected river users will come to a reasonable and acceptable compromise on instream flow rules. The current draft is a demonstration by the Department of their willingness to compromise and work with all affected users.

Thank you for this opportunity to testify, and please recommend HB 1449 as 'inexpedient to legislate.'

Sincerely,



Brian Hart
Policy Specialist

FILE

APA
ATLANTIC PROCUREMENT AFFILIATES
Government Contact Intermediaries

Clark T. Corson Ralph B. Pears

MEMORANDUM

To: **The Honorable Charles Royce, Chairman, and Members of House Committee on Resources, Recreation and Development**
From: **Ralph B. Pears/Clark T. Corson**
Date: **February 12, 2002**
Re: **HB-1449-A, An Act relative to the New Hampshire rivers management and protection program and making an appropriation therefore.**

On behalf of Monadnock Mountain Spring Water Company of Wilton, New Hampshire, I wish to express our solid support for HB-1449-A. Enactment of this bill will allow for the development and implementation of a pilot program for establishment of protected instream flows and river management plans for two designated rivers, the Lamprey and Piscatquog Rivers, by the Department of Environmental Services (DES). Monadnock believes that the pilot program contemplated under this legislation will lead to a far more orderly and scientifically based approach to designated river management than has been previously proposed.

Monadnock Mountain Spring Water Company is a small family-owned business engaged in the bottling of spring water from its own private wells, and the sale of its products for human consumption. It markets bottled water throughout New Hampshire, and to a limited degree in surrounding states. Monadnock has a very strong and properly vested interest in protecting both the quality and the quantity of its water resources. In fact, Monadnock's very future and continued success as a business is inextricably tied to its successful stewardship of its renewable water resources. Monadnock Mountain Spring Water Company is guided in all of its actions by sound hydro-geologic science, and by a desire to protect and preserve its future.

This legislation is a partial outgrowth of the work done by the Commission to Study the Impacts of Instream Flow on Designated Rivers created two years ago by the passage of then SB-330.The Commission has examined a host of issues surrounding the variations in the proposed rules for Instream Flow Protection developed by the DES over the past few years. Although not a member of the Study Commission, Monadnock has been consistently concerned with the development of a sound and rational, scientifically based approach to Instream flow management, and has communicated this concern to DES at every step in the development of its proposed rules.

Monadnock has argued vigorously that development of protected instream flows must be based on pertinent and site-specific scientific studies for each designated river segment that is a target for protection. In contrast, many of the DES proposals of the past have relied upon interpolation of broad general scientific data, and a common "one size fits all" approach to

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the regulation of instream river flows. Many of those who would be affected by the DES proposals believe that instream flow regulation and management should be the result of detailed scientific analysis of each specific designated river segment, and that the analysis must provide sound justification that the controls or restrictions being proposed will indeed have the desired beneficial effect. Past instream flow regulatory proposals have tended to put the cart before the scientific horse.

HB-1449 properly remedies this situation by insuring that site-specific scientific analysis will be conducted before management controls are proposed and/or imposed, and that science will guide the development of any such policies.

Monadnock has consistently maintained that conduct of the requisite scientific analysis should be the responsibility of DES, and not individual riparian property owners, who would be subjected to water use restrictions. Previous DES instream flow proposals, we believe, have effectively shifted this burden and its costs to private property owners. HB-1449 will hopefully address this situation by appropriating the necessary funds for DES to conduct the needed scientific analysis, but will retain legislative oversight and ultimate approval of whatever regulatory controls DES crafts, and thereby will insure that the science truly justifies the "cure". Without the legislative oversight specified in HB-1449-A, the DES will be free to make whatever judgments it likes regarding the depth and extent of study made on designated river watersheds and then proceed as it sees fit. If DES conducts thorough and appropriate scientific analysis of the instream flow, it should have absolutely nothing to fear from continued legislative oversight. The very fact that DES has raised a concern about continuing legislative oversight should raise some concern in and of itself (reference letter to Chairman Royce by DES Commissioner Bisbee dated January 17, 2002).

HB-1449-A will create an appropriate pilot program to demonstrate and insure that a scientific approach will be adhered to and will be used to guide the crafting of effective controls and management practices. I essence, HB-1449 puts the horse back before the cart. Additionally, previous DES instream flow proposals have also been widely criticized because the projected costs for implementation and compliance with the proposed rules were perceived to have been significantly under-estimated by DES. The conduct of the pilot program envisioned by HB-1449-A will also serve as a proper bench test of the true expense of development and cost for implementation of I instream flow controls. It is far better to craft such complex management and conservation plans on a small scale and insure that they work well and are efficient, before attempting to apply untested policies across the entire state.

In conclusion, Monadnock believes that the enactment of HB-1449-a is a critical and essential next step in the on-going effort to develop effective and efficient river management and protection policies for Hew Hampshire's designated rivers. Accordingly, Monadnock Mountain Spring Water Company respectfully urges this Committee to report HB-1449-A as Ought To Pass.

Thank You.

December 11, 2001

Should you support instream flow rules?

Dear Legislator,

On behalf of the 11 undersigned organizations and our tens of thousands of NH members, we request your support of New Hampshire's rule-making process to ensure healthy river flows. Our rivers provide vast benefits from waste disposal, power generation, and water supply, to tourism, recreation and the scenic beauty that makes New Hampshire a desirable place to be. An economic analysis of just 12 NH rivers showed annual revenues exceeding $200 million from water based recreation alone. **These values are threatened by inadequate water resource management.**

The New Hampshire Legislature in 1988 enacted the Rivers Management and Protection Act (RSA 483) to protect the state's outstanding rivers. Communities throughout the state worked successfully to designate 13 rivers for better management under this Act. In 1990, legislative language required rules for stream flow protection for designated rivers.

Instream flow rules will:

- Protect drinking water sources, especially during droughts, and maintain water quality for drinking water and recreation;
- Maintain the economic health of numerous New Hampshire businesses;
- Provide a consistent water use policy on which businesses can reliably base future development.
- Maintain the health of fish and other wildlife and their habitat;
- Help dilute pollution from industrial and municipal waste water discharges and avoid expensive investments in treatment;

More than a decade ago the New Hampshire Department of Environmental Services (DES) began the legislatively mandated rule-making process to draft instream flow rules, and intensively involved all interest groups in that effort. Ten years later, after spending over $200,000 of DES resources, $50,000 in special state appropriations, convening numerous public work sessions and two major public hearings, the final daft flow rules are ready to be submitted for legislative approval. They require a scientifically based, open public process to balance water uses that will help avoid expensive water use litigation.

Unfortunately, recent legislative proposals undermine the efforts already undertaken by previous legislators, DES and the public over the last 12 years.

We need your help. Please oppose "delay tactic" legislation and allow the DES to complete the formal rule-making process and release the draft rules. Adequate legislative oversight already exists. Your help will protect New Hampshire's fish and wildlife habitat for future generations, equitably balance river water use, and end the costly use of the courts as the method of choice in resolving water availability issues.

Sincerely,

New Hampshire Wildlife Federation • Appalachian Mountain Club • New Hampshire Rivers Council • National Wildlife Federation • Society for the Protection of New Hampshire Forests • NH Audubon Society • Conservation Law Foundation • Connecticut River Watershed Council • Connecticut River Joint Commissions • Coastal Conservation Association of NH Merrimack River Watershed Council

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867

February 12, 2002

The Honorable H. Charles Royce, Chairman
Resources, Recreation & Development Committee
Room 305, Legislative Office Building
Concord, New Hampshire 03301

Subject: **Re: HB 1449-A, relative to the New Hampshire rivers management and protection program**

Dear Chairman Royce:

Thank you for the opportunity to comment on HB 1449-A which would amend RSA 483 to limit protected instream flow studies and water management plans to two "pilot program" rivers and requires legislative approval before the Department of Environmental Services (DES) implements instream flow protection on the pilot program rivers or conducts studies on other designated rivers. The bill also establishes four technical committees to "implement" instream flow rules and appropriates funds for pilot instream flow protection studies on the Lamprey and Piscataquog River - South Branch. Although we agree with certain aspects of HB 1449-A, we oppose this bill.

The Legislature, by amending RSA 483 in 1990, wisely set a course for the state to begin looking at a more systematic approach to protecting the biological integrity of our river ecosystems. The requirement for DES to develop rules on protected instream flows for rivers designated under the Rivers Management and Protection Act is firmly rooted in RSA 483:1, 9-c, and 11. In passing these statutes, the Legislature recognized that river flow modifications by human activity may be extensive enough to affect vital river attributes, and that the State should begin to take action to understand that impact and mitigate it. The protracted and serious drought that we are currently experiencing in New Hampshire and the Northeast lends further current evidence to the need for the State to be considering how it will balance the competing needs of those who are relying upon water withdrawals from our rivers for their business operations and the watershed attributes that a community and the State believe should be protected.

The mandate for the DES to adopt rules establishing protected instream flows in the State's designated rivers has been in place for over a decade, during which time this department has devoted countless hours to understanding the science of instream flow, developing draft concepts, and seeking input from those interested in the issue. The amount of outreach we have sought and the amount of input we have received on this issue is unprecedented for this agency. That it has taken more than ten years to reach the point of a viable approach towards instream flow is indicative of the complexity of the issue.

There appears to me to be a growing consensus that the processes established by our proposed instream flow rules should proceed on a trial or "pilot program" basis, applying only to two rivers. That so many divergent interests have acceded to this is a tribute to the hard work that everyone has done in developing these rules, both within and outside DES. HB 1449-A would pull back the authority reposed in DES since 1990 to establish and enforce instream flow rules. We believe, however, that the rules should move ahead, strictly limited to two rivers, and with appropriate legislative oversight.

In the proposed draft rules, we have crafted a process for instream flow protection that is tailored to the specifics of each designated river and incorporates comments received from the public and the regulated community. Our proposed draft rules would allow all interested parties to participate in the process, and would result in reasonable protection of instream flow while preserving the interests of water users and riparian owners.

In summary, the proposed rules include:

- An administrative process for evaluating water use compared to river flows
- A "de minimis" amount of water always available for off-stream use
- A fully public, river-specific process for **establishing protected flows** including:
  - A technical advisory committee
  - A water management advisory committee
  - A public hearing
  - A process for appeal, reconsideration, or change
- A fully public, watershed-specific **water management planning process** including:
  - All water users and dam owners
  - A water management advisory committee
  - A public hearing
  - A process for appeal, reconsideration, or change
- A process for administration of water management plans

Our draft rules provide for a fully public process focusing on hydrologic data and input from watershed interests on the most significant attributes of a particular designated river. They then provide for an entirely distinct public process to allow water users to jointly develop a water management plan.

If the Legislature were to remove the authority for DES to require implementation of water management plans -- as HB 1449-A would do -- our ability to work through the process most effectively and learn the most from of it would be substantially undercut. We agree that the process of determining protected instream flows and developing water management plans should be science-based, and should allow thorough interaction among all interested parties. We believe that the rules as currently proposed by DES will do just that, and the Legislature need not reach back in time and limit the authority that has been already given to DES to develop and

implement instream flow rules. We urge you to consider again the benefits of allowing DES to proceed with its two-river instream flow rules.

Nationwide there is a growing acknowledgment of the legal and regulatory responsibility to recognize water quantity as integral to water quality and river health. This approach recognizes that a certain amount of flow is necessary to support fishing, swimming, and other designated river uses protected by state and federal water quality laws. Fish habitat studies confirm that many fish species have minimum flow requirements in order to successfully survive and reproduce. This is especially true of some of the fish species that we in New Hampshire consider most desirable, such as trout or salmon. Although other uses -- like swimming and boating -- may also be flow-dependent, we usually focus on fish habitat as the limiting factor. Human water use can alter river flows significantly, and the task of public policy makers is to define the instream uses to be protected, and the balance between off-stream water use and maintenance of instream flows.

For over twenty years, the U.S. Fish & Wildlife Service "Interim Regional Policy for New England Streamflow Recommendations" has formed the general basis for establishing protected instream flows in New Hampshire. Application of this policy, based on generalized considerations of New England streamflow patterns versus fish habitat, calls for water use to cease whenever summer flows are less than the August median flow (.5 cubic feet per second per square mile) or winter flows are less than the February mean flow (1.0 cubic feet per second per square mile). These aggressive standards have been applied to snowmaking withdrawals in Vermont, and at Loon Mountain in New Hampshire, as well as to relicensing of New Hampshire hydropower projects.

We welcome legislative oversight of this very important issue; in fact, DES initially recommended the legislation for the Instream Flow Study Committee, established by Laws of 2000, Chapter 242 (SB 330), for just this reason. We would urge that the SB 330 study committee be extended, with added oversight responsibilities and the responsibility for making recommendations for legislation resulting from experience with the pilot program.

The alternative approach taken by HB 1449-A calls for full legislative approval of protected flows and water management plans. We believe that this level of detail and technical analysis would be administratively cumbersome, and unnecessarily burdensome to water users and dam owners. Consider that there are 4 registered water users and 19 dam owners on the Lamprey River and 2 registered water users and 16 dam owners on the South Branch Piscataquog River. Legislative approval or adoption of protected flows and water management plans would create a situation in which operational details for these users and dam owners become requirements of law. Thus further legislation would be needed for changes, even if the changes were technically sound and mutually agreeable.

We also are concerned about the structure of the technical review and advisory committees that would be established by HB 1449-A. It is not clear that these committees would replace those that are currently proposed in the draft instream flow rules. Further, while the membership of the legislatively created committees should represent various interests, they should be nominated by the Governor and confirmed by the Executive Council. Also, the committees established by HB 1449-A should not have an implementation role; that is properly the function of DES, and the committees should serve in an advisory capacity. There is a great risk of confusion if the committees were to have a direct implementation role.

Thank you again for considering our testimony on the issue of instream flow management. If you have any questions, or need additional information, please contact me at 271-2958.

Very truly yours,

George Dana Bisbee
Assistant Commissioner

cc: Rep. Leon Calawa, Jr.
Rep. Richard Cooney
Rep. Michael Whalley
Sen. Gary Francoeur
Sen. Carl Johnson
Sen. Lou D'Allesandro

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 1449-A

BILL TITLE: **Relative to the New Hampshire rivers management and protection program and making an appropriation therefor.**

DATE: March 5, 2002

LOB ROOM: 305

Amendments:

Sponsor: Rep. R. Cooney	OLS Document #:	2002	2881h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Bruno

Seconded by Rep. Russell

Vote: 10-5 (Please attach record of roll call vote.)

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

Moved by Rep. Cooney

Seconded by Rep. Fields

Vote: 10-5 (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,

Rep. Richard T. Cooney, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 1449-A

BILL TITLE: **Relative to the New Hampshire rivers management and protection program and making an appropriation therefor.**

DATE: 3/5/02

LOB ROOM: 305

Amendments:

Sponsor: Rep. R. COONEY — OLS Document #: 2002 - 2881h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

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

Moved by Rep. BRUNO

Seconded by Rep. RUSSELL

Vote: 10-5 (Please attach record of roll call vote.)

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

Moved by Rep. COONEY

Seconded by Rep. FIELDS

Vote: 10-5 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Richard T. Cooney, Clerk

OFFICE OF THE HOUSE CLERK 2002 SESSION

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: HB 1449 Title: RELATIVE TO RIVER RIGHT & PILOT

PH Date: ____/____/____ Exec Session Date: 3/5/02

Motion: OTP/A Amendment #: 2002-2661h

MEMBER	YEAS	NAYS
Royce, H Charles, Chairman		
Lawton, David M, V Chairman	X	
Coonev, Richard T, Clerk	X	
Roberts, William E	X	
Fields, Dennis H	X	
Czech, Stanlev E	X	
Gallus, John T	X	
Russell, David H	X	
Bruno, Pierre W	X	
Christensen, D L Chris		
Dewhirst, Glenn E		
Odell, Bob		
Quimbv, Lee W	X	
Spang, Judith T		X
Williams, Carol A		
Lefebvre, Roland J		X
Lovett, Sid	X	
Zerba, Roger T		X
McGuire, Robert M		X
Rush, Deanna P		X

TOTAL VOTE: 10-5

Printed: 12/19/2001

OFFICE OF THE HOUSE CLERK 2002 SESSION

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: HB 1449 Title: RELATIVE TO RIVER MGMT & PROT.

PH Date: ____/____/____ Exec Session Date: 3/5/02

Motion: AMENDMENT Amendment #: 2002-2861h

MEMBER	YEAS	NAYS
Rovce. H Charles. Chairman		
Lawton. David M. V Chairman	X	
Coonev. Richard T. Clerk	X	
Roberts. William E	X	
Fields. Dennis H	X	
Czech. Stanlev E	X	
Gallus. John T	X	
Russell. David H	X	
Bruno. Pierre W	X	
Christensen. D L Chris		
Dewhirst. Glenn E		
Odell. Bob		
Quimbv. Lee W	X	
Spang. Judith T		X
Williams. Carol A		
Lefebvre. Roland J		X
Lovett. Sid	X	
Zerba. Roger T		X
McGuire. Robert M		X
Rush. Deanna P		X

TOTAL VOTE: 10-5

Printed: 12/19/2001

Committee Report

MAJORITY
COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **HB 1449-A**

TITLE: relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

DATE: March 7, 2002 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

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

STATEMENT OF INTENT
(Include Committee Vote)

This bill, as amended, provides for a pilot program to move forward the development of Instream Flow Rules. The pilot program consists of the Lamprey and the Souhegan rivers. These rules will, in effect, determine who can draw water from our rivers, and how much they can draw, and when they can draw water, during low flow conditions. They will affect public water suppliers, agriculture, recreation, wildlife habitat, businesses, dam owners and our environment. The rules are designed to provide a fair and equitable process for all interests to "share the pain" of water restrictions during low flow conditions. These draft rules have had many public hearings and several major revisions over the past few years. It is now time to put them to the test. This bill requires an instream flow study and water management plan be developed for these two rivers. Two advisory committees are established for each river. Each committee consists of 11 members that include legislative members and members of each interest group. However, before these studies and plans are implemented, they must be approved by the legislature to allow for a public hearing with input from all interested parties and the public. Additional legislative oversight is maintained by extending the reporting date of the Committee to Study the Impact of Water Withdrawals on Instream Flows to December 1, 2004. This is necessary because the draft rules employ an innovative process where all water users on the river reach a consensus on how each should adapt to the low flow conditions. There is a concern that there may be problems with this approach and this legislature needs to be involved in setting these very important water policies. A report from the Department of Environmental Services (DES) to the legislature is required by July 1, 2005. This bill also provides $660,000 for the fiscal year ending June 30, 2003 for this pilot program.

Vote 10-5.

Rep. Richard T. Cooney

FOR THE MAJORITY

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT
Resources, Recreation and Development
HB 1449-A, relative to the New Hampshire rivers management and protection program and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**
Rep. Richard T. Cooney for Resources, Recreation and Development: This bill, as amended, provides for a pilot program to move forward the development of Instream Flow Rules. The pilot program consists of the Lamprey and the Souhegan rivers. These rules will, in effect, determine who can draw water from our rivers, and how much they can draw, and when they can draw water, during low flow conditions. They will affect public water suppliers, agriculture, recreation, wildlife habitat, businesses, dam owners and our environment. The rules are designed to provide a fair and equitable process for all interests to "share the pain" of water restrictions during low flow conditions. These draft rules have had many public hearings and several major revisions over the past few years. It is now time to put them to the test. This bill requires an instream flow study and water management plan be developed for these two rivers. Two advisory committees are established for each river. Each committee consists of 11 members that include legislative members and members of each interest group. However, before these studies and plans are implemented, they must be approved by the legislature to allow for a public hearing with input from all interested parties and the public. Additional legislative oversight is maintained by extending the reporting date of the Committee to Study the Impact of Water Withdrawals on Instream Flows to December 1, 2004. This is necessary because the draft rules employ an innovative process where all water users on the river reach a consensus on how each should adapt to the low flow conditions. There is a concern that there may be problems with this approach and this legislature needs to be involved in setting these very important water policies. A report from the Department of Environmental Services (DES) to the legislature is required by July 1, 2005. This bill also provides $660,000 for the fiscal year ending June 30, 2003 for this pilot program. **Vote 10-5.**

OFFICIAL COPY

March 6, 2002

BLURB FOR HB 1449

This bill, as amended, provides for a pilot program to move forward the development of Instream Flow Rules. The pilot program consists of the Lamprey and the Souhegan rivers. These rules will, in effect, determine who can draw water from our rivers, and how much they can draw, and when they can draw water, during low flow conditions. They will affect public water suppliers, agriculture, recreation, wildlife habitat, businesses, dam owners and our environment. The rules are designed to provide a fair and equitable process for all interests to "share the pain" of water restrictions during low flow conditions. These draft rules have had many public hearings and several major revisions over the past few years. It is now time to put them to the test.

This bill requires an instream flow study and water management plan be developed for these two rivers. Two advisory committees are established for each river. Each committee consists of 11 members that include legislative members and members of each interest group. However, before these studies and plans are implemented, they must be approved by the legislature to allow for a public hearing with input from all interested parties and the public. Additional legislative oversight is maintained by extending the reporting date of the Committee to Study the Impact of Water Withdrawals on Instream Flows to December 1, 2004. This is necessary because the

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This bill also provides $660,000 for the fiscal year ending June 30, 2003 for this pilot program. VOTE 10-5

Richard T. Cooney

MINORITY
COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **HB 1449-A**

TITLE: relative to the New Hampshire rivers management and protection program and making an appropriation therefor.

DATE: March 7, 2002 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

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

STATEMENT OF INTENT
(Include Committee Vote)

This bill is unnecessary. After over a decade of study and negotiations among conservationists, regulatory agencies and water users, from hydroelectric plants to public water suppliers, the Department of Environmental Services (DES) has drawn up Instream Flow Rules which do a much better job than this bill. Through significant compromise, these rules now reduce the Rivers Management and Protection Program to a pilot study of two rivers. However, under HB 1449-A, technical and scientific experts on advisory committees proposed by the rules are replaced by politicians and interest groups. The water management advisory committees no longer include local municipalities, nor the local river management advisory committees, appointed for just such responsibilities. But worst of all, both the scientific work and the water allocation negotiations achieved with the river's water users can be vetoed by the legislature. The minority feels that this jeopardizes local decision-making on the local rivers in the pilot. Federal funding sources have also indicated a reluctance to support the pilot program if HB 1449-A is adopted, since there would be no assurance that lengthy and expensive work would lead to actual implementation of balanced water management and conservation of river resources.

Vote.

Rep. Judith T. Spang
FOR THE MINORITY

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Resources, Recreation and Development

HB 1449-A, relative to the New Hampshire rivers management and protection program and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Judith T. Spang for Resources, Recreation and Development: This bill is unnecessary. After over a decade of study and negotiations among conservationists, regulatory agencies and water users, from hydroelectric plants to public water suppliers, the Department of Environmental Services (DES) has drawn up Instream Flow Rules which do a much better job than this bill. Through significant compromise, these rules now reduce the Rivers Management and Protection Program to a pilot study of two rivers. However, under HB 1449-A, technical and scientific experts on advisory committees proposed by the rules are replaced by politicians and interest groups. The water management advisory committees no longer include local municipalities, nor the local river management advisory committees, appointed for just such responsibilities. But worst of all, both the scientific work and the water allocation negotiations achieved with the river's water users can be vetoed by the legislature. The minority feels that this jeopardizes local decision-making on the local rivers in the pilot. Federal funding sources have also indicated a reluctance to support the pilot program if HB 1449-A is adopted, since there would be no assurance that lengthy and expensive work would lead to actual implementation of balanced water management and conservation of river resources. Vote.

Minority Report HB 1449-A

by Judith Spang The often-honorable, Judith J. Spang

This bill is unnecessary. After over a decade of study and negotiations among conservationists, regulatory agencies and water users, from hydroelectric plants to public water suppliers, the D-of-E-Service has drawn up Instream Flow Rules which do a much better job than this bill. Through significant compromise, these Rules now reduce the Rivers Management + Protection Program to a pilot study of two rivers. However, Under HB1449-A, technical and scientific experts on advisory committees proposed by the Rules are replaced by politicians and interest groups. The water management advisory committees no longer include local municipalities, nor the local river management advisory committees, appointed for just such responsibilities. But worst of all, both the scientific work and the water allocation negotiations achieved with the river's water users ~~are at risk for~~ can be vetoed by the legislature. ~~There~~ The minority feels that this jeopardizes local decision-making on the local rivers in the pilot. ~~It also reduces~~ jeopardizes ~~the~~ potential ~~federal~~ financial assistance, since ~~there is~~ would be no certainty that ~~technical~~ studies and ~~implementation of water use~~ plans would be implemented ~~at the end of the effort~~.

Federal ~~funders~~ funding sources have also indicated a reluctance to support the pilot program if HB1449-A is adopted, since there would be no assurance that lengthy and expensive work would lead to actual implementation of balanced water management and conservation of river resources.