

State of  
New Hampshire  
**HOUSE RECORD**

**First Year of the 155<sup>th</sup> Session of the General Court**  
**Calendar and Journal of the 1997 Session**

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**Vol. 19 Concord N.H. Friday, January 31, 1997 No. 15**

Contains: Hearings, Notices, Work Sessions, Reports and Amendments for February 5

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**HOUSE CALENDAR NOTICE**

The House will meet on Wednesday, February 5<sup>th</sup>, at 1:00 p.m.. The next session is Wednesday, February 12<sup>th</sup> at 1:00 p.m. We will meet in joint convention with the Senate to hear the Governor's budget message on Thursday, February 13<sup>th</sup> at 10:00 a.m.

I want to convey my appreciation to Representative Neal Kurk for the concise, informative newsletter the House Finance Committee developed and distributed at the session on the 29<sup>th</sup>. The Finance Committee newsletter is just the type of tool needed to assist the process of improving member access to budget information. Anyone who did not receive a copy of this newsletter or needs additional copies should stop by the House Finance Committee, Room 211 LOB.

On this same subject, I would encourage the members to learn more about the budget by attending the Continuing Education sessions. The schedule for these sessions is printed in this calendar.

Notice is hereby given that every Session Day shall be a Consent Calendar Day as set out in House Rule 51.

Donna Sytek, Speaker

**NOTICE**

There will be a Republican Caucus on Wednesday, February 5 at 11:30 a.m. in Representatives Hall.

Rep. Robert L. Wheeler, Majority Leader

**NOTICE**

There will be a Democratic Caucus on Wednesday, February 5 at 11:30 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter Hoe Burling, Democratic Leader

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**NOTICE**

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**LEGISLATIVE FORUMS**

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**HOUSE CONTINUING EDUCATION**

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**TOPIC:** The Budget - Session I and Session II

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**PRESENTER:** Doug Hall

**DATES:** Session I - Tuesday, February 4

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Session I - Thursday, February 6

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Session II - Tuesday, February 11

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Session I - Tuesday, February 18

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Session II - Thursday, February 20

**TIME:** Noon to 1:00 p.m.

**PLACE:** Rooms 100, State House

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As noted above the Forums on the budget will have two sessions. The goal is to have each member attend a Session I and II. A total of three sessions of each forum is being held to assure that each member has the opportunity to benefit from the presentations. For the members' convenience the cafeteria will again sell sandwiches, snacks and sodas outside the rooms. These will be informative sessions with handouts. Please make every effort to attend. Thank you.

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\*Please note Session II is only for those who have attended Session I.

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Rep. Carol H. Holden

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Legislative Continuing Education Coordinator

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WEDNESDAY, FEBRUARY 5

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

**HB 130**, clarifying the authority of county commissioners to arrange for work by prisoners. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill allows county commissioners to authorize the superintendent of the county correctional facility to arrange for uncompensated public service by prisoners at municipal or nonprofit owned grounds or property. Current law allows arrangements to be made for work by prisoners only at municipally owned recreational facilities or conservation projects. Vote 17-0.

**HB 152**, relative to permissible fireworks. RE-REFER TO COMMITTEE

Rep. Walter J. Mikowski for Criminal Justice and Public Safety: This bill would exempt the Department of Safety from RSA 541-A, Administrative Rules, relative to fireworks. The reason for the bill was to shorten the time for approval of the current listing of permissible fireworks, submitted by the permissible fireworks review committee, RSA 160-B:23,III. The Department of Safety has committed itself to expediting the existing approval process without providing an exemption through law at this time. The committee decided to re-refer to give the

department this opportunity. Vote 17-0.

## **JUDICIARY AND FAMILY LAW**

**HB 146**, relative to gifts by agents under general powers of attorney. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: It was unclear to the committee why this legislation is needed. Currently, many estate attorneys write in provisions for gifting. We fear that the individual situation that was cited as being disallowed may be for reasons other than what came out in testimony. This legislation is not needed. Vote 15-0.

**HB 153**, exempting emergency medical technicians from jury duty.. INEXPEDIENT TO LEGISLATE

Rep. Carol H. Holden for Judiciary and Family Law: This bill would exempt emergency medical technicians from jury duty. Testimony before the committee indicated that to do this it would be to further drain the pool of people eligible for jury duty. Vote 15-0.

## **LOCAL AND REGULATED REVENUES**

**CACR 3**, relating to authorizing counties to implement an income tax. Providing that a county may implement an income tax, provided that there is a binding referendum of the voters of the county and approval by the legislature. INEXPEDIENT TO LEGISLATE

Rep. Stephen G. Avery for Local and Regulated Revenues: While the committee was sympathetic to the cause of lowering property taxes, there was no support for the concept of instituting county income taxes. The sponsor was the only person to testify on this bill. Vote 16-0.

**HB 122**, relative to the operation of games of chance conducted by charitable organizations. INEXPEDIENT TO LEGISLATE

Rep. Robert N. Kelley for Local and Regulated Revenues: This bill was loosely drawn and the committee felt that an opening was created for the professionalization of games of chance. This flies in the face of our regard for charitable operations of this ilk. No charity appeared in support of this bill - one individual appeared in support. Vote 16-1.

**HB 227**, relative to the North Hampton property taxes. OUGHT TO PASS

Rep. Stephen G. Avery for Local and Regulated Revenues: This is basically a housekeeping bill that legitimizes the adjustments to the North Hampton property tax rate. There was no opposition to this bill. Vote 16-0.

## **MUNICIPAL AND COUNTY GOVERNMENT**

**HB 216**, relative to municipal budgets. OUGHT TO PASS

Rep. Katherine H Metzger for Municipal and County Government: When ever a governing body or a budget committee fails to make a notation of whether or not to make recommendation on a special warrant article; a problem arises with the Department of Revenue Administration. This bill corrects this problem by providing that defects or deficiencies in these notations shall not affect the legal validity of any appropriations otherwise legally made. Vote 14-0.

## **PUBLIC WORKS AND HIGHWAYS**

**HB 251-FN-LOCAL**, reclassifying a portion of North Main Street in the town of Farmington from a class II to a class V highway. OUGHT TO PASS WITH AMENDMENT

Rep. Henry P. Sullivan for Public Works and Highways: This bill was a request of the Department of Transportation and the town of Farmington, to reclassify a portion of North Main Street in Farmington from a class II to a class V highway. The DOT has rebuilt this section of road and the highway will become a class V road, maintained by the town. The amendment adds a section of Passaconaway Road in Albany under the same stipulations as the original bill. Vote 18-0.

## **WILDLIFE AND MARINE RESOURCES**

**HB 115-FN**, relative to payment from state funds for damage to cultivated blueberries caused by game. INEXPEDIENT TO LEGISLATE

Rep. Ronald Nowe for Wildlife and Marine Resources: The Committee felt that the subject matter contained in this bill deserved some comprehensive study which will be incorporated into a pending bill to study the entire subject contained in the game damage statutes. Vote 15-0.

**HB 139**, relative to fishing in a certain portion of the Pemigewasset river. INEXPEDIENT TO LEGISLATE

Rep. Dennis F. Abbott for Wildlife and Marine Resources: This bill attempts to establish special fishing regulations for a portion of the Pemigewasset River. There are presently sufficient rules which adequately control fishing on all bodies of water. This bill could lead to establishing laws which are better dealt with through the rulemaking process. The Committee did not wish to interfere with the rule making process at this time. Vote 15-0.

**HB 159-FN**, granting free hunting and fishing licenses to New Hampshire residents that are members of a federally recognized Indian tribe. INEXPEDIENT TO LEGISLATE

Rep. Robert L'Heureux for Wildlife and Marine Resources: Since there was no support for this legislation, the sponsor asked that the bill be voted ITL Vote 15-0.

## WEDNESDAY, FEBRUARY 5

### REGULAR CALENDAR

#### FINANCE

**HB 112**, requiring that all changes in state taxes be passed by a 60 percent majority of each house of the general court. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: This bill as amended could hinder the functioning of the three branches of government. The committee believes that a 50+1 percent majority should remain the margin for the passage of legislation except constitutional amendments. Passage of this bill would empower 41% of this legislature with control. A further requirement that no new taxes on real estate be enacted would put government in an insupportable position if a financial crisis required legislative action. Vote 17-5.

#### JUDICIARY AND FAMILY LAW

**CACR 5**, relating to the status of supreme court rules. Providing that the supreme court rules shall no longer have the force and effect of law. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Sandra Balomenos Keans for the Majority of Judiciary and Family Law: It appears that even the supporters of this legislation agree that if passed this would have no impact. As a co-equal branch of government the courts have the right to set their own administrative rules, just as the legislature sets its own rules. Whether that was fully a part of the question that the voters acted on in 1978 does not change the system. No constitutional question is ever written in its entirety. It was passed by the voters 19 years ago. No evidence was presented that showed any problems directly attributed to the wording of the question. Vote 15-3.

Rep. Paul M. Mirski for the Minority of Judiciary and Family Law: Twelve words. Following approval, in November of 1978, by two thirds of New Hampshire voters, of an amendment unifying New Hampshire's court system, twelve words were added to the text presented on the ballot. The sentence added proclaimed that "The rules so promulgated shall have the force and effect of law". "Shall", "force", "effect" and "law" are words which have powerful connotations when used in contracts, in legislation and in language. The addition of the language "the rules so promulgated shall have the force and effect of law", whether proponents thought it was sympathetic to the amendment or not, put words in the mouths of voters which there is no evidence that they intended to express. Advocates of passage of CACR 5 simply seek to correct an act of voter disenfranchisement perpetrated upon the people of New Hampshire by individuals who believed that they, and not the people, had the right to define and hone the context and constitutional law in New Hampshire.

#### LOCAL AND REGULATED REVENUES

**HB 201-L**, allowing municipalities to apply the amount of a property tax abatement refund to outstanding taxes owed by the taxpayer. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Douglass P. Teschner for the Majority of Local and Regulated Revenues: This bill, which is supported by the NH Municipal Association, allows local selectmen or assessors to apply funds from property tax abatements to overdue taxes then owed to that municipality by the taxpayer. Under a 1993 rule by the Board of Land and Tax Appeals, rebates awarded on appeal must be repaid to the taxpayer by check or cash. The bill arose out of a case in which taxpayers took such abatements in cash and then failed to make overdue tax payments to their community. This bill will reduce the possibility of this occurring in the future. The bill only applies to outstanding taxes, not to future taxes, and is enabling only. Vote 12-5.

Rep. Jean R. Wallin for the Minority of Local and Regulated Revenues: If an abatement has been granted to a taxpayer, taxes were judged to have been wrongfully collected. The minority feels that the individual taxpayer should have the freedom to decide how that money should be used. If someone has not paid their taxes, it is possible that the abatement amount needs to be used for mortgage payments, medical treatment, or food. Further, the minority feels there is no standard procedure for the local officials to follow when deciding who receives the cash and who has their abatement applied to back taxes.

TRANSPORTATION

HB 186-FN, relative to fees for number plates. OUGHT TO PASS WITH AMENDMENT

Rep. Roland M. Turgeon for Transportation: Due to the increase in the cost of material, manufacturing and mailing of reflectorized plates, the committee found it was necessary to increase the fee from \$1.50 to \$2.50 per plate on the issuance of the original plates to cover the cost on the new reflectorized plates. Vote 18-0.

THE SUPREME COURT OF NEW HAMPSHIRE

Request of the Senate

No. 96-280

OPINION OF THE JUSTICES

(Prior Sexual Assault Evidence)

January 24, 1997

The following request of the senate for an opinion of the justices was adopted on April 18, 1996, and filed with the supreme court on April 26, 1996:

- "Whereas, there is pending in the senate, HB 1549, 'An act relative to the admissibility of a prior sexual assault into evidence in certain prosecutions' as amended by the house; and
- "Whereas, the senate has adopted an amendment to HB 1549 (document #5798L); and
- "Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in criminal prosecutions for offenses set forth in RSA 632-A, for incest and endangering the welfare of a child or incompetent in violation of RSA 639, and for attempts and conspiracies to commit those crimes, and in civil suits for sexual assault, establish a rebuttable presumption that evidence of any other sexual assault committed by the defendant is admissible and may be considered for any relevant purpose other than showing the defendant's character; and
- "Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in cases where there is evidence of other sexual assaults by the defendant against the same victim, establish a rebuttable presumption that such evidence is admissible to show the defendant's motive or intent, the [context] of the assault in question, and the relationship of the parties; and
- "Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in cases where there is evidence of other sexual assaults by the defendant against different victims, establish a rebuttable presumption that such evidence is admissible to show the defendant's motive and intent; and
- "Whereas, RSA 632-A:6 as proposed by HB 1549 as amended would prohibit the exclusion of the evidence unless the trial court finds that the probative value of such evidence is substantially outweighed by the danger of unfair prejudice to the defendant; and
- "Whereas, doubt has arisen as to the constitutionality of the provisions of said bill as amended; and
- "Whereas, it is important that the question of the constitutionality of said provisions should be settled in advance of its enactment; now, therefore, be it
- "Resolved by the Senate;

"That the Justices of the Supreme Court be respectfully requested to give their opinion on the following questions of law:

1. Would enactment of HB 1549, as amended, result in encroachment by the legislative branch of the state government upon the constitutional

function of the judicial branch in violation of Part I, Article 37 of the New Hampshire Constitution?

2. Would enactment of HB 1549, as amended, violate Part 2, Article 73-a of the New Hampshire Constitution which gives the chief justice of the supreme court the authority to make rules governing the practice and procedure to be followed in all courts?

3. Would any other provision of the New Hampshire Constitution be violated by the enactment of HB 1549, as amended?

"That the clerk of the senate transmit copies of this resolution and HB 1549, as amended, to the Justices of the New Hampshire Supreme Court."

On June 5, 1996, this court received an amended request from the senate substituting different questions of law. The following resolution SR 6, as amended, requesting an opinion of the justices, was adopted by the senate on May 31, 1996, and filed with the supreme court on June 5, 1996:

"Whereas, the senate, on April 18, 1996, adopted Senate Resolution 3 requesting an opinion of the justices concerning the constitutionality of HB 1549 and, having reconsidered the questions of law posed in that resolution, has found it advisable to substitute different questions of law; and

"Whereas, there is pending in the senate, HB 1549, 'An Act relative to the admissibility of a prior sexual assault into evidence in certain prosecutions' as amended by the house; and

"Whereas, the senate has adopted an amendment to HB 1549 (document #5798L); and

"Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in criminal prosecutions for offenses set forth in RSA 632-A, for incest and endangering the welfare of a child or incompetent in violation of RSA 639, and for attempts and conspiracies to commit those crimes, and in civil suits for sexual assault, establish a rebuttable presumption that evidence of any other sexual assault committed by the defendant is admissible and may be considered for any relevant purpose other than showing the defendant's character; and

"Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in cases where there is evidence of other sexual assaults by the defendant against the same victim, establish a rebuttable presumption that such evidence is admissible to show the defendant's motive or intent, the context of the assault in question, and the relationship of the parties; and

"Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in cases where there is evidence of other sexual assaults by the defendant against different victims, establish a rebuttable presumption that such evidence is admissible to show the defendant's motive and intent; and

"Whereas, RSA 632-A:6 as proposed by HB 1549 as amended would prohibit the exclusion of the evidence unless the trial court finds that the probative value of such evidence is substantially outweighed by the danger of unfair prejudice to the defendant; and

"Whereas, numerous statutes already in effect address the admissibility of various types of evidence in judicial proceedings; now, therefore, be it

"Resolved by the Senate;

"That the questions of law submitted in Senate Resolution 3 adopted by the senate April 18, 1996, be withdrawn from the Justices of the Supreme Court; and

"That the Justices of the Supreme Court be respectfully requested to give their opinion on the following questions of law;

1. Would enactment of HB 1549, as amended, violate Part I, Article 37 of the New Hampshire Constitution?

2. Would enactment of HB 1549, as amended, violate Part II, Article 73-a of the New Hampshire Constitution?

"That the clerk of the senate transmit copies of this resolution and HB 1549, as amended, to the Justices of the New Hampshire Supreme Court."

The following response is respectfully returned:

To the Honorable Senate:

The undersigned justices of the supreme court now submit the following reply to your amended opinion request of May 31, 1996. Following our receipt of your initial resolution, we invited interested parties to file memoranda with the court on or before June 17, 1996. That deadline was extended to June 28, 1996, following our receipt of your amended resolution.

HB 1549 (the bill), as amended, proposes to amend RSA chapter 632-A (1996 & Supp. 1996) by inserting after paragraph IV in section 6 a new paragraph to read:

V.(a) In criminal prosecutions for offenses set forth in RSA 632-A, for incest and endangering the welfare of a child or incompetent in violation of RSA 639, and for attempts and conspiracies to commit those crimes, and in civil suits for sexual assault, there shall be a rebuttable presumption that evidence of any other sexual assault committed by the defendant is admissible and may be considered for any relevant purpose other than showing the defendant's character. In cases where there is evidence of other sexual assaults by the defendant against the same victim, there shall be a rebuttable presumption that such evidence is admissible to show the defendant's motive, intent, the context of the assault in question, and the relationship of the parties. In cases where there is evidence of other sexual assaults by the defendant against different victims, there shall be [a] rebuttable presumption that such evidence is admissible to show the defendant's motive and intent. The evidence shall not be excluded unless the trial court finds that the probative value of such evidence is substantially outweighed by the danger of unfair prejudice to the defendant.

(b) As used in subparagraph (a), the term "motive" includes a desire to engage in sexual activity with a certain victim or type of victim, or a desire to control or harm others through sexual assault.

(c) The purposes for which evidence of other sexual assaults may be admitted are not limited to those identified in subparagraph (a). Such evidence continues to be admissible for any relevant purpose except character. The fact that it may also be relevant to character does not render it inadmissible if it is relevant for some other purpose.

The bill has a statement of purpose which reads as follows:

I. The public has a strong interest in assuring that persons who commit violent sexual assaults, like those who commit other crimes, are brought to justice. However, sexual assaults present unique problems of proof. They are often committed in the absence of eyewitnesses, and there is little or no corroborating physical evidence, particularly if the victim delays reporting of the assault. The prosecution frequently rests exclusively on the victim's testimony, and the jury's decision is dependent on its assessment of the relative credibility of the victim and the defendant. The victims are often children whose credibility readily can be attacked in the absence of substantial corroboration. Additionally, unlike other criminal offenses, the alleged consent of the victim is frequently at issue in sexual assault prosecutions.

II. Sexual assaults are also unique in that they are frequently not isolated events, but are part of a pattern of sexual assaults by the assailant against the same or other victims. Offenders frequently target and assault multiple victims. In cases in which an assailant has committed repeated sexual assaults against the same victim, an individual assault is often integrally related to the others and cannot fully or fairly be understood by a jury outside of the context in which it occurred. In such cases, the fact that the victim has been subjected to other assaults by the defendant may explain, for example, the victim's reaction to the assault in question, including his or her failure to resist the assault or to delay in reporting it. In cases in which a defendant is alleged to have sexually assaulted a child, evidence that he or she has sexually assaulted other children is generally probative to show a motive to commit the assault in question, since the defendant is attracted to children. In cases in which an assailant has committed sexual assaults against different adult victims, evidence of the other assaults is often generally probative of a motive to commit the assault at issue.

III. Given the egregious nature of the crime of sexual assault and the peculiarities attendant to its proof, there is a compelling public interest in admitting all relevant evidence that will illumine the credibility of the alleged victim, while assuring a fair trial for the defendant. In most prosecutions or civil suits arising from sexual assaults, evidence of other sexual assaults committed by the defendant is highly relevant. Therefore, its admission will advance the truth-seeking function of the trial. By strengthening the legal system's tools for bringing the perpetrators of these crimes to justice, this reform will better protect the public from crimes of sexual violence.

A legislative declaration of purpose is ordinarily accepted as a part of the act. Opinion of the Justices, 88 N.H. 484, 490, 190 A. 425, 429 (1937).

Your first question asks whether enactment of the bill would "violate Part I, Article 37 of the New Hampshire Constitution." We answer in the affirmative.

Part I, article 37 of our State Constitution provides:

In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

Beginning with volume one of the New Hampshire Reports, this court undertook its duty of defining the scope of the separation of powers clause as between the legislative and judicial branches of government. See Merrill v. Sherburne & al., 1 N.H. 199 (1818). In Merrill, we reviewed the pertinent articles of our State Constitution and concluded that nothing therein mandated a conclusion other than that the general court is excluded from the exercise of "judicial powers." Id. at 206-08. The question before us today is whether the legislature's promulgation of the proposed statute falls within the exercise of "judicial powers." See id. at 208.

Separation of powers is an integral part of our governmental system of checks and balances: each branch of government acts as a check on the other, protecting the sovereignty and freedom of those governed by preventing the tyranny of any one branch of the government being supreme. See Opinion of the Justices, 110 N.H. 359, 362, 266 A.2d 823, 825-26 (1970). The separation of powers doctrine complements the notion of checks and

balances by institutionalizing a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of another. Cf. Attorney-General v. Morin, 93 N.H. 40, 46, 35 A.2d 513, 516 (1943) (referring to purpose of article 37 in the minds of its framers as to protect executive and judicial branches of State government from legislative encroachment rather than to circumscribe within strict limits the functions of the court). Despite the explicit constitutional language concerning the separation of powers in our State, we have always recognized that the doctrine does not require an absolute division of powers, but a cooperative accommodation among the three branches of government. See Opinion of the Justices, 121 N.H. 552, 556, 431 A.2d 783, 785-86 (1981) (some overlapping of power of each branch must exist); Opinion of the Justices, 113 N.H. 287, 290, 306 A.2d 55, 57 (1973) (article 37 does not require the erection of impenetrable barriers between the branches of government); Cloutier v. State Milk Control Board, 92 N.H. 199, 203, 28 A.2d 554, 557 (1942) (State Constitution contemplates some overlapping and duality as a matter of practice and essential expediency). However, if the legislature could overrule the courts in some of their essential operations, the judiciary "instead of being one of the three coordinate branches of the state government, would [be] rendered subservient to the Legislature in a fashion never contemplated by any." Winberry v. Salisbury, 74 A.2d 406, 410 (N.J.), cert. denied, 340 U.S. 877 (1950). "[T]he judiciary would in every respect cease to be a check on the legislature, if the legislature could at pleasure revise or alter any of the judgments of the judiciary." Merrill, 1 N.H. at 210. Because the purpose of the system of checks and balances is to prevent one branch of government from dominating another, evaluation of whether the separation of powers principle would be violated requires us to consider whether the proposed legislation would prevent the judiciary from accomplishing its constitutionally assigned functions. See Opinion of the Justices, 113 N.H. at 290, 306 A.2d at 57 ("[T]he three departments must move in concert without improper encroachments by one branch upon the functions of another."); cf. State v. LaFrance, 124 N.H. 171, 176, 471 A.2d 340, 342 (1983) ("No branch of State government can lawfully perform any act which violates the State Constitution.").

The bill, as amended, would affect the function of New Hampshire Rule of Evidence 404(b), a rule adopted by this court to "govern proceedings in the courts of the State of New Hampshire." N.H. R. Ev. 101. Rule 404(b) provides the standard for admission of evidence of crimes, wrongs or acts, other than those crimes, wrongs or acts charged, in the trial of matters in the courts of this State.

This court has consistently recognized that "[a]s a separate and coequal branch of government, the judiciary is constitutionally authorized to promulgate its own rules." Petition of Burling, 139 N.H. 266, 271, 651 A.2d 940, 943 (1994); see N.H. CONST. pt. I, art. 37; N.H. CONST. pt. II, art. 73-a; In re Proposed Rules of Civil Procedure, 139 N.H. 512, 513, 659 A.2d 420, 420 (1995) (supreme court's supervisory and rulemaking authority over courts in State derives primarily from State Constitution and from common law); LaFrance, 124 N.H. at 180, 471 A.2d at 345 (court's authority to adopt rules of practice and procedure is of ancient origin); Nassif Realty Corp. v. National Fire Ins. Co., 107 N.H. 267, 268, 220 A.2d 748, 749 (1966) (rulemaking power of supreme court as court of general jurisdiction is broad and comprehensive).

The inherent rule-making authority of courts of general jurisdiction in this state to prescribe rules of practice and rules to regulate their proceedings "as justice may require" has an ancient lineage supported by consistent custom, recognized by statute and enforced by numerous judicial precedents. The matter has been succinctly summarized by a careful legal historian in the following language: Thus the rule-making power was firmly established over three hundred years ago. A statute in 1701 confirmed the ancient power which has never been lost.

Garabedian v. William Company, 106 N.H. 156, 157, 207 A.2d 425, 426 (1965) (quotation and citations omitted). Our judicial power has always included the power to prescribe procedural rules for the conduct of litigation in this State's courts. In addition, this court's inherent power to promulgate procedural rules has been endorsed with constitutional authority. See N.H. CONST. pt. II, art. 73-a.

[T]he rule-making process is an inherent judicial power existing independently of legislative authority. In addition, part II, article 73-a of the New Hampshire Constitution, which granted to the supreme court the power to make rules regulating the administration of all courts of the State, makes clear that the judiciary has the authority to promulgate and administer rules concerning practice and procedure in the courtroom.

LaFrance, 124 N.H. at 180, 471 A.2d at 345.

Rules of evidence, in most instances, relate only to practice and procedure. To say, however, that a rule exists and that conflicting legislation would violate the separation of powers doctrine is not a sufficient analysis. Under the separation of powers doctrine, the legislature has a limited appropriate role to act on court rules; the basic analysis applied to determine whether legislative action is appropriate on judicial rules involves the distinction between substance and procedure. See State v. Currington, 700 P.2d 942, 944 (Idaho 1985) (procedure pertains to "essentially mechanical operations of the courts by which substantive law, rights, and remedies are effectuated"); State ex rel. Collins v. Seidel, 691 P.2d 678, 681 (Ariz. 1984); Ammerman v. Hubbard Broadcasting, Inc., 551 P.2d 1354, 1357 (N.M. 1976) (rules of evidence "designed to accomplish a just determination of rights and duties granted and imposed by the substantive law are traditionally considered to be . . . procedural law"); see generally 1 Wigmore on Evidence § 7, at 462-65 n.1 (1983); Morgan, Rules of Evidence - Substantive or Procedural?, 10 Vand. L. Rev. 467 (1957). However, the distinction between procedure, a subject under the exclusive jurisdiction of the courts, and substance, a legitimate subject of legislative action, "is not always well understood, and is sometimes vague and indistinct." State v. Pavelich, 279 P. 1102, 1104 (Wash. 1929); see In re Florida Evidence Code, 372 So. 2d 1369 (Fla. 1979).

A variety of tests have evolved as methods of classifying something as substance or procedure. One test, derived from the United States Supreme Court's decision in Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938), and its progeny, "looks to whether a person's in-court conduct or out-of-court conduct has been changed." Comment, Rules of Evidence: An Exercise of Constitutional Power by the Michigan Supreme Court, IV Det. C.L. Rev. 1063, 1080 (1980) [hereinafter Rules of Evidence]. "The rule is substantive if the rule affects or regulates primary, out-of-court activities of

people as a direct result of promoting social policies which the state deems important." Id.

A second test "asks whether there exists a general public policy concerning a particular issue." Id. at 1081. "The test . . . is whether a given rule of evidence is a device with which to promote the adequate, simple, prompt and inexpensive administration of justice in the conduct of a trial or whether the rule, having nothing to do with procedure, is grounded upon a declaration of a general public policy." Riedl, To What Extent May Courts Under the Rule-Making Power Prescribe Rules of Evidence?, 26 A.B.A.J. 601, 604 (1940). This test, however, has been criticized.

Clearly, matters of public policy enacted as laws by the legislature involving substantive rights as distinguished from matters of procedure will always be controlling, subject to constitutional restraints. However, it is not sufficient to say simply that we will defer to legislative enactment on all "matters of public policy"; in fact, all enactments of the General Assembly become matters of "public policy."

Therefore, even though a particular legislative enactment, procedural in nature, may serve to enhance or advance an acknowledged public policy issue, if the legislatively enacted procedure conflicts with a procedure established by the judicial branch, then in all such cases the judicially established procedure should prevail unless and until it is changed or modified by the judicial branch.

State v. Sypult, 800 S.W.2d 402, 407 (Ark. 1990) (Turner, J., concurring).

A third test, characterized as "the most popular test to distinguish substance and procedure," defines "the rights and duties which people live by as substantive, whereas procedure defines the method by which those rights are enforced." Rules of Evidence, supra at 1082.

A definition which distinguishes substantive from procedural law on the basis that the former relates to rights and duties, while the latter refers to the means and methods by which those rights and duties are to be protected and enforced through the courts would appear to be both a liberal and practical criterion, and one which lends to a conclusion that rules of evidence are included within "procedure."

Stein, To What Extent May Courts Under the Rule-Making Power Prescribe Rules of Evidence?, 26 A.B.A.J. 639, 644 (1940). We accept this test as providing the most useful framework for distinguishing between substance and procedure. Substantive laws are "those laws which have for their purpose to determine the rights and duties of the individual and to regulate his conduct and relation with the government and other individuals." Riedl, supra at 605 n.31. Procedural laws are "those laws which have for their purpose . . . to prescribe machinery and methods to be employed in enforcing these positive provisions." Riedl, supra at 605 n.31. "[T]here is a critical difference between the rights of an individual and the method by which an individual's right will be presented in a court of law." Rules of Evidence, supra at 1078.

The location of a matter of substance within a scheme of rules of procedure or rules of evidence does not immunize it from legislative change. For example, where the legislature purports to create presumptions that govern the admission and weight of evidence, and these presumptions are integral to the definition of the crime or cause of action to be tried, the governing presumptions fairly may be considered substantive, and therefore constitutionally appropriate for legislative action. See RSA 259:18, I (1993) (rebuttable presumption that person selling five or more vehicles in twelve-month period is "dealer" for bond requirement purposes); RSA 265:60 (1993) (prima facie lawful or unlawful speed for operating motor vehicles); RSA 281-A:17 (Supp. 1996) (rebuttable presumption that heart or lung disease in firefighter is occupationally related for workers' compensation purposes); RSA 292-B:6 (1987) (rebuttable presumption that appropriation of more than seven per cent of market value of assets from appreciation to operating funds is imprudence of governing board of eleemosynary institution); RSA 357-D:3, VII(a) (1995) (presumption that three attempts to repair a motor vehicle problem within warranty period is "reasonable" number triggering replacement or rescission remedies).

The legislature also may affect procedure, even when there is no tie to matters of substance, when it acts within its expressly delegated constitutional powers to create and allocate jurisdiction within, and among, the courts. See N.H. CONST. pt. II, art. 4 (power to establish courts); N.H. CONST. pt. II, art. 72-a; N.H. CONST. pt. II, art. 76 (allocation of jurisdiction on marriage, divorce, alimony, and appeals from probate judges); N.H. CONST. pt. II, art. 77 (allocation of jurisdiction to justices of the peace and to police courts); N.H. CONST. pt. II, art. 80 (legislative control over manner of exercise of jurisdiction by probate court in some matters); N.H. CONST. pt. I, art. 20 (legislative power to deny jury trial in admiralty). The legislature has regularly exercised these constitutional powers. See RSA 491:8-a (1983) (creation of summary judgment jurisdiction in superior court); RSA 502-A:27-c (1983) (district court); RSA 547:11-f (1996) (probate court); RSA 491:22 (Supp. 1996) (creation of declaratory judgment jurisdiction in the superior court); RSA 547:11-b (Supp. 1996) (creation of declaratory judgment jurisdiction in probate court); RSA 491:22-a (1983) (allocation of burden of proof in some instances under created jurisdiction).

The legislature has acted in some instances where, it could be argued, it has gone beyond its legislative function and crossed into areas that remain the exclusive domain of the judiciary. See RSA 382-A:2-202 (1994) (limitation of parol evidence); RSA 356:4-e (1995) (application of preclusive effect in anti-trust proceedings); RSA 632-A:6, III-a (Supp. 1996) (manner of dress of victim inadmissible to show consent). Although these enactments arguably may interfere with the judiciary's authority over procedural matters, we may apply them as a matter of comity when they are consistent with judicial functions and policies and when no constitutional challenge is made to them. See Petition of Breau, 132 N.H. 351, 359, 565 A.2d 1044, 1049 (1989) ("obligation of comity is consistent with judicial discretion to decline any recognition of foreign governmental acts that would violate strong public policy of this State or leave its courts unable to render complete justice"); cf. Opinion of the Justices (Certain Evidence in Sexual Assault Cases), 140 N.H. 22, 26-27, 662 A.2d 294, 296-97 (1995) (declining to opine on constitutionality of evidence rule under doctrine of separation of powers where question not raised in request); State v. Howard, 121 N.H. 53, 58-59, 426 A.2d 457,

460-61 (1981) (statute construed in such a way as to not violate constitution).

The proposed bill brings New Hampshire Rule of Evidence 404(b) directly into issue. It does not purport to define the crimes or torts to which it is addressed but seeks to control the use of collateral matters in the fair trial of those crimes or torts. Rule 404(b) is a prime example of an internal procedural rule designed to effectuate a constitutional right. The purpose of Rule 404(b) is to increase the probability of a just verdict. See State v. Cote, 108 N.H. 290, 297, 235 A.2d 111, 116 (1967), cert. denied, 390 U.S. 1025 (1968) (use of prior convictions to show nothing more than a disposition to commit the crime charged would violate due process). A just verdict is a result of a fair trial, the right to which is a substantive right grounded in our constitution, not in statutory enactments. The protection of constitutional rights is a core function of the judiciary. See Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518, 625 (1819) (on the court is "imposed the high and solemn duty of protecting" those rights which the constitution has placed beyond legislative control). Rule 404(b) is simply a procedural means by which the fair trial right is secured. Giving deference to the legislature would, in this instance, abolish the rule's purpose and interfere with the judiciary's sound discretion in determining to what extent the rule serves its function in the circumstances of a particular case.

Rule 404(b) provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

"As we have long held and continue to maintain, evidence of prior wrongs is inadmissible to prove a disposition to commit such acts." State v. Trempe, 140 N.H. 95, 99, 663 A.2d 620, 622 (1995). "The purpose of Rule 404(b) in a criminal trial is to ensure that the defendant is tried on the merits of the crime as charged and to prevent a conviction based on evidence of other crimes or wrongs." State v. Bassett, 139 N.H. 493, 496, 659 A.2d 891, 894 (1995). "Evidence of other wrongs is inherently prejudicial, and increases the likelihood that a jury will decide the case on an improper basis. The concern that a defendant might be convicted because of his character is the gravamen of Rule 404(b)." State v. McGlew, 139 N.H. 505, 509, 658 A.2d 1191, 1195 (1995) (citation omitted).

Rule 404(b) directly incorporates principles developed by the common law.

Over one hundred years ago, this court stated an evidentiary rule that was well-settled even then: evidence of a defendant's prior bad acts is not permitted to show in a prisoner a tendency or disposition to commit the crime with which he or she is charged. This principle has not lost any strength in the succeeding years and forms the foundation for our present Rule 404(b).

State v. Blackey, 137 N.H. 91, 96, 623 A.2d 1331, 1334 (1993) (quotations, brackets and citation omitted). Prior to the adoption of Rule 404(b), this court followed a set of principles designed to ensure the proper use of other crimes evidence.

Evidence of prior crimes, while inadmissible to prove the defendant's bad character or disposition to commit the crime for which he is indicted, may be offered to prove an element of the crime or to show, inter alia, the defendant's motive, intent or knowledge. In resolving the question of admissibility, the judge must determine that the evidence is relevant for a purpose other than showing the character or disposition of the defendant, that the proof that the acts in question were committed by the defendant is clear, and that the probative value of the evidence outweighs the danger of prejudice to the defendant.

State v. Hood, 127 N.H. 478, 480, 503 A.2d 781, 783 (1985) (citations, quotation, and brackets omitted); see State v. Barker, 117 N.H. 543, 546, 374 A.2d 1179, 1180 (1977). A similar three-pronged test is applied to cases decided under Rule 404(b). See State v. Trainor, 130 N.H. 371, 375, 540 A.2d 1236, 1239 (1988); N.H. R. Ev. 403. Rule 404(b) applies equally to cases involving sexual assaults and other crimes. Compare State v. Kirsch, 139 N.H. 647, 653, 662 A.2d 937, 942 (1995) (sexual assault) with State v. Newcomb, 140 N.H. 72, 74, 663 A.2d 613, 615 (1995) (murder) and State v. Richardson, 138 N.H. 162, 165, 635 A.2d 1361, 1364 (1993) (simple assault, theft, criminal threatening).

Before admitting prior crimes evidence, the trial court must determine its relevance. Richardson, 138 N.H. at 166, 635 A.2d at 1364. The rules of evidence define relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." N.H. R. Ev. 401. An initial determination of relevance rests within the sound discretion of the trial court. See N.H. R. Ev. 104(a) (preliminary questions concerning the admissibility of evidence shall be determined by the court). "To meet the relevancy requirement, the other bad acts evidence must have some direct bearing on an issue actually in dispute, and there must be a clear connection between the particular evidentiary purpose, as articulated to the trial court, and the other bad acts." Kirsch, 139 N.H. at 654, 662 A.2d at 942 (quotations, citation, and brackets omitted). "The party offering evidence bears the burden to make an offer of proof to show the relevance of the evidence offered." McGlew, 139 N.H. at 509, 658 A.2d at 1195.

The proposed bill differs in significant respects from Rule 404(b). The bill establishes a rebuttable presumption in criminal prosecutions for sexual assault and related offenses as defined in RSA chapter 632-A, for incest and endangering the welfare of a child or incompetent, for attempts and conspiracies to commit those crimes, and in civil suits for sexual assault, that certain evidence is admissible. The bill sets out three categories of presumptively admissible evidence in the enumerated civil and criminal sexual assault cases. First, evidence of any other sexual assault committed

by the defendant is admissible and may be considered for any relevant purpose other than showing the defendant's character. Second, evidence of other sexual assaults by the defendant against the same victim is admissible to show the defendant's motive, intent, the context of the assault in question, and the relationship of the parties. Third, evidence of other sexual assaults by the defendant against different victims is admissible to show the defendant's motive and intent.

The proposed legislation would restrict the trial court's exercise of discretion in making an initial determination that the offered evidence is relevant. The proposed bill creates a rebuttable presumption that mandates that the offered evidence "shall" be admissible, thereby leaving to the trial court only the determination whether "the probative value of such evidence is substantially outweighed by the danger of unfair prejudice to the defendant." Also, by creating a rebuttable presumption, the bill would place the burden of going forward, in all instances, on the defendant to disprove the relevancy of the offered evidence. We have often held, in both criminal and civil cases, that the proponent of evidence has the burden of demonstrating its admissibility. *See, e.g., State v. Chaisson*, 123 N.H. 17, 29, 458 A.2d 95, 102 (1983); *Winslow v. Dietlin*, 100 N.H. 147, 149, 121 A.2d 573, 575 (1956); *Panagoulis v. Company*, 95 N.H. 524, 525, 68 A.2d 672, 673 (1949).

Prior sexual assault conduct may or may not be relevant, and the question whether it is relevant cannot be reduced to a legislative formula. To do so eliminates the inherent discretion of the judiciary as exercised on a case-by-case basis. *Cf. State v. Clemente*, 353 A.2d 723, 731 (Conn. 1974) (statute requiring production of prior statements of witnesses unduly infringes upon the court by prohibiting its exercise of discretion and inherent power to control discovery).

Rule 404(b) goes to the heart of the judicial function; it strikes a balance between the search for evidence that furthers the truth-finding process and the accused's right to due process. *See State v. Skidmore*, 138 N.H. 201, 202, 636 A.2d 64, 65 (1993); *Cote*, 108 N.H. at 297, 235 A.2d at 116. Due process is a substantive right grounded in the constitution, and Rule 404(b) is a method by which the right is enforced. *See Skidmore*, 138 N.H. at 202, 636 A.2d at 65. The constitution vests this court with the responsibility of maintaining and refining this balance.

"Powers judicial," "judiciary powers," and "judicatories" are all phrases used in the constitution: and though not particularly defined, are still so used to designate with clearness, that department of government, which it was intended should interpret and administer the laws. On general principles therefore, those enquiries, deliberations, orders and decrees, which are peculiar to such a department, must in their nature be judicial acts. Nor can they be both judicial and legislative; because a marked difference exists between the employments of judicial and legislative tribunals.

*Merrill*, 1 N.H. at 203-04. A court's constitutional function to independently decide controversies is impaired if it must depend on, or is limited by, another branch of government in determining and evaluating the facts of the controversies it must adjudicate. *See United States v. Klein*, 80 U.S. (13 Wall.) 128, 146 (1871). In essence the bill before us usurps the judicial function of making relevancy determinations by creating a rebuttable presumption in favor of admissibility without regard for the particular facts or circumstances of a case.

Because the proposed bill directly conflicts with Rule 404(b), a rule concerning a uniquely judicial function, the separation of powers doctrine is violated. The legislature has no more right to break down the rules prescribed by this court to assure fundamental due process in criminal and civil trials than the court has to prescribe the mode and manner in which the legislature shall perform its legislative duties. *See Epstein v. State*, 128 N.E. 353, 353 (Ind. 1920); *Opinion of the Justices*, 86 N.H. 597, 601, 166 A.2d 640, 646 (1933) (part II, article 4, the power of the general court to establish courts, does not authorize the legislature to take from the judicial department a power recognized as an essential attribute of judicial tribunals).

We answer your first question, whether enactment of the bill, as amended, would violate part I, article 37 of the State Constitution, in the affirmative. We find it unnecessary, therefore, to address your second question, whether the bill would violate part II, article 73-a of the State Constitution.

David A. Brock

William R. Johnson

W. Stephen Thayer, III

Sherman D. Horton, Jr.

John T. Broderick, Jr.

January 24, 1997

Jeffrey R. Howard, attorney general (Cynthia L. White, assistant attorney general, on the memorandum), filed a memorandum in support of negative answers to the questions presented.

James E. Duggan, chief appellate defender, of Concord, filed a memorandum in support of affirmative answers to the questions presented.

Douglas & Douglas, of Concord (Charles G. Douglas, III on the memorandum), filed a memorandum on behalf of the New Hampshire House Committee on Corrections and Criminal Justice in support of negative answers to the questions presented.

Charles R. Johnson, of Claremont, filed a memorandum in support of negative answers to the questions presented.

Hank Amsden, of Concord, filed a memorandum in support of a negative answer to question two.

## COMMITTEE HEARINGS

MONDAY, FEBRUARY 3

**ELECTRIC UTILITY RESTRUCTURING OVERSIGHT COMMITTEE (RSA 374-F:5), Room 304, LOB**

1:00 p.m. Regular meeting.

**LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB**

9:00 a.m. State Hospital parking subcommittee work session.

TUESDAY, FEBRUARY 4

**COMMERCE, Room 302, LOB**

10:00 a.m. **HB 301**, relative to real estate broker's and agent's representation of buyers.

1:15 p.m. **HB 292-LOCAL**, limiting the damages which may be received by an uninsured motorist from an insured motorist's automobile liability coverage.

2:15 p.m. **HB 247**, requiring automobile insurance companies to offer uninsured motorist coverage as an insurance option, not a requirement.

2:30 p.m. Continued public hearing on **HB 222-LOCAL**, relative to pooled risk management programs.

2:35 p.m. Continued public hearing on **HB 261**, recodifying the insurance laws pertaining to hospital service corporations, medical service corporations, and nonprofit health service corporations

2:40 p.m. Continued public hearing on **HB 147**, relative to disclosure of certain information relating to tobacco products.

Executive session on pending legislation.

3:00 p.m. Subcommittee work session on **HB 263-FN**, relative to viatical settlements which are settlements between an insurance provider and a policy holder or certificate holder with a life-threatening illness.

**CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

10:00 a.m. **HB 353**, establishing a committee to study issues regarding prosecutions and sentencing of, and incarceration treatment for, persons convicted of sex-related crimes.

10:30 a.m. **HB 358**, allowing victims of domestic violence to terminate a lease if a protective order has been secured.

11:00 a.m. **HB 386**, removing personal liability of employees of licensing entities for failure to comply with state laws regarding licenses to carry pistols and revolvers.

1:30 p.m. **HB 414**, authorizing the commissioner of the department of safety to adopt rules imposing late fees for the impaired driver intervention programs.

2:00 p.m. **HB 420**, relative to administrative review of suspended or revoked motor vehicle licenses.

2:30 p.m. **HB 458-FN**, relative to the elements of simple assault and relative to certain persons with prior convictions for first degree, second degree, or simple assault.

Executive session on pending legislation.

## **EDUCATION, Room 207, LOB**

9:30 a.m. ***HB 229-FN-A-LOCAL***, establishing a reading recovery training program and making an appropriation therefor.

10:30 a.m. ***HB 242***, requiring voter approval for any type of random drug testing within a school district.

Executive session on pending legislation.

Noon Subcommittee work session on ***HB 110***, relative to the use of and school district liability for the use of district computer systems and networks.

## **ELECTION LAW, Room 308, LOB**

10:00 a.m. ***CACR 15***, Relating to requiring that the attorney general be elected. Providing that the attorney general be chosen biennially in the general election.

10:30 a.m. ***HB 417***, relative to ballot certification for political parties.

11:00 a.m. ***HB 407***, relative to absentee voting.

Executive session on pending legislation.

11:30 a.m. Subcommittee work session on ***HB 276***, relative to petitions for filing for a primary election and ***HB 277***, relative to the option to process absentee ballots before closing of polls.

1:00 p.m. Subcommittee work session on ***HB 162***, eliminating the opportunity of a political party to submit a person's name for candidacy after the filing period for individuals has passed.

## **ENVIRONMENT AND AGRICULTURE, Room 303, LOB**

10:00 a.m. ***HB 396-LOCAL***, prohibiting current use tax designation for property granted a change in zoning classification for 5 years after the reclassification.

11:00 a.m. ***HB 418***, prohibiting the land application of sludge or biosolids containing amounts of heavy metals over certain limits.

1:30 p.m. ***HB 428-FN-LOCAL***, known as the Maggie Boyle Terninko Act, repealing RSA 430:49, the law preempting local regulation of pesticides.

Executive session on pending legislation.

## **ETHICS COMMITTEE (RSA 14-B:2), Room 304, LOB**

9:00 a.m. Organizational meeting.

## **EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB**

9:00 a.m. Subcommittee work session on ***HB 149-FN***, relative to the regulation of the profession of physical therapy.

10:00 a.m. ***HB 303***, relative to accountancy.

1:15 p.m. ***HB 368***, establishing the honorary position of artist laureate of the state of New Hampshire.

1:45 p.m. ***HB 322***, relative to bingo and lucky 7 inspectors.

Executive session on pending legislation.

## **FINANCE, Rooms 210-211, LOB**

10:30 a.m. **CACR 21**, providing that the governor be prohibited from proposing, and the general court be prohibited from approving, an operating budget in which expenditures exceed estimated revenue.

11:15 a.m. **HB 645-FN**, requiring the commissioner of health and human services to produce certain quarterly reports.

1:30 p.m. **HB 564-FN-A**, increasing the cigarette tax and designating a portion of the revenue for anti-smoking programs aimed at teenagers.

3:30 p.m. **HB 402**, relative to the use of revenues of the fish and game department.

4:00 p.m. **HB 516-FN**, increasing the fuel oil discharge cleanup fund fee.

Executive session on pending legislation.

**FINANCE - DIVISION II, Rooms 209, LOB**

9:30 a.m. Work session and revenue estimates.

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

9:00 a.m. All other business.

9:30 a.m. Audits.

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

9:30 a.m. **HB 401**, repealing the prospective repeal of the healthy kids corporation.

10:00 a.m. **HB 225-FN**, requiring the commissioner of health and human services to establish a needle exchange pilot program.

Executive session on pending legislation.

**JUDICIARY AND FAMILY LAW, Room 208, LOB**

9:30 a.m. **HB 320**, requiring attorneys in divorce cases to provide clients with a statement of client's rights and responsibilities and a retainer agreement containing certain information, and subjects attorneys to certain other procedures in divorce cases.

11:00 a.m. **HB 312**, establishing a procedure for making and accepting offers of judgment in civil cases.

1:00 p.m. **HB 360**, prohibiting discrimination in rental housing based on receipt by a tenant of a federal rent subsidy.

1:45 p.m. **HB 361**, clarifying the status of tenants who reside in rooming or boarding houses for more than 90 consecutive days.

3:00 p.m. **HB 362**, creating a cause of action for civil damages for noncompliance with minimum housing standards.

Executive session on pending legislation.

**LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB**

10:30 a.m. **HB 429**, establishing a committee to study unemployment compensation as it relates to the contingent work force and to women workers.

1:00 p.m. **HB 323**, establishing a right to work act which provides for freedom of choice on whether to join a labor union.

3:00 p.m. **HB 339**, establishing a freedom of employment association act.

Executive session on pending legislation.

**LOCAL AND REGULATED REVENUES, Room 206, LOB**

10:00 a.m. **HB 349**, repealing certain pari-mutuel laws relative to racing funds, disbursements of the funds, and records of receipts.

10:30 a.m. **HB 432**, increasing the wager limit on games of chance from \$1 to \$5.

11:00 a.m. **HB 279**, relative to elderly exemptions from the property tax.

11:30 a.m. **HB 489-LOCAL**, requiring an annual cost of living adjustment for elderly exemptions to the property tax.

1:30 p.m. **HB 373**, establishing a committee to study the feasibility of implementing alternative local taxes for funding of education.

2:00 p.m. **HB 427-LOCAL**, allowing a municipality to adopt a local meals and rooms tax.

2:30 p.m. **HB 341**, relative to filing lucky 7 applications with the sweepstakes commission.

Executive session on pending legislation.

#### **MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

10:00 a.m. **HB 287-LOCAL**, relative to publication of annual reports by school districts.

11:00 a.m. **HB 295-LOCAL**, authorizing a cooperative school district board to establish polling places in each member town.

1:30 p.m. **HB 309**, increasing the time for a local legislative body to act on a proposed interim zoning regulation.

2:30 p.m. **HB 302**, renaming Scott Pond in the town of Fitzwilliam, N.H. as West Scott Pond and East Scott Pond.

3:00 p.m. **SB 108**, authorizing school boards of multi-town school districts which have adopted the official ballot referendum form of meeting to establish polling places in addition to the districts' central polling places for the 1997 and 1998 annual meetings.

Executive session on pending legislation.

#### **PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**

10:15 a.m. **HB 343-LOCAL**, relative to authority by governmental entities over driveways and other accesses to public ways.

11:00 a.m. **HB 347-FN-A**, relative to landscaping at Weirs Beach in Laconia and making an appropriation therefor.

1:15 p.m. **HB 400**, authorizing the state to enter into a lease-purchase agreement with Cheshire county for the new Jaffrey-Peterborough district courthouse.

Executive session on pending legislation.

3:00 p.m. Subcommittee work session on **HB 208-LOCAL**, relative to the status of county highways which are being maintained by towns.

#### **RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

9:00 a.m. Subcommittee work session on **HB 307**, relative to the adoption of local river corridor management plans by planning boards.

10:00 a.m. **HB 336**, clarifying certain definitions relating to dams.

11:00 a.m. **HB 405-LOCAL**, relative to standardizing the requirements for the design and specifications of septic systems.

1:15 p.m. **HB 389**, relative to the water protection assistance program within the office of state planning.

Executive session on pending legislation.

2:15 p.m. Subcommittee work session on **HB 214**, relative to forest product purchasers and loggers.

#### **SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB**

10:00 a.m. **HB 406**, relative to environmental disclosure by electric power facilities.

11:00 a.m. ***HB 411-LOCAL***, authorizing municipalities to issue bonds for the purpose of defraying the cost of purchasing or taking public utility property.

1:00 p.m. ***HB 452***, establishing a legislative oversight committee on telecommunications restructuring and relative to aggregation of telecommunications services customers by municipalities and counties.

Executive session on pending legislation.

**TRANSPORTATION, Room 203, LOB**

10:00 a.m. ***HB 419***, requiring daytime running lights on motor vehicles.

10:30 a.m. ***HB 415***, establishing speed limits for OHRVs traveling on the frozen surface of Back Lake in the town of Pittsburg.

11:15 a.m. ***HB 382***, requiring vehicles transporting loads on ways where the speed limit is 30 miles per hour or greater to cover the load.

Executive session on pending legislation.

**WILDLIFE AND MARINE RESOURCES, Representatives Hall**

9:30 a.m. ***HB 200-FN***, prohibiting the use of leghold traps and "conibear" traps.

Executive session on pending legislation.

WEDNESDAY, FEBRUARY 5

**COMMERCE, Room 302, LOB**

10:00 a.m. ***HB 340***, relative to the real estate commission and its licensing and bonding requirements.

11:00 a.m. ***HB 342***, relative to the payment of recording fees for mortgage discharges.

Executive session on pending legislation.

**CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

10:00 a.m. Subcommittee work session on ***HB 118-FN***, relative to penalties for marijuana possession.

**EDUCATION, Room 207, LOB**

8:00 a.m. Subcommittee work session on ***HB 143-LOCAL***, requiring that SAU budgets be approved by vote at school district meetings.

9:30 a.m. ***HB 253-FN-LOCAL***, relative to special education services.

10:30 a.m. ***HCR 2***, urging all school districts in the state of New Hampshire to implement peer mediation programs.

Executive session on pending legislation.

**ELECTION LAW, Room 308, LOB**

9:30 a.m. ***HB 379-FN***, relative to reporting of contributions to candidates for speaker of the house and senate president.

10:00 a.m. ***HB 248-LOCAL***, prohibiting all persons except candidates who appear on the ballot from performing electioneering activities within 100 feet of the door of the polling place and relative to campaign signs held by candidates.

10:30 a.m. ***HB 308***, relative to opening hours for polling places.

Executive session on pending legislation.

**ENVIRONMENT AND AGRICULTURE, Room 303, LOB**

10:00 a.m. **HB 291**, relative to the use of the terms "native," "local," and "our own" when referring to farm products.

10:30 a.m. **HB 352**, modifying the definitions of "agriculture" and "farming" for certain purposes.

11:00 a.m. **HB 384**, relative to requiring notification by utilities of right-of-way maintenance.

Executive session on pending legislation.

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB**

9:00 a.m. Subcommittee work session on **HB 197-FN**, relative to the regulation of wetland scientists and **HB 121**, relative to quality review for accountancy and requiring the board of accounting to adopt administrative rules.

10:00 a.m. **HB 346**, relative to the effect of federal law on any reorganization of the executive branch.

10:45 a.m. **CACR 18**, Relating to: references to the governor in the constitution. Providing that: all references to the governor in the constitution shall be gender neutral.

**FINANCE, Rooms 210-211, LOB**

9:00 a.m. **HB 571-FN-A**, funding services for developmentally disabled persons with severe disabilities and making an appropriation therefor and relative to full funding of services to developmentally disabled persons.

Executive session on pending legislation to follow.

Executive session on pending legislation at the conclusion of the House session.

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

9:30 a.m. **HB 488-FN**, relative to involuntary admission to the state hospital on an emergency basis.

10:30 a.m. **HB 434**, relative to milk products of sheep and goats and milk producer permits and allowing the commissioner of the department of health and human services to impose certain administrative fines.

Executive session on pending legislation.

**JUDICIARY AND FAMILY LAW, Room 208, LOB**

9:30 a.m. **HB 330**, relative to openness in the civil litigation process.

10:30 a.m. **HB 387-LOCAL**, extending municipal immunity from liability for injuries from accidents caused by snow and ice in municipal parking lots.

Executive session on pending legislation.

**LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB**

10:30 a.m. **HB 298**, permitting legislators to take time off from their regular employment to fulfill public responsibilities.

Executive session on pending legislation.

**LOCAL AND REGULATED REVENUES, Room 206, LOB**

10:00 a.m. **HB 351-LOCAL**, limiting the total of tax deferrals for the elderly and disabled on a particular property to a percentage of its equity value.

10:30 a.m. **HB 423-LOCAL**, relative to the elderly exemption from the property tax.

Executive session on pending legislation.

**MUNICIPAL AND COUNTY GOVERNMENT, 3<sup>rd</sup> Floor Conference Room, State House**

10:00 a.m. Subcommittee work session on **CACR 10**, Relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute adopted by the legislature.

**Room 301B, LOB**

10:00 a.m. Subcommittee work session on **HB 311-LOCAL**, giving municipalities the option of authorizing their governing bodies to enter into discretionary easements on certain agricultural buildings.

**PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**

9:30 a.m. **HB 413**, expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports.

10:15 a.m. **HB 471**, relative to the method of refund of the road toll paid by private school bus companies.

Executive session on pending legislation.

**RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

9:30 a.m. **HB 350**, exempting permits by rule and permits by notification from certain excavating and dredging permit requirements.

Executive session on pending legislation.

**SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB**

10:00 a.m. **HB 424**, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

11:00 a.m. **HB 587-FN**, relative to the system benefits charge and interim stranded costs recovery charges in electric utility restructuring.

Executive session on pending legislation.

**STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 301, LOB**

9:30 a.m. **HCR 4**, petitioning the Congress of the United States to propose an amendment to the Constitution of the United States for submission to the states to establish a mechanism for nullification of federal laws and regulations when the states determine that such laws or regulations exceed the authority of the federal government under the Constitution of the United States.

10:00 a.m. **HCR 5**, petitioning the Congress of the United States to enact legislation that requires Congress to specify the constitutional authority for the enactment of law and that prohibits agency rules or regulations from preempting or otherwise interfering with state or local powers without express statutory authority.

10:30 a.m. **HCR 6**, petitioning the Congress of the United States to propose an amendment to the Constitution of the United States for submission to the states to provide the states a method of offering amendments to the Constitution of the United States.

11:00 a.m. **HCR 7**, petitioning the Congress of the United States to propose an amendment to the Constitution of the United States for submission to the states to prohibit the federal government from imposing regulatory mandates, unfunded mandates, and spending conditions, which conditions are unrelated to the actual expenditures of funds allocated by Congress.

Executive session on pending legislation.

**TRANSPORTATION, Room 203, LOB**

9:00 a.m. **HB 357-FN**, requiring the director of motor vehicles to recommend vehicle light use during any period windshield wipers are in operation during inclement weather.

9:45 a.m. **HB 335-FN-LOCAL**, relative to motor vehicle license and registration suspensions.

10:30 a.m. **HB 412**, relative to motor carrier safety rules and repealing certain obsolete statutes relating to motor vehicles.

Executive session on pending legislation.

**WILDLIFE AND MARINE RESOURCES, Room 307, LOB**

- 9:00 a.m. Subcommittee work session on **HB 132-FN**, allowing New Hampshire residents on active duty in the armed forces or coast guard to be issued hunting and fishing licenses at no charge.
- 9:30 a.m. **HB 371**, relative to the authority of the department of fish and game to regulate the management, preservation, propagation, and taking of state fish, game, and wildlife resources.
- 10:30 a.m. **HB 403**, prohibiting the use of trotlines to take fish.
- 11:00 a.m. **HB 390**, relative to quarantine of captive wildlife.
- Executive session on pending legislation.

**THURSDAY, FEBRUARY 6**

**COMMERCE, Room 302, LOB**

- 10:00 a.m. **HB 359**, regulating information regarding evictions contained in credit reports issued by consumer reporting agencies.
- 10:45 a.m. **HB 464-FN**, regarding notice provisions for waxes applied to fresh fruit.
- 11:15 a.m. **HB 398**, allowing Delta Dental Plan of New Hampshire to issue plans to individuals.
- 1:35 P.M. **HB 404**, establishing a committee to study providing universal catastrophic health coverage by establishing a statewide catastrophic risk pool.
- 2:30 p.m. **HB 409**, requiring nonprofit educational organizations and certain hospitals to file certain forms with the director of charitable trusts.
- Executive session on pending legislation.

**CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB**

- 10:00 a.m. **HB 348-FN**, allowing the state fire marshal to investigate a building collapse or release of carbon monoxide.
- 10:30 a.m. **HB 392**, changing references to the "BOCA Basic Building Code" to "BOCA National Building Code."
- 11:00 a.m. **HB 367-FN-LOCAL**, requiring notification to parents when a minor violates the tobacco laws.
- 11:30 a.m. **HB 416**, relative to sentencing for juvenile delinquents.
- 1:30 p.m. **HB 338**, repealing certain requirements relative to the duty to deliver a copy of process to prisoners.
- 1:45 p.m. **HB 462-FN**, relative to acknowledgment of DWI laws by persons under 21 years of age.
- 2:00 p.m. **HB 438-FN**, allowing the court to impose certain chemical treatments on repeat child molesters.
- Executive session on pending legislation.

**DAM MANAGEMENT REVIEW (RSA 482:93), Room 305, LOB**

- 2:30 p.m. Regular meeting.

**EDUCATION, Room 207, LOB**

- 9:30 a.m. **HB 388**, providing that one member of the state board of education shall be a currently certified and employed New Hampshire public school teacher.

Executive session on pending legislation.

### **ELECTION LAW, Room 308, LOB**

10:30 a.m. **HB 354**, repealing the exemption for social activities from political expenditure and contribution reporting requirements.

11:00 a.m. **HB 355**, relative to prohibited political contributions.

11:30 a.m. **HB 356**, relative to reporting requirements for political candidates and political committees.

Executive session on pending legislation.

Subcommittee work session on **CACR 9**, Relating to requiring that the attorney general be elected by the legislature. Providing that the attorney general be chosen by joint ballot of the senators and representatives. (Immediately following executive session.)

### **ENVIRONMENT AND AGRICULTURE, Room 303, LOB**

10:00 a.m. Environmental Policy subcommittee work session on **HB 196-FN**, providing for the regulation of horticultural growing media and **HB 207-FN**, relative to pesticide registration fees and making an appropriation therefor.

### **EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB**

9:30 a.m. **HB 378**, regulating the practice of acupuncture.

1:15 p.m. **HB 425**, relative to the regulation of pharmacists.

1:45 p.m. **HB 393**, relative to the mental health practice act, including establishing a clients' bill of rights.

Executive session on pending legislation.

### **FINANCE, Rooms 210-211, LOB**

9:00 a.m. **HB 491**, establishing a house committee to study the institution of a state property tax.

9:30 a.m. **HB 578-FN-A-LOCAL**, providing for property tax relief and making an appropriation therefor.

10:30 a.m. **HB 574-FN-A-LOCAL**, imposing a flat tax to replace certain state and local taxes.

11:30 p.m. **HB 563-FN-A**, relative to a tax on telecommunications easements.

1:30 p.m. **HB 562-FN**, imposing a tax on gambling winnings over \$5 to fund kindergarten and continually appropriating a special fund.

2:15 p.m. **HB 531-FN**, increasing the amount superior court bailiffs are paid per day.

3:00 p.m. **HB 513-FN**, limiting the operational expenses of the sweepstakes commission to 10 percent of the gross revenue.

Executive session on pending legislation.

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

9:30 a.m. **HB 426**, establishing a committee to study the rules and regulations regarding the administration of medications in long-term care facilities.

10:30 a.m. **HB 476**, establishing the New Hampshire council on drug abuse prevention.

Executive session on pending legislation.

### **JUDICIARY AND FAMILY LAW, Room 208, LOB**

9:30 a.m. **HB 260**, defining "marriage" to mean a legal union between one man and one woman as husband and wife.

11:00 a.m. **HB 363**, relative to venue for actions against tenants.

1:30 p.m. **HB 364**, relative to interest or penalty charges for failure to pay rent.

2:30 p.m. **HB 365**, providing that communications made during family mediation shall be privileged.

Executive session on pending legislation.

**LEGISLATIVE ADMINISTRATION, Room 307, LOB**

9:30 a.m. **HB 440-FN**, changing the legislative mileage formula.

10:45 a.m. **CACR 19**, Relating to: the election of the speaker of the house, senate president, and other officers. Providing that: the speaker of the house, senate president, and other officers shall be elected from among the respective body's membership.

11:15 a.m. **HB 494-FN**, relative to house bills and constitutional authority.

1:15 p.m. **HB 385**, relative to reporting and registration requirements for lobbyists and employees of lobbyists.

Executive session on pending legislation.

**LOCAL AND REGULATED REVENUES, Room 206, LOB**

10:00 a.m. Organizational meeting and agency briefings.

**MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB**

10:00 a.m. **HB 299**, relative to property tax assessments of new buildings during the property tax year.

11:00 a.m. **HB 315-LOCAL**, expanding certain financial powers of village districts.

Executive session on pending legislation.

**RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB**

9:30 a.m. **HB 272**, relative to boat docking facilities.

Executive session on pending legislation.

**SCIENCE , TECHNOLOGY AND ENERGY, Room 304, LOB**

10:00 a.m. Electric Utility subcommittee work session on **HB 411-LOCAL**, authorizing municipalities to issue bonds for the purpose of defraying the cost of purchasing or taking public utility property; **HB 587-FN**, relative to the system benefits charge and interim stranded costs recovery charges in electric utility restructuring and **HB 297**, relative to the cutting of vegetation by utilities on private property.

**WILDLIFE AND MARINE RESOURCES, Room 300A, LOB**

9:30 a.m. Subcommittee work session on **HB 243**, requiring a conviction of a person wounding or killing a human being while hunting before the person's hunting license can be revoked.

**FRIDAY, FEBRUARY 7**

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB**

9:30 a.m. Subcommittee work session on **HB 256-FN**, establishing uniform adjudicative proceedings for state agencies and establishing a pilot program for adjudicative hearings.

10:30 a.m. Subcommittee work session on **HB 282**, relative to enforcement of compliance by agencies with statutory authority for administrative rulemaking and other grounds for final objection by the joint committee on administrative rules.

11:00 a.m. Subcommittee work session on **HB 265**, repealing certain rulemaking authority of the commissioner of transportation.

**FINANCE - DIVISION II, Rooms 209, LOB**

9:30 a.m. Work session and revenue estimates.

**MONDAY, FEBRUARY 10**

**FINANCE, Rooms 210-211, LOB**

10:00 a.m. **HB 617-FN-A-LOCAL**, relative to payments for catastrophic aid for special education and making an appropriation therefor.

10:30 a.m. **HB 569-FN-A-LOCAL**, creating a New Hampshire securities transfer excise tax and a continually appropriated fund.

11:00 a.m. **HB 602-FN-A**, repealing the franchise tax on electrical utilities and replacing it with a tax on the distribution of electricity.

11:30 a.m. **HB 603-FN-A**, exempting the first \$300,000 in value of the total estate of a decedent from the legacies and successions tax.

Executive session on pending legislation.

**LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), NH Hospital, Acute Psychiatric Services Building, Conference Room**

9:00 a.m. Subcommittee work session.

**NUCLEAR DECOMMISSIONING FINANCE COMMITTEE (RSA 162-F:15), NH Public Utilities Commission, 8 Old Suncook Road, Concord**

2:00 p.m. Regular meeting.

**TUESDAY, FEBRUARY 11**

**COMMERCE, Room 302, LOB**

10:00 a.m. **HB 410**, allowing mental health counselors and marriage and family therapists to obtain third party payments for services rendered which would otherwise qualify for such payments.

11:30 a.m. **HB 376**, relative to prescription drug copayments required by insurance companies and relative to filling prescription drug prescriptions.

Executive session on pending legislation.

**EDUCATION, Room 207, LOB**

Noon Subcommittee work session on **HB 110**, relative to the use of and school district liability for the use of district computer systems and networks.

**LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB**

9:00 a.m. Subcommittee work session on **HB 131**, relative to notification regarding workers' compensation coverage for subcontractors.

1:00 p.m. Subcommittee work session on **HB 284**, establishing a study committee on the feasibility of combining the department of labor and the department of employment security.

**PUBLIC WORKS AND HIGHWAYS, Room 201, LOB**

10:00 a.m. **HB 305-A**, relative to the rehabilitation of the Walker building and making an appropriation therefor.

Executive session on pending legislation.

**WILDLIFE AND MARINE RESOURCES, Room 307, LOB**

10:30 a.m. Continued public hearing on ***HB 243***, requiring a conviction of a person wounding or killing a human being while hunting before the person's hunting license can be revoked.

Executive session on pending legislation.

WEDNESDAY, FEBRUARY 12

**ENVIRONMENT AND AGRICULTURE, Room 303, LOB**

10:00 a.m. Briefing - NH Timberland Owners Association.

Executive session on pending legislation.

FRIDAY, FEBRUARY 14

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

9:00 a.m. Regular meeting.

TUESDAY, FEBRUARY 18

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

9:30 a.m. ***HB 472***, establishing the council for children and adolescents with chronic health conditions.

**STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Rooms 301-303, LOB**

8:30 a.m. Committee briefing by Sen. Judd Gregg.

**STATE VETERANS' CEMETERY OVERSIGHT COMMITTEE (HB 11, Chapter 10, Laws of 1995), Room 101, LOB**

1:00 p.m. Regular meeting.

WEDNESDAY, FEBRUARY 19

**STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Rooms 301-303, LOB**

9:00 a.m. Committee briefing by Sen. Bob Smith.

FRIDAY, FEBRUARY 21

**JUDICIARY AND FAMILY LAW, Room 208, LOB**

9:30 A.M. Subcommittee work session on ***HB 211***, defining the terms "psychological injury" and related terms under the child protection act.

MONDAY, FEBRUARY 24

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

9:30 a.m. Regular meeting.

FRIDAY, FEBRUARY 28

**WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62), Room 306, LOB**

9:00 a.m. Regular meeting.

## OFFICIAL NOTICES

### COUNTY DELEGATION NOTICE

Merrimack County Executive Committee will meet Monday, February 10 in Room 206, LOB at 10:00 a.m.

Rep. Robert A. Lockwood, Chairman

Merrimack County Executive Committee

### COUNTY DELEGATION NOTICE

Rockingham County Executive Committee will meet Friday, February 7 at 9:30 a.m. at the Hilton Auditorium, Rockingham County Nursing Home, Brentwood to vote on budget to be presented to the full Delegation and on Friday, February 14 to finalize any unfinished business prior to the full Delegation meeting.

Rep. Sherman A. Packard, Chairman

Rockingham County Executive Committee

### COUNTY DELEGATION NOTICE

Rockingham County Delegation will meet Saturday, February 15 at 10:00 a.m. at the Hilton Auditorium, Rockingham County Nursing Home,. Brentwood to adopt the Budget for 1997.

Rep. Ken Malcolm, Chairman

Rockingham County Delegation

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Several members are not receiving their House Calendars in a timely manner. The House Clerk's Office continues to track these delivery problems, but we need your help. The post office is unable to trace the problem if we don't have the mailing envelope. If your weekly Calendar is not delivered on Saturday, please **save the envelope** when it does arrive, and write on it the date you received it. Please bring the envelope to the Clerk's Office the next time you come to the State House. We apologize for these mail delivery problems and are trying to correct them. Thank you for your cooperation.

Karen O. Wadsworth, Clerk of the House

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Pursuant to RSA 326-B:12, the Joint Health Council will meet in Room 205, LOB, North State Street Concord, on Monday, February 3 at 6:30 p.m.

Karen O. Wadsworth, Clerk of the House

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When the House Clerk is aware of House Members who are hospitalized or homebound by serious illness, it will publish a list of names and addresses so that their colleagues who so desire may send cards and greetings.

Beverly A. Gage, 75 South Policy Street Lot 31, Salem, New Hampshire 03079-2919

Karen O. Wadsworth, Clerk of the House

### \*\*\*\*\*MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices.

Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

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Members of the NH Senate and House are encouraged to utilize the complimentary ski privileges afforded them. Upon presentation of proper credentials at the ticket window, NH Senators and Representatives may receive a lift ticket for their personal use and one for a guest. The elected official must be present to personally present the credentials, unless prior arrangement is made with Commissioner Thomson. (Lift tickets are to be picked up at Guest Services at Sunapee; and at Guest Services or the Ticket Window at Cannon.)

Donna Sytek, Speaker

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Rockingham County Democrats will meet Monday, February 3 at 7:00 p.m. at Hampton Town Library, Winnacunnett Road, Hampton for the purpose of discussing proposed changes to the Bylaws and Constitution of the Democratic State Committee.

Rep. Cynthia McGovern

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American Red Cross Education Day is Wednesday, February 5. Come join us for coffee and danish in the State House Cafeteria from 8:15 a.m. to 10:00 a.m.

Rep. Sylvia A. Holley

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Republican legislators interested in the promotion of moderate social legislation are invited to a brief informal meeting in Room 205, LOB at noon on Tuesday, February 11. Freshmen members are urged to attend.

Rep. Joseph P. Manning

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The American Counseling Association of NH cordially invites all legislators and staff to their annual Legislative Reception on Wednesday, February 12 at the Holiday Inn Lounge from 4:00 to 7:00 p.m.

Rep. Thomas F. O'Rourke

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All legislators and staff are cordially invited to attend a reception hosted by the University System's College for Lifelong Learning on Wednesday, February 12. The reception will take place at the Holiday Inn at 4:00 p.m.

Rep. William S. Belvin

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The Belknap County Republican Committee will hold its annual Lincoln Day Dinner on Saturday, February 15 in Laconia. Tickets are \$15. See or call Rep. Rosen (524-8651) for tickets and further information.

Reps. Ralph J. Rosen and John H. Thomas

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The Department of Treasury, Abandoned Property Division, cordially invite you to search our abandoned property owner list during our two-day informational fair being held in the lower level of the Legislative Office Building on Tuesday, February 18 and Wednesday, February 19. Stop by our booth between 8:00 a.m. and 3:30 p.m. We are holding more than \$15,000,000, to return to residents of NH. Some of this money could belong to you, a relative, a constituent, a friend or a co-worker.

Rep. Norman L. Major

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Improve your mind, and recycle! Bring a book - Buy a book is located outside the cafeteria. It is sponsored by the OWLs. All monies go to the scholarship fund.

Rep. Betsy McKinney

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The Department of Transportation will hold the following meetings:

Feb 14 Municipal Complex, City Council Chambers, 1 Junkins Avenue, Portsmouth, 7:00 p.m. Public hearing, Portsmouth, US Route 1 alterations.

Rep. Gene G. Chandler, Chairman

Public Works and Highways

WEDNESDAY, FEBRUARY 5

**AMENDMENTS**

**(Listed in numerical order)**

1997-0048h

**Amendment to HB 130**

Proposed by the Committee on Criminal Justice and Public Safety

Amend the bill by replacing section 1 with the following:

1 Uncompensated Public Service by Prisoners. Amend RSA 651:36-a to read as follows:

651:36-a [Work] Uncompensated Public Service by Prisoners. The county commissioners of any county may authorize the superintendent of the county correctional facility to make arrangements with officials of a city [or], town, or nonprofit agency to [work] have prisoners from the county correctional facilities perform uncompensated public service at [municipally] municipal or nonprofit owned [recreational facilities or conservation projects] grounds or property. Prisoners [so worked] sent from the county correctional facility shall be in the custody of the superintendent of county correctional facilities or designee.

AMENDED ANALYSIS

This bill allows county commissioners to authorize the superintendent of the county correctional facility to arrange for uncompensated public service by prisoners at municipal or nonprofit owned grounds or property. Current law allows arrangements to be made for work by prisoners only at municipally owned recreational facilities or conservation projects.

1997-0028h

**Amendment to HB 186-FN**

Proposed by the Committee on Transportation

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

AN ACT relative to fees for number plates and reducing the amount of the inventory fund in the department of safety.

Amend the bill by replacing section 1 with the following:

1 Fee Increased. Amend RSA 228:25, I to read as follows:

I. There is hereby established an inventory fund in the department of safety in the amount of [\$2,000,000] \$1,000,000 which sum is hereby authorized as a revolving fund comprised of funds in the highway fund that are not otherwise appropriated. The prison shall purchase such raw materials as may be required and agreed to by the commissioner of safety in order for the commissioner of safety to issue fully reflectorized motor vehicle number plates. This purchase shall be a charge against the inventory fund and the prison shall be responsible for the control and accountability of the raw materials so charged. Said number plates shall be manufactured at the state prison. The prison shall be furnished out of said inventory account the raw materials necessary to manufacture said plates and upon receipt of the finished plates by the department of safety shall be reimbursed for their direct and indirect costs. The commissioner of safety shall, annually, request the commissioner of administrative services to review and approve said cost rates. Notwithstanding any other provision of law, the commissioner of safety shall charge in addition to the regular motor vehicle registration fee the sum of [\$1.50] \$2.50 per plate at the time of issuing said reflectorized motor vehicle number plates or replacement reflectorized number plates. Said additional charge shall not give the registrant any title or other property interest in said plates. The commissioner of safety or [his] deputy may request from time to time delivery of [said] the number plates from the prison and shall reimburse [said] the inventory fund by a transfer from revenue. At least 6 months prior to subsequent general issue, a transfer from revenue shall be made for all remaining finished plates in inventory.

AMENDED ANALYSIS

This bill increases the annual registration fee for number plates from \$1.50 to \$2.50.

The bill also reduces the amount of the inventory fund in the department of safety from \$2,000,000 to \$1,000,000.

January 29, 1997

01/08

**Amendment to HB 251**

Proposed by the Committee on Public Works and Highways

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

AN ACT reclassifying a portion of North Main Street in the town of Farmington and a portion of Passaconaway Road in the town of Albany.

Amend the bill by inserting after section 1 the following and renumbering the original 2 to read as 3:

2 Classification Changed. Passaconaway Road, in the town of Albany, beginning at the Albany-Conway town line westerly for a distance of 1.24 miles to the existing class V highway shall be classified as a class V highway 60 days after completion of repaving and drainage work to be performed by the department of transportation.

AMENDED ANALYSIS

This bill reclassifies a portion of North Main Street in the town of Farmington from a class II to a class V highway. The bill also reclassifies a portion of Passaconaway Road in the town of Albany.