

State of New Hampshire HOUSE RECORD

**First Year of the 156th Session of the General Court
Calendar and Journal of the 1999 Session**

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Contains: Public Hearings, Work Sessions, Notices, Reports and Amendments for May 25.

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet on Tuesday, May 25 at 10:00 a.m.

The House Finance Committee will be holding a public hearing on HB 300, the technical corrections bill for HB117, on Monday, May 24 at 9:00 a.m. Rep. Kurk expects to hold an executive session following the hearing in order for us to vote on it Tuesday.

I would like to recognize and congratulate Representative Leon Calawa for his part in the Brown Building on the State Hospital campus being selected as a winner of a 1999 Preservation Achievement Award by the New Hampshire Preservation Alliance. Representative Calawa will be recognized at the Alliance's June 4 meeting as being instrumental in the Brown Building's development and renovations that made it eligible to receive this prestigious designation.

The Chairmen and Vice Chairmen will not meet next week.

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Tuesday, May 25 at 9:00 a.m. in Rooms 201-203, LOB

Rep. Gene G. Chandler, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, May 25 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

TUESDAY, MAY 25

CONSENT CALENDAR

CHILDREN AND FAMILY LAW

SB 24, extending the application of certain provisions of the child protection act to all children in out-of-home placements. OUGHT TO PASS WITH AMENDMENT

Rep. Constance A. Jones for Children and Family Law: This bill, with the amendment, clarifies the law regarding the return of a court-placed child in placement who is subject to the child protection statute. The amendment makes it clear that the existing standard applies to children in relative homes and group homes as well as foster care. There is no budgetary impact. Vote 14-0.

SB 112, relative to the guardianship of minors. OUGHT TO PASS WITH AMENDMENT

Rep. David A. Bickford for Children and Family Law: This bill clarifies "guardianship of a minor" within the definition of "custody proceeding" and places the jurisdiction of the court under the Uniform Child Custody Jurisdiction Act. Passage of this bill would cause no fiscal impact. Vote 14-0.

ELECTION LAW

HB 375, relative to substitutions for disqualified candidates and relative to nominations by nomination papers. OUGHT TO PASS WITH AMENDMENT

Rep. Robert E. Clegg, Jr. for Election Law: This bill allows a 5-day window to replace a candidate who is disqualified from having their name printed on the ballot for a primary election because of age, domicile, incapacitating disability or death. The respective party shall have 5 days to replace the candidate by submitting a new name to the secretary of state. Vote 18-0.

HB 445, relative to straight ticket voting procedures. RE-REFER TO COMMITTEE

Rep. Raymond Buckley for Election Law: The committee requests that HB 445 be re-referred so that we may use the bill as a vehicle to study several ballot-related ideas that are of interest to the committee. As we have worked on our bills this year, a number of new ideas have been mentioned that the committee would like to study for potential legislation next session. Vote 17-1.

HB 458, relative to voter qualifications. INEXPEDIENT TO LEGISLATE

Rep. Robert R. Rodrigue for Election Law: The bill would have made changes in voter qualifications to accommodate homeless persons and others. The committee found both good and bad in the bill. After extensive amending in sub-committee, there are still some concerns of the constitutionality of this bill. Out of respect to the current workload of the legislature, the sponsor has asked that the bill be killed, so that the issue may be given proper attention at some later time. Vote 17-1.

HB 506-FN-L, relative to voter registration. INEXPEDIENT TO LEGISLATE

Rep. Francis W. Davis for Election Law: This bill would have required that voter registration forms be available in the office of the mayor or selectmen, the post office, and the library in each city and town in addition to the office of the clerk. The committee felt that these additional registration places were not necessary now that we have same day voter registration on election day. This bill would also have required the verification of the voter checklists every two years. The current purging of the voter checklist is on a ten-year cycle. To reduce this cycle to a two-year period would be very costly. The election law committee unanimously opposed this legislation. Vote 17-0.

FINANCE

HB 395-FN-A, establishing a pilot program of matching grants to preserve historic agricultural structures in New Hampshire and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Margaret A. Lynch for Finance: The amendment replaces the original bill. As presented, the original bill established a pilot program of matching grants to preserve historical agricultural structures at a cost of \$100,000 to the general fund for the biennium. It was the consensus of the committee that we could support the policy intent; however, we could not justify a \$100,000 grant program as a priority at this time for state financial support.

The amendment removes the state obligation for financial support and establishes a non-lapsing fund in the office of the state treasurer to be known as The Barn Preservation Fund. The division of historical resources is authorized to accept public and private donations of any kind to be awarded competitively to eligible applicants, who must match the award with equal or greater value. The amendment further establishes an advisory committee and eligibility criteria as well as the requirement to record such grant awards with the appropriate registry of deeds.

The Committee on Environment and Agriculture reviewed the changes to the bill and found them acceptable. There is therefore no fiscal impact on general funds. Vote 25-1.

HB 685-FN-A, relative to the New Hampshire land and community heritage commission, and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Susan W. Almy for Finance: The legislature in 1998 created the Land and Community Heritage Commission to develop plans for a land and historic building preservation program. The Finance Committee amended the bill as received from the policy committee by removing language that could have committed the legislature to appropriating \$12 million to the new program to be proposed by the commission later this year, and by continuing the 1998 policy of voluntary funding of commission costs. Vote 23-3.

JUDICIARY

SB 25, expanding the waiver of administration under the law regarding decedents' estates. OUGHT TO PASS WITH AMENDMENT

Rep. Robert H. Rowe for Judiciary: This is a consumer-oriented bill that reduces the cost and time in the probating of estates when the sole heir of the estate is a spouse, or if no spouse an only child. In such instances the law allows the surviving spouse or the child to complete the probate process through the filing of an affidavit of administration rather than proceeding through the full probate process. Vote 15-0.

SB 64, relative to powers of appointment. OUGHT TO PASS

Rep. Janet G. Wall for Judiciary: This bill is a product of a study committee last summer. It is intended to clear up a problem in New Hampshire regarding powers granted to a person in a will or trust where the language in said will or trust is vague. In many wills or trusts written prior to 1986 a distinction is not made between general power of appointment, which is broad and taxable by IRS and, special power of appointment, which is limited power and not taxable by IRS. Currently, the Internal Revenue Service chooses to declare powers of appointment as taxable if general or special is not clearly defined. If a state enacts laws clarifying general and special powers of appointment, the Internal Revenue Service will defer to the state law. This bill has no impact on New Hampshire legacy and succession laws. Vote 13-0.

SB 101, relative to landlord-tenant obligations. OUGHT TO PASS WITH AMENDMENT

Rep. Phyllis L. Woods for Judiciary: This bill would prohibit Sheriff's Departments from collecting a fee for service from landlords unless the landlord and tenant writ was made properly returnable in 7 days in accordance with current statute. The bill further defines "voluntary departed tenant" and reduces the time that a landlord is required to store the personal property of a tenant who has voluntarily vacated a dwelling from 28 days to 3 days. The bill prohibits a landlord from knowingly renting premises or maintaining premises for rent that violate minimum housing standards. It requires that, if part of a rental agreement requires the tenant to pay part of a utility service used in another dwelling unit, it shall be confirmed in writing to the tenant. The bill requires landlords and tenants to make repairs to correct certain violations and allows landlords to defend against certain alleged violations of minimum housing standards on the grounds that another caused the violations, and such

landlord may counterclaim for cost of repair. The committee amendment also deleted a provision granting police officers, notaries, and justices of the peace the power to serve writs of summons – leaving that responsibility with the Sheriff's Departments. To do otherwise would have a negative effect on county budgets. Vote 16-0.

SB 165, relative to the Uniform Trustees' Powers Act. OUGHT TO PASS

Rep. Phyllis L. Woods for Judiciary: This bill allows a trustee to certify their power and to convey personal property held in trust by the use of a certified and guaranteed document which is a written certificate signed by the trustee and sworn to before a notary public. This bill is really a consumer protection bill in that it protects persons who purchase property from a trustee from having that property confiscated due to the fact that the trustee did not have proper authority to dispose of the property of the estate. Vote 15-0.

MUNICIPAL AND COUNTY GOVERNMENT

HB 521-L, exempting initial bond issues from the 10 percent limitation on exceeding appropriations recommended by the budget committee. RE-REFER TO COMMITTEE

Rep. David W. Hess for Municipal and County Government: Current law sometimes empowers local budget committees to prevent local legislative bodies from even considering some bond issues by simply voting to "not recommend" the bond issue. The Committee agrees with the sponsors of this bill that giving municipal budget committees such a "veto" over bond issues does not appear to be the intent of the Municipal Budget Act. However, the Committee believed that completely exempting such bond issues from the ten per cent limitations on exceeding appropriations recommended by the budget committee also violated the intent of the Municipal Budget Act. After a number of attempts to address this issue within the spirit of the Act were unsuccessful, the Committee decided it should be studied further and voted unanimously to re-refer. Vote 15-0.

PUBLIC WORKS AND HIGHWAYS

HB 281-A, making a capital appropriation for the expansion of veterans' home facilities. INEXPEDIENT TO LEGISLATE

Rep. William E. Leber for Public Works and Highways: This bill would provide a much needed expansion and improvement to the New Hampshire Veterans' Home, particularly in the dementia facility. This proposal was the result of study the last two years that identified the need for 100 additional beds with at least 50 beds for dementia patients. The cost is approximately \$10 million, with the federal share \$6.5 million, and the state's share \$3.5 million. The committee voted with overwhelming support to include this project in the Capital Improvement Budget, HB 25-A, which the House approved on May 13, 1999. Therefore, this bill is no longer needed. Vote 21-0.

SCIENCE, TECHNOLOGY AND ENERGY

HB 733, relative to a state master plan for the deployment of personal wireless service facilities. RE-REFER TO COMMITTEE

Rep. Jeb E. Bradley for Science, Technology and Energy: This bill deals with the siting of wireless telecommunication towers. The committee decided to re-refer this bill as it is very complex and in need of considerable scrutiny. The committee will examine a master plan for siting of towers, mapping of locations, model siting ordinances, local planning and zoning consensus, and a policy with regard to use of state owned mountain tops for location of telecommunication towers. Vote 17-0.

SB 124, establishing a committee to study the integration of technology at the state and municipal level. OUGHT TO PASS WITH AMENDMENT

Rep. Harold V. Lynde for Science, Technology and Energy: The committee heard testimony from municipal and county employees on the need for better coordination and integration of technology implementation at the state level that impacts on technology requirements at municipal and county levels of government as well as the need for efficient transfer and access to data. Additionally, testimony indicated the importance of improving the timeliness of the Division of Information Technology Management (DITM) involvement in technology decisions at the state level. The purpose of the study committee is to investigate specific measures, which would promote the integration of technology at the state, county, and municipal levels of government for the mutual benefit of all. The bill, as presented to the committee, only referred to the state and municipalities. The amendment adds counties because there is a desire and need to obtain successful technology integration at all levels of New Hampshire government. Vote 16-0.

TRANSPORTATION

HB 505-FN, establishing a special license plate for veterans. RE-REFER TO COMMITTEE

Rep. Robesrt J. Letourneau for Transportation: This bill was originally reported Inexpedient to Legislate by the committee. The sponsor asked if we would accept to recommit the bill on the day of the initial vote in the House. The committee accepted the bill back so that the sponsor could present some new ideas to the committee. Because of the time factors involved with house bills, we ask that this bill be re-referred so that the new material can be fully examined by the committee. Vote 14-0.

TUESDAY, MAY 25

SPECIAL ORDER

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 657-FN, relative to the health services planning and review board. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT

Rep. Peter Batula for the Majority of Health, Human Services and Elderly Affairs: As explained in HB 419, the "Certificate of Need Board" was initially mandated into law as a watchdog on escalating medical costs. The board is no longer a federal mandate and many states have repealed the law for various reasons. Those include failure to slow down escalating medical costs as originally intended, and whether intentional or unintentional, it all but puts a moratorium on competition. The board has, at least in perception, created a wide division between physicians and hospitals. For example: Hospitals' cash cows are the operating rooms and in many instances, they build more surgical centers to reap the most often overpriced surgeries profits. If the cost of these additional surgical centers exceeds \$1.5 million, they need C.O.N. approval and they have usually been approved based on past history. The problem arises when perhaps a group of physicians wish to build and open a private freestanding multi-use surgical center, which would obviously compete for the non-emergency type surgeries. If their building costs are expected to exceed \$1,000,000, they need C.O.N. approval. That is where the problem starts, as the C.O.N. board controls not only the destiny of the approval process, but also has the power to shut down competition for the hospitals, even though a Blue Cross/Blue Shield study shows that ambulatory surgical centers reduce surgery costs by 47%, while providing quality, affordable health care for all citizens. 2600 ambulatory surgical centers have opened in the country and not one hospital has closed because of them. The federal government encourages the growth of these centers, due to cost savings. HB 657 restructures the C.O.N. board from seven to nine members, adjusts the capital expenditure threshold of \$1,250,000 and levels the playing field between hospitals and surgical centers. There is and was an attempt to lower the threshold from the \$1,250,000 and if adopted, this would create a moratorium on ambulatory surgical centers, meaning higher surgical costs due to a lack of competition. A vote to lower the threshold (producing a moratorium on competition) is indeed a journey in the wrong direction on the subject of controlling escalating medical costs. Vote 12-8.

Rep. Marion L. Copenhaver for the Minority of Health, Human Services and Elderly Affairs: The minority of the committee believes that ambulatory surgical centers should be subject to review by the Health Services, Planning and Review Committee (known as the Certificate of Need Board) to determine if there is a public need or to avoid costly duplicative services. The bill as passed, has a threshold of \$1,250,000 which in effect, exempts these ambulatory surgical centers from the public review process. The minority feels the threshold should be \$750,000, in order for the state to maintain a healthy balance of these necessary surgical facilities.

TUESDAY, MAY 25

REGULAR CALENDAR

ELECTION LAW

HB 337, requiring that the order of candidate names on the ballot be determined by a random drawing. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Sandra J. Reeves for Majority of Election Law: Under current law, candidates for each office on the general election ballot

are grouped first according to party and then listed alphabetically within each grouping. Candidates from the party that received the largest number of votes at the last general election are listed first. This law has been challenged and upheld in federal district court. On February 24, 1997, the court determined that the plaintiffs in the case failed to demonstrate that there is a positional advantage on the ballot of a partisan general election and that there are "substantial justifications" for the law that designates the order of candidate's names. HB 337 requires that the order of candidates names on the ballot be determined by a random public drawing conducted by the Secretary of State. After a lively discussion, and using the names of the Election Law Committee (whose last names begin with letters from A to Y) as a random sample, it became apparent that ballot placement does not necessarily determine outcome. Voters are sophisticated and vote according to the qualifications of each candidate. The majority feels that the current system is working well and there is no need to change it at this time. Vote 12-5.

Rep. Raymond Buckley for the Minority of Election Law: The testimony before the committee was unanimously in favor of passage of HB 337. The issue is fairness. Candidates should not be given an unfair advantage by virtue of their last name or political party. The committee heard testimony that the placement of the candidate's name on the ballot gives a six to ten percent advantage or disadvantage based on placement. The minority supports the concept of fairness in elections.

HB 411, requiring ballot clerks to verify the identity of persons receiving ballots by requesting an identification card. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Robert E. Clegg, Jr. for the Majority of Election Law: In an attempt to make voting as easy as possible, we have made many changes including same day registration. We have, in past years, done whatever was necessary to increase voter participation. However, in doing so, we inadvertently made it easier to commit fraud. By passing this bill, we protect the voters' rights by simply asking for a photo ID to be presented at the polls. Vote 16-3.

Rep. Raymond Buckley for the Minority of Election Law: The minority believes that this bill will lead to future litigation because of discriminatory enforcement. Many in the majority admitted during the committee discussion that they would only request an ID on election day from those with whom they were unfamiliar. This practice will open the door for the possibility of our growing minority community to be arbitrarily discriminated against on voting day. The committee did not hear compelling testimony that this legislation is needed.

HB 547-L, changing the state primary election day to the first Saturday after Labor Day. INEXPEDIENT TO LEGISLATE

Rep. James R. Splaine for Election Law: This bill would change state primary election day to Saturday instead of Tuesday every two years. The committee heard of concerns of some religious communities and felt this was an unnecessary change that would have not resulted in greater voter turnout. The co-sponsors agreed that this should not pass as written. Vote 16-2.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 68, adding the name of Martin Luther King, Jr. to Civil Rights Day. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Sylvia A. Holley for the Majority of Executive Departments and Administration: This bill adds the name Martin Luther King, Jr. to Civil Rights Day which is a holiday celebrated on the third Monday in January. This action sends a message, loud and clear that New Hampshire honors Dr. King and the other heroes of the civil rights movement. His principles of non-violence serve as an example to us all in this era of increasing violence. Vote 11-7.

Rep. Benjamine E. Moore for the Minority of Executive Departments and Administration: In 1991, the legislature voted to establish Civil Rights Day. The intent of the legislation was clearly stated as follows: "Civil Rights Day Established. In recognition of the courage, determination, and personal sacrifice of the many people from a variety of cultural backgrounds who fought and died in the struggle to gain freedom and equality for all individuals, and to celebrate these freedoms in a manner consistent with every individuals' constitutional rights to free speech and liberty, this law seeks to honor these persons who have dedicated or will dedicate their lives to the issue of equality of all by establishing the third Monday in January as Civil Rights Day in New Hampshire. This recognized celebration of civil rights seeks to educate society, in an impartial manner, against prejudice." The minority strongly feels that the intent of the legislature should be sustained out of respect for those who worked diligently to establish Civil Rights Day in 1991.

HB 336, establishing the first Monday in February as a holiday to be known as Abraham Lincoln Civil Rights Day. INEXPEDIENT TO LEGISLATE

Rep. Maurice E. Goulet for Executive Departments and Administration: Although well intentioned, this bill was overshadowed

by the Martin Luther King debate. The low positive vote was not a reflection of the committee's respect for President Lincoln, but merely recognition that other approaches to naming Civil Rights Day took precedence. Vote 15-3.

SB 80, adding the name of Martin Luther King, Jr. to Civil Rights Day. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Carolyn A. Virtue for the Majority of Executive Departments and Administration: This bill adds the name Martin Luther King, Jr. to Civil Rights Day which is a holiday celebrated on the third Monday in January. This action sends a message, loud and clear that New Hampshire honors Dr. King and the other heroes of the civil rights movement. His principles of non-violence serve as an example to us all in this era of increasing violence. Vote 11-7.

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FINANCE

HB 497-FN-A, relative to family literacy planning grants and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. Kenneth L. Weyler for Finance: The Even Start program on family literacy is currently operating in some New Hampshire communities to assist illiterate parents with young children. It currently receives state funding in the amount of \$564,399. This bill would increase state funding by \$50,000 and be matched with \$100,000 in federal funds for planning and consultants to develop new programs and coordinate with existing literacy programs. Because the program is already in place and local communities are receiving funding, the majority of the Finance Committee felt that the additional funding should not be appropriated in a year when there are so many competing demands for the limited funds in our state coffers. Vote 16-10

HB 666-FN-A-L, relative to the taxation of sand, gravel, loam, and other similar substances. OUGHT TO PASS WITH AMENDMENT

Rep. Jean R. Wallin for Finance: This bill was introduced to correct interpretive problems in RSA 72-B, enacted in April of 1998. The bill exempts from the excavation tax and the excavation activity tax all small operators; excavations not exceeding 1000 cubic yards in a tax year now will file a notice of intent with the state, but will not be subject to the tax. The bill also makes it clear that cellar holes, septic systems, pools, and other excavations ancillary to construction projects are exempt from the tax, and from the notice requirement. The Finance Committee amended the bill to incorporate technical changes to RSA 72-B suggested by the Department of Revenue Administration and the NH Municipal Association. A concern about how the acreage of quarries is determined was also addressed. The amendment is intended to make RSA 72-B conform with both RSA 155-E, local regulation of excavations, and RSA 485-A:17, the terrain alterations statute. Up until now, local officials have had to refer back and forth to all three laws. The committee believes that HB 666 as amended will eliminate confusion about who is taxed for what, and when. Vote 26-0.

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Jeffrey C. MacGillivray for Finance: This bill establishes 6 new motor vehicle inspectors for enforcement duties related to the inspection process, including inspection station auditing and investigation, rejected vehicle follow-up, and sticker monitoring. These positions are necessary to carry out part of the agreement made with U.S. EPA last year, to inspect vehicles for the presence of emission control equipment instead of automobile tailpipe emission testing. The bill increases the fee per inspection sticker paid by inspection stations from \$1.25 to \$1.50, increasing state highway fund revenue by \$320,000 per year (of which \$38,000 will be used to increase distributions to cities and towns).

In addition to clarifying the duties and rights of the 6 new inspectors, the committee amendment places the new inspectors in retirement Group I, like many other state inspectors. This reduces the appropriation for these inspectors to \$311,290 in the first

year and \$195,266 in the second year (decreases of about \$120,000 and \$80,000). Vote 26-0.

HB 692-FN-A, adopting a single sales factor method of apportionment under the business profits tax. RE-REFER TO COMMITTEE

Rep. Jean R. Wallin for Finance: It is entirely possible that business activity in New Hampshire would be enhanced by adoption of the single sales factor method of apportioning the business profits tax. However, we have already increased not only the business profits tax, but also the business enterprise tax. At this moment we are unable to totally calculate the consequences of these changes. The Finance Committee prefers to take the conservative route of returning the bill to the committee to monitor the actual effects of both methods of apportionment. The results will be reported to the 2000 session of the House. Vote 24-2.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SB 14, establishing a committee to study the impact of federal welfare reform on the cities and towns of New Hampshire. OUGHT TO PASS

Rep. Marion Copenhaver for Health, Human Services and Elderly Affairs: The majority supported the formation of a study committee to look at the impact of federal welfare reform on the cities and towns of New Hampshire. There was some concern by those who voted against it, that welfare recipients might move to New Hampshire to take advantage of our "generous" welfare benefits. Vote 8-7.

SB 22, relative to the pilot program relative to the administration of medication in residential care facilities. OUGHT TO PASS

Rep. Francine Wendelboe for Health, Human Services and Elderly Affairs: This legislation adds supported residential care facilities to an existing pilot program established in 1998. There are many frail, elderly in the state who require a supervised living environment, but do not require 24-hour skilled nursing services. The pilot program relative to medication administration in residential and supported residential care facilities provides cost effective services to our frail seniors by trained medication aides. Vote 14-0.

LEGISLATIVE ADMINISTRATION

CACR 15, relating to the establishment of an indirect initiative petition process. Providing that proposed laws may be submitted to the legislature by citizen petition. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: RE-REFER TO COMMITTEE.

Rep. Gene G. Chandler for the Majority of Legislative Administration: CACR 15 proposes amending the constitution to allow legislation by petition. If adopted, laws could be proposed by a petition signed by 5% of the total popular vote cast in the most recent presidential election. Any law proposed by petition would be enacted or rejected by the General Court without change or amendment within 40 legislative days from the time the petition is received. If the proposed law is not enacted by the legislature, the Secretary of State would submit it to the people for approval or rejection at the next general election. Among other procedures outlined in the bill is the provision that no law adopted by referendum can be vetoed by the Governor nor can the law be amended, repealed or suspended by the legislature for 5 years unless another petition is proposed and all the same steps are followed all over again. Given the size of the House and judging by the number of bills filed every year, it seems that if any citizen of New Hampshire wants a law enacted or changed, they can do so by finding a legislator to file a bill on their behalf. New Hampshire truly has a citizen legislature, and we do not need the extra bureaucracy, not to mention the tremendous expense involved with a referendum style government. Vote 10-4.

Rep. Betty B. Hall for the Minority of Legislative Administration: This CACR has the potential for allowing the people to offer options to the legislature, and the legislature to respond with an alternative from which the voters can choose. The need for such a measure has been front and center in the school-funding debate. This CACR could be a vehicle for similar contingencies in the future. Committee members were preoccupied with the current crisis when this came before us, and not many members were present for the hearing. The minority believes we should study this in more depth after the immediate crises are over. We recommend this CACR be re-referred to the Legislative Administration Committee. An indirect initiative is very different from referendums and direct initiatives and it is not well understood. When an indirect petition for a bill is presented to the legislature with a sufficiently large number of signatures, the legislature can choose one of the following options: (1) It can pass the petitioned bill exactly as presented and then it goes to the Governor for signature and no ballot vote would be necessary; or (2) The bill can be amended and then it will go to the voters as amended by the legislature along with the original petitioned bill. Both measures would be on the ballot at the next general election. If both measures received more than a majority of the

votes cast, the one receiving the greatest number would become law; or (3) If either the House or Senate rejected the measure which had been petitioned, then it would go on the ballot with the rejection printed below the original petitioned bill. If passed by a majority, it would become law.

MUNICIPAL AND COUNTY GOVERNMENT

CACR 6, 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. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Municipal and County Government: The House and Senate, representatives of towns and cities, and interested citizens have been working on this constitutional amendment for several years. Last session a similar CACR passed overwhelmingly in the House but met its demise in the Senate. The Municipal and County Government Committee has been studying this CACR and its companion bill in detail this year and again recommends its passage.

When and if this article becomes part of our constitution, the State will still retain its sovereignty. If this CACR is adopted by the people, our local communities will be allowed to act in their own affairs unless precluded by the state constitution, state statute or common law. Vote 14-3.

HB 468, relative to the home rule powers of municipalities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Thomas E. P. Rice for Municipal and County Government: This bill is a comprehensive compilation of the things that CACR 6 does and does not do. It makes clear the intent of CACR 6 to allow the individual communities to act on their own behalf in cases where the Constitution, the legislature, or the statutes are silent.

It also makes very clear that the state retains the right to overrule any local action and that no function now performed by the state may be usurped or duplicated by the community. Vote 14-2.

SPECIAL ORDER

HB 536, authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power. **OUGHT TO PASS WITH AMENDMENT**

Rep. Betsey L. Patten for Municipal and County Government: In order to further the state's policy of promoting the development of a competitive electric supply market in New Hampshire and to give municipalities the ability to attract new electric generation facilities and retain existing generation facilities that have become subject to the economic pressures of a deregulated market, the general court believes that it is desirable to give municipalities the authority to exempt from taxation certain personal property that is used in the manufacture of electricity.

This bill gives the governing body the authority to determine an exemption. The amendment sets up that the determination requires approval by the legislative body of the municipality.

The determination for exemption may be applied to new construction of electric generating facilities, to retain existing electric generation facilities or to foster economic development.

At least four items must be disclosed to and approved by the legislative body: fair market value of equipment exempted, the term of the exemption, any agreement for payments of taxes, and/or agreement for payment in lieu of taxes.

An additional amendment to sunset the availability of this option on July 1, 2004 was adopted by the committee. If an exemption is granted by the legislative body, the agreement is not subject to the sunset date. Vote 11-4.

SCIENCE, TECHNOLOGY AND ENERGY

HB 649-FN, relative to air pollution emissions from small, high-polluting electricity generators. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: RE-REFER TO COMMITTEE.**

Rep. Terie T. Norelli for the Majority of Science, Technology and Energy: Due to high electric rates in the state, many businesses have begun to use internal combustion engine electricity generators, which have increased nitrogen oxide (NOx) emissions. The majority of the committee believes that increased use of these high NOx-emitting generators should be discouraged. This bill, as amended, would subject these sources to requirements more similar to those for larger electricity

generators. The amendment represents a compromise reached among the Department of Environmental Services, users of these generating sources, and the committee. Users must acquire emission reduction credits or make a direct payment for each ton of NOx emitted. This would not apply for eight years to generating sources existing as of July 1, 1999, and would not apply for six years to generating sources which had filed an application for a permit as of May 1, 1999. In addition, the fees are phased in over a five-year period for new sources. Funds collected under this legislation would be deposited in a NOx emissions reduction fund and used to reduce NOx emissions by electricity generation sources. Vote 13-3.

Rep. Thomas A. Varrell for the Minority of Science, Technology and Energy: This bill was hotly debated within the committee and various votes were taken during debate. The vote spread ranged from 8-7 to ITL, to the final vote of 13-3 OTP. Most of the debate centered around the implementation time frame. However, the most important aspect of the bill was generally overlooked. The major problem is the inability to accurately measure and evaluate the emissions from each and every generation site within the state. Due to the geography, topography and highly diverse synoptic and climatic nature of the state, it would be impossible to establish a baseline emission level, which would be accurate, fair, and equitable to each and every generating site however large or small. Every site would require its own unique baseline emission level, and would need to monitor all emission and pollution levels even during periods when the generator was shut down. Since we would need to monitor at least 100 or more actual emission sites, we would also need pollution measuring sites in locations outside the influence of any of these generating sites. In other words, the Bow Power Station baseline level would differ significantly from the baseline level at Concord Airport only a very few miles away. The Department of Environmental Services would have to establish a significant number of continuous monitoring sites, which would have to be manned and evaluated on a continuing basis. The fiscal impact would be significant and this cost could probably not be passed onto the site owner/operator since it would probably constitute an unfunded mandate. The implementation of this bill might be possible in a geographical and topographical homogeneous state, such as Kansas or Nebraska, where the only significant changes would be seasonal and daily synoptic changes; however, it cannot work here in New Hampshire.

HB 724-FN, relative to an industry average performance system for comprehensive air pollution regulation. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: RE-REFER TO COMMITTEE.

Rep. Roy D. Maxfield for the Majority of Science, Technology and Energy: This bill would have established an Industry-Average Performance System (IAPS) for air pollution regulation. Although the committee agrees that IAPS is an innovative concept, there are several issues with this legislation that would be inappropriate for the State at this time. Geographical issues raised with this legislation require regional consensus to make it viable. Substantial costs would be incurred by the State Motor Vehicle Department in establishing and monitoring registration guidelines for controlled vehicles. Finally, our current energy industry consists of one major electricity producer. Previous agreements providing substantial emission reduction by this producer would be compromised. Vote 14-3.

Rep. Donald B. White for the Minority of Science, Technology and Energy: This bill should be re-referred for additional statistical information to provide a bill that truly attacks air pollution problems with respect to utilities, automobiles, and especially diesel trucks, the most significant polluters today. Failure to address this problem fully (there is a very weak RSA) allows diesel operators and their lobbyists another two years to corrupt our atmosphere and not lift a finger to help beyond an absolute minimum. The utility is trying to improve and is spending money to do so. This is not the cause of the reluctant diesel lobby.

LAID ON TABLE

CACR 12, relating to a 4-year term for the office of governor. Providing that beginning in the year 2002, the governor shall be elected every 4 years. (Pending question is on ought to pass.)

CACR 21, relating to gender neutral language in the constitution. Providing that all references to persons in the constitution shall be gender neutral. (Pending question is on inexpedient to legislate.)

HB 116-FN-A-L, establishing an alternative consumption tax as a source of funding for education and making an appropriation therefor. (Pending question is on re-refer to committee.)

HB 549-L, relative to the minimum vote required for bond issues by municipalities. (Pending question is on inexpedient to legislate.)

HB 550-LOCAL, relative to the date town reports must be made available in towns which have adopted the official ballot referenda form of meeting. (Pending question is on inexpedient to legislate.)

HB 612-FN, relative to compensation paid to jurors. (Pending question is on the adoption of the committee report.)

HB 695-FN-A, providing an exemption under the interest and dividends tax for taxpayers on a limited income. (Pending question is on inexpedient to legislate.)

HR 10, affirming revenue estimates for fiscal year 1999. (Pending question is ordering to third reading.)

HOUSE BILLS AMENDED BY THE SENATE

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses. (House Nonconcurrent; C-of-C 5/13/99)

HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor. (House Nonconcurrent 3/30/99)

HB 112-FN-A, relative to state taxes and other sources of revenue for funding an adequate education; authorizing electronic games of chance at racetracks, grand hotels, and resort hotels; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making an appropriation therefor. (House Nonconcurrent 4/1/99)

HB 117-FN-A-L, establishing a uniform education property tax and a utility property tax, increasing the business profit and real estate transfer taxes, and including other sources of revenue to provide funding for an adequate public education and making an appropriation therefor. (House Nonconcurrent; C-of-C 4/22/99)

HB 206, relative to restrooms in restaurants. (House Concurred 5/20/99)

HB 207-FN-A, directing the office of state planning to conduct a study of the effects of sprawl in the state and making an appropriation therefor. (House Concurred 4/22/99)

HB 210, reinstating the corporate charter of C. A. B. Real Estate Inc. (House Concurred 4/29/99)

HB 215, placing restrictions on name changes for certain felons. (SJ 18)

HB 240, prohibiting the reintroduction of wolf populations to the state of New Hampshire. (House Concurred 5/13/99)

HB 249, relative to the membership of the rivers management advisory committee. (House Concurred 4/14/99)

HB 325, prohibiting "cramming" in telecommunications billing. (SJ 18)

HB 358, relative to the term of office for members of the state board of education. (House Concurred 4/29/99)

HB 431, establishing a committee to study methods and processes necessary to retain the traditional uses of White Mountain National Forest land, the impact of any change in designation, and relative to promoting the continual multiple use management of such land. (SJ 18)

HB 442, relative to charitable gift annuities. (House Concurred 5/13/99)

HB 513, relative to approved permissible fireworks. (House Concurred 5/13/99)

HB 664, establishing a study committee on rights of ownership to cemetery plots. (SJ 17)

COMMITTEE OF CONFERENCE

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses. (Reps. Lyman, I. Pratt, Bickford and Moran; Sens. Pignatelli, Fernald and Squires)

COMMITTEE MEETINGS

MONDAY, MAY 24

FINANCE, Rooms 210-211, LOB

9:00 a.m. **HB 300**, making technical corrections to 1999, HB 117.

Executive session on pending legislation to follow.

FINANCE - (DIVISION I), Room 212, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

9:30 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

NEW PUBLIC-PRIVATE PARTNERSHIP TO CONSERVE NEW HAMPSHIRE'S NATURAL, CULTURAL, AND HISTORICAL RESOURCES FEASIBILITY STUDY COMMISSION (SB 493, Chapter 161:2, Laws of 1998), Room 308, LOB

1:00 p.m. Regular meeting.

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

9:30 a.m. Regular meeting.

TUESDAY, MAY 25

CHILDREN AND FAMILY LAW, Room 206, LOB

9:00 a.m. Subcommittee work session on **SB 137-FN**, relative to use of social security numbers in child support enforcement and in the issuance of driver's licenses.

COMMERCE, Room 302, LOB

After the House session, executive session on pending legislation.

FINANCE - (DIVISION I), Room 212, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

FINANCE - (DIVISION III), ROOM 210-211, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation. The session may extend into the evening.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

After the House session public hearing on **HB 744**, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

During the lunch recess, executive session on pending legislation.

WEDNESDAY, MAY 26

CHILDREN AND FAMILY LAW, Room 206, LOB

9:00 a.m. Subcommittee work session on **HB 703-FN-A-LOCAL**, establishing a regional youth center pilot program in the city of Nashua and making an appropriation therefor.

10:00 a.m. Presentation regarding community based child protection system.

10:30 a.m. Executive session on pending legislation.

COMMERCE, Room 302, LOB

9:00 a.m. Subcommittee work session on **SB 11-FN-A**, relative to the filing fee for securities in a combined prospectus offered for sale in New Hampshire by a mutual fund.

9:30 a.m. Subcommittee work session on **SB 110**, allowing for discharges of mortgages by affidavit of a New Hampshire attorney.

10:00 a.m. Subcommittee work session on **SB 118**, relative to requirements for retail installment contracts for motor vehicle sales.

10:30 a.m. **SB 166**, establishing a committee to study insurance coverage for certain physical, occupational, and speech therapies.

11:00 a.m. **SB 212-FN**, requiring the insurance department to develop a plan to address the needs of persons with chronic illnesses and disabilities.

1:15 p.m. **SB 175-FN**, requiring insurance coverage for prescription contraceptive drugs and devices and for contraceptive services.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **SB 88-FN**, relative to penalties for third driving while intoxicated offenses.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. **SB 198-FN**, relative to certification of persons installing and servicing propane gas and heating oil equipment.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FINANCE, Rooms 210-211, LOB

1:00 p.m. Executive session on pending legislation.

FINANCE - (DIVISION I), Room 212, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

FINANCE - (DIVISION III), ROOM 210-211, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation. The session may extend into the evening.

JUDICIARY, Room 208, LOB

9:00 a.m. **SB 172**, relative to representation by a citizen in a court proceeding.

10:30 a.m. Subcommittee work session on **SB 67**, limiting liability resulting from the use of automatic external defibrillation.

11:30 a.m. Subcommittee work session on **SB 146**, granting district courts exclusive jurisdiction over actions involving certain real estate purchase deposits held in escrow accounts.

1:00 p.m. Executive session on pending legislation.

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g), Room 120, State House

11:00 a.m. Regular meeting.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

11:00 a.m. Subcommittee work session on **SB 135-FN**, relative to water supply land protection grants.

2:00 p.m. **SB 62-FN-A-L**, relative to the acquisition of Umbagog Lake Campground in Cambridge, New Hampshire, and making an appropriation therefor.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

9:00 a.m. Subcommittee work session on **HCR 8**, urging nonimplementation of the articles of the Kyoto Protocol on global climate change.

10:00 a.m. Executive session on pending legislation.

THURSDAY, MAY 27

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

10:00 a.m. **SB 131-FN-A**, updating the name of the office of vacation travel to the office of travel and tourism in nonconforming RSA sections.

11:00 a.m. **SB 217-FN**, relative to real estate brokers of other jurisdictions doing business in this state.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

1:00 p.m. Subcommittee work session on **SB 187-FN-L**, relative to payment of group health insurance premiums for eligible retired teachers in the New Hampshire retirement system and **SB 186-FN**, relative to additional cost of living adjustments and increased minimum allowances for certain retired group II members, and relative to requiring spousal acknowledgement of a member's election of an optional retirement allowance.

1:30 p.m. Subcommittee work session on **SB 53-FN**, relative to licensure of physicians providing teleradiology services in this state, **SB 224**, relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards, **SB 28**, relative to food production and

distribution and food service licensure and ***SB 198-FN***, relative to certification of persons installing and servicing propane gas and heating oil equipment.

FINANCE, Rooms 210-211, LOB

9:00 a.m. Executive session on pending legislation.

FINANCE - (DIVISION I), Room 212, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation.

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

FINANCE - (DIVISION III), ROOM 210-211, LOB

9:00 a.m. Work and executive session on the budget and other pending legislation. The session may extend into the evening.

JUDICIARY, Room 208, LOB

9:00 a.m. ***SB 57***, permitting challenges to judges.

10:30 a.m. ***SB 189-FN***, relative to the establishment of a civil rights act.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Subcommittee work session on ***SB 70***, changing the safe drinking water standard for MTBE and ***SB 159***, relative to early reduction of greenhouse gases.

FRIDAY, MAY 28

FINANCE - (DIVISION I), Room 212, LOB

1:00 p.m. Subcommittee work session on ***HB 704-FN-A***, establishing a wildlife damage control program to prevent and redress damage to certain commercial agricultural property, and making an appropriation therefor.

FINANCE - (DIVISION II), ROOM 209, LOB

9:00 a.m. Work and executive sessions on the budget and other pending legislation may be held throughout the day.

TUESDAY, JUNE 1

COMMERCE, Room 302, LOB

9:30 a.m. Subcommittee work session on ***SB 93***, relative to self-storage facility liens.

10:00 a.m. Subcommittee work session on ***SB 78***, relative to contract requirements between a paid solicitor and a charitable trust.

10:30 a.m. ***SB 162***, providing for the licensure and regulatory oversight of voluntary small employer health insurance purchasing alliances.

1:15 p.m. ***SB 167***, relative to off-label prescription drugs.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ELECTION LAW, Room 308, LOB

10:00 a.m. **HB 743**, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

10:00 a.m. Rescheduled public hearing on **SB 32**, relative to an employer exemption under the unemployment compensation laws.

Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

NEW HAMPSHIRE COMMISSION ON THE SMITHSONIAN FESTIVAL OF AMERICAN FOLKLIFE (SJR 20, Chapter 204, Laws of 1996), NH Historical Society Auditorium, 30 Park Street, Concord

3:00 p.m. Regular meeting.

WEDNESDAY, JUNE 2

COMMERCE, Room 302, LOB

11:00 a.m. Subcommittee work session on **SB 69-L**, relative to health care charitable trusts and community benefits.

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

9:00 a.m. Regular business.

9:30 a.m. Audits: State of New Hampshire Liquor Commission audit report for the year ended June 30, 1998

WILDLIFE AND MARINE RESOURCES, Room 307, LOB

9:00 a.m. Ad hoc crossbow study committee work session.

FRIDAY, JUNE 4

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

9:00 a.m. Regular meeting.

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

9:00 a.m. Regular meeting.

MONDAY, JUNE 7

COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2), Room 103, State House

9:30 a.m. Regular meeting.

TUESDAY, JUNE 8

**NUCLEAR DECOMMISSIONING ELECTRIC GENERATING FACILITIES COMMITTEE, (RSA 162-F:15),
Selectmen's Meeting Room, Town Office Building, Route 1, Seabrook**

7:00 p.m. Public hearing.

FRIDAY, JUNE 11

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

8:30 a.m. Regular meeting.

MONDAY, JUNE 14

**NEW PUBLIC-PRIVATE PARTNERSHIP TO CONSERVE NEW HAMPSHIRE'S NATURAL, CULTURAL, AND
HISTORICAL RESOURCES FEASIBILITY STUDY COMMISSION (SB 493, Chapter 161:2, Laws of 1998), Room 308,
LOB**

1:00 p.m. Regular meeting.

PERINATAL ALCOHOL TOBACCO AND OTHER DRUG USE TASK FORCE (RSA 132:19), Room 101, LOB

9:00 a.m. Regular meeting.

FRIDAY, JUNE 18

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

9:00 a.m. Regular meeting.

MONDAY, JUNE 21

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

Noon Regular meeting.

WEDNESDAY, JUNE 23

WILDLIFE AND MARINE RESOURCES, Room 307, LOB

9:00 a.m. Subcommittee work session on ***HB 280-FN***, establishing a point system for the annual
moose permit lottery.

MONDAY, JUNE 28

**DEVELOPMENTAL DISABILITY WAITLIST FUND ALLOCATION OVERSIGHT COMMITTEE, (RSA 171-A:1-b),
Room 205, LOB**

10:00 a.m. Regular meeting.

OFFICIAL NOTICES

The Sergeant-at-Arms Office can reuse the large manila 10"x13" clasp envelopes that the House Calendars are mailed out in.
Any that are brought in will be put to good use.

Rob Johnson, Sergeant-at-Arms

A reminder to Representatives to please keep personal belongings, briefcases, carrying bags etc. under their seats during House sessions. This is in order to keep the floor unobstructed for your row mates moving to and from their seats. Thank you.

Rob Johnson, Sergeant-at-Arms

The Office of Legislative Services has a number of extra copies of softbound volumes of the 1997 Session Laws. They will be available for distribution to House and Senate members on a first come, first served basis in Room 109 of the State House.

Carol J. Holahan, Deputy Director

Office of Legislative Services

Pursuant to RSA 326-B:12, the Joint Health Council will meet at the NH Board of Nursing, Room 17, 78 Regional Drive, Building 2, Concord, on Monday, June 21 at 4:00 p.m.

Karen O. Wadsworth, Clerk of the House

REVISED AMENDED FISCAL NOTES

The following HBs have a revised or amended fiscal note: HBs 66, 67, 69, 108, 109, 116, 118, 119, 120, 124, 224, 237, 245, 274, 395, 417, 453, 477, 494, 495, 501, 522, 537, 546, 549, 565, 574, 579, 601, 602, 616, 620, 624, 625, 639, 641, 645, 650, 652, 655, 672, 676, 685, 689, 692, 693, 694, 695, 696, 698, 699, 715, 719, 722, 727, 733, 734, 735 and 738.

Leo J. Callahan, Assistant Clerk

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

Philip J. McColgan, Jr., 162 Old Gage Road, Pelham, New Hampshire 03076-2635

Norma A. Sabella, 4 Birchwood Drive, Derry, New Hampshire 03038-3937

Karen O. Wadsworth, Clerk of the House
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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 and will be limited to legislative policy or social activities and political meetings or events. Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

Members who would like more information on media and violence can check out the web site produced by the National Institute on Media and the Family, www.mediafamily.org. The Institute put on an all day conference for school administrators in NH this winter and they have a free brochure called "12 Tips for Taming the Tube and Safety Tips for Surfing the Net." Their toll free phone number is 888-672-5437.

Rep. Susan B. Durham

The Ranking Democrats will be meeting each Wednesday in Room 101 of the LOB at 9:00 a.m.

Rep. Marion L. Copenhaver

There are a limited amount of new issue "Troopers Are Your Best Protection" bumper stickers donated by the NH Trooper's Association. These bumper stickers are available and may be obtained from Sandy Wheeler, LOB Receptionist.

Rep. Robert J. L'Heureux

The Second Annual Golf Tournament to benefit the New Hampshire Veterans Home will be held Saturday, May 22nd in Tilton. Join in a day of fun, food and golf for a good cause. Contact Rep. Fran Wendelboe for details (968-7988).

Rep. Francine Wendelboe

Legislators for Limited Spending will meet at noon at the Upham Walker House on Tuesday, May 25th. Coffee will be served.

Rep. Sylvia A. Holley

The Elizabeth Dole Exploratory Committee invites all legislators, and staff to meet Mrs. Dole for a "Legislators' Lunch" on Tuesday, May 25 at noon at the Eagle's Nest Restaurant. Please direct inquiries to the Headquarters at 634-5066.

Rep. David J. Alukonis

The House Republican Alliance will meet at the Upham Walker House (Park Street across from the State House) at 9:00 a.m. on the following Wednesdays: May 26, June 9 and June 23. Refreshments will be served.

Rep. Paul M. Mirski

All Representatives and legislative staff are invited to attend Governor Shaheen's Annual Legislative Barbecue on Wednesday, June 2 at 4:00 p.m. at the Bridges House. Please RSVP by May 28th to Jen Kuzma at 271-2121.

Rep. Peter H. Burling

The New Hampshire Center for Constitutional Studies, Inc. invites all legislators to a seminar featuring David Barton, a world-renowned researcher and lecturer on the Constitution. This event will take place on Friday, June 4th at 7:00 p.m. at St. Anthony's Parish Hall, Main Street Sanbornville and on Saturday, June 5th at the Grace Tabernacle Church, Route 125, Brentwood. The cost is \$12.50 (includes refreshments). The doors open at 6:30 p.m. For more information and tickets contact Rep. Ronald Nowe at 679-5977.

Rep. Ronald J. Nowe

All legislators, staff and friends are invited to the NH Order of Women Legislators (OWLS) Installation Banquet on Wednesday, June 9 at the Holiday Inn, Concord. Social hour begins after session or 5:00 p.m. Dinner begins at 6:00 p.m. Proceeds from this event will benefit our scholarship program. Look for invitations in the mail. For tickets and information please contact Reps. Janet G. Wall, Betsy McKinney or Sen. Pat Krueger.

Rep. Janet G. Wall

The New Hampshire Republican Women's Club Annual Lilac Luncheon will be held Monday, June 14th at the Center of New Hampshire. Texas Governor George W. Bush will be the featured speaker. For tickets (\$25) see Reps. Sandy Reeves, Vivian Desmarais or Betsy McKinney.

Rep. Betsy McKinney

"The Friends of Donna Sytek" invite legislators and others to a reception honoring the Speaker of the House, Donna Sytek. The reception will begin at the end of the legislative day on June 16 at the Manchester Country Club. Refreshments will be served. Tickets for the event are available for \$30 by contacting Representatives Gene Chandler and Michael Whalley.

Rep. Gene G. Chandler

NH Pride has again invited legislators to march in the annual parade. It will again be held in Manchester on Saturday, June 19 at 11:00 a.m. beginning at Victory Park with a rally and festivities at Singer Park. Admission is \$15 at the Park: arts, crafts, entertainment, music and more. For information contact: Reps. Raymond Buckley, Marlene DeChane, McKim Mitchell and James R. Splaine.

Reps. Marlene DeChane and Raymond Buckley

NOTICE

The **26th Annual Bill White Memorial Legislative Golf Tournament** is scheduled for Monday, June 21 at the White Mountain Country Club in Ashland. The entry fee for this annual tourney is \$60 per person and includes greens fee, cart, dinner and prizes. A *shot-gun* start is scheduled for 9:00 a.m. The format is "Captain and Crew." Sign-up as a foursome or sign-up by yourself and be placed in a foursome. A maximum of 120 players will be allowed. Please return your entry and payment no later than June 8th to Sandy Wheeler at the LOB Lobby Desk. Please make checks payable to Legislative Golf Tournament, care of David S. Saltmarsh.

Reps. Gene G. Chandler and Peter H. Burling

26th Annual Bill White Memorial Legislative Golf Tournament

Names (1)_(2)

(3)_(4)

Telephone No: _____ Amount Enclosed: _____

Perinatal Alcohol, Tobacco and other Drug Use Task Force invites all legislators to attend a special informational forum on the treatment of substance use during pregnancy. Presentations will include an overview of the scope and effects of alcohol, tobacco and other drug (ATOD) problems during pregnancy and approaches necessary to assist women to avoid, reduce and recover from substance dependence. Members of the Task Force will lead a discussion with policy makers around New Hampshire's current perinatal substance use problem. The forum will take place on Monday, June 21 at the Odyssey Family Center in Canterbury (a residential substance abuse treatment program for pregnant and parenting women and their children) from 10:00 a.m. to noon. Refreshments will be served, followed by tours of the Odyssey Family Center. Come learn about this important issue. For further information, reservations and directions, please call 1-800-852-3345, ext. 6108 or 783-9104. Reservations requested by Wednesday, June 16.

Reps William E. Leber and Barbara Hull Richardson

The Belknap County Republican Committee will hold its Annual Chicken Barbecue on Saturday, June 26th at the Belknap County Fairgrounds (near Laconia). Tickets \$15 may be purchased from Reps. Rosen or Rice.

Rep. Ralph J. Rosen

As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in May, 1999. These listings replace individual notifications in an effort to reduce paper usage and to ensure all members are notified in a timely manner. Please contact the Visitors' Center for further information. Thank you for your continued participation with your School Visitation Program.

Kenneth Leidner, Director

<i>DATE</i>	<i>TIME</i>	<i>GROUP</i>	<i>CLASS/Size</i>
5/24	9:30 & 11:00	Thornton's Ferry – Merrimack	4/50
5/24	1:00 & 2:00	McClelland School – Rochester	4/45
5/25	9:30 & 11:00	Thornton's Ferry – Merrimack	4/50
5/25	1:00 & 2:00	McClelland School – Rochester	4/45
5/26	10:00 & 11:00	Fred C. Underhill School – Hooksett	3/50
5/26	12:30	Greenfield Elem. – Greenfield	4/20
5/27	9:00	St. John's School – Concord	4/30
5/27	11:00 & 12:00	Little Harbor School – Portsmouth	4/40
5/28	10:00	Lyndeboro Central Elem.	5/25
5/28	11:00 & 12:00	Little Harbor School – Portsmouth	4/40
5/28	1:30	Conway Elem.	4/55

The Department of Transportation will hold the following meetings:

May 24 – Rye Town Hall, 10 Central Road, Rye, 6:30 p.m. Public informational meeting, Rye, Foyes Corner intersection.

May 24 - Ossipee Town Hall, 6:30 p.m. Land use regulation workshop, visitor center workshop.

May 25 – Vic Geary Center, 18 Greenough Road, Plaistow, 7:00 p.m. Public informational meeting, Plaistow, replacement of the NH 121 Bridge over B&M Railroad.

May 26 – Northwood Town Hall, 6:00 p.m. Combined Selectmen's Meeting, Northwood and Nottingham, Northwood-Nottingham, intersections US 4/NH 152.

May 27 – Sheraton Wayfarer Inn, Bedford, 8:00 a.m. Statewide bike/pedestrian meeting, bicycle/pedestrian conference.

May 27 – Auburn Town Hall, 47 Chester Road, Auburn, 7:00 p.m. Public informational meeting, Auburn, replacement of NH 28 bypass bridge over Lake Massabesic.

June 2 - Vic Geary Center, 18 Greenough Road, Plaistow, 7:00 p.m. Public informational meeting, Plaistow, replacement of the Kingston Road Bridge over B&M Railroad.

June 3 – Green Acres School , Gymnasium, 10 Aurora Avenue, off Mammoth Road, Manchester, 7:00 p.m. Combined public officials/public informational meeting, Manchester, rehabilitation of I-293 including new bridges over Brown Avenue.

June 8 – James R. Morrill Municipal Building (Gym), NH Route 10, Haverhill, 7:30 p.m. Combined public officials/public informational meeting, Haverhill, improvements to NH Route 116.

June 9 – Exeter Town Hall, Nowak Room, Exeter, 7:00 p.m. Combined public officials/public informational meeting, Exeter, rail platform/parking.

June 9 – Nottingham West Elementary School Cafeteria, Hudson, 7:30 p.m. Public hearing (commission), Hudson, NH Route 3A.

June 12 – Tamworth Elementary , Tamworth, 9:00 a.m. Charette, Tamworth, pilot study.

June 17 – Stratford Town Hall, Route 3, Stratford, 7:00 p.m. Public hearing (commission), Stratford, US Route 3.

June 24 – Whitney Hall, Main Street, Enfield, 7:00 p.m. Public hearing (Commission), Enfield, Main Street.

June 28 – Exeter Office Building, Nowak Room, 10 Front Street, Exeter, 7:00 p.m. Public hearing (Selectmen), Exeter, Lincoln Street railroad platform and parking area.

Rep. Edwin O. Smith, Chairman

Public Works and Highways

TUESDAY, MAY 25

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

1999-1308h

Amendment to CACR 6

Proposed by the Committee on Municipal and County Government - R

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

RELATING TO: municipalities' home rule.

PROVIDING THAT: municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law.

Amend the resolution by replacing Article 40 as inserted by paragraph I with the following:

[Art.] 40 [Home Rule Authority Granted.] A municipality may exercise such powers and perform such functions pertaining to its government and affairs which are not prohibited by the state constitution, state statute, or common law. Nothing in this article shall be construed to alter or limit in any way the state's right of preemption over municipal powers and functions.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be:

Are you in favor of amending the constitution to provide that municipalities shall have home rule authority to exercise such powers and perform such functions pertaining to its government and affairs which are not prohibited by the state constitution, state statute, or common law, and that the state shall retain its right of preemption over municipal powers and functions?

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution provides home rule authority to municipalities, so that they may exercise such powers which are not prohibited by the state constitution, state statute, or common law and provides that the state shall retain the right of preemption over municipal powers and functions.

1999-1072h

Amendment to HB 375

Proposed by the Committee on Election Law - C

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

AN ACT relative to substitutions for disqualified and deceased candidates.

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

1 Elections; Nominations; Conduct of Primary; Disqualification of Candidate; Substitution Deadline Added. Amend RSA 655:38 to read as follows:

655:38 Disqualification of Candidate. If a candidate to be voted for at the general election shall make oath between the date of ~~[his]~~ **the candidate's** nomination and the day of the election that he **or she** does not qualify for the public office which he **or she** seeks because of age, domicile, or incapacitating physical disability acquired subsequent to the primary, the secretary of state may remove said person's name from the ballot. A new candidate may be substituted by the appropriate party committee by ~~[notifying]~~ **submitting the name of the new candidate to** the secretary of state **within 5 days of the notice of disqualification**. The name of the substitute candidate shall be placed on the ballots as provided in RSA 656:21.

2 Elections; Nominations; Conduct of Primary; Death of Candidate; Substitution Deadline Added. Amend RSA 655:39 to read as follows:

655:39 Death of Candidate. If any candidate to be voted for at the general election shall die between the date of nomination and the day of election, a new candidate may be substituted by the appropriate party committee by ~~[notifying]~~ **submitting the name of the new candidate to** the secretary of state **within 5 days of the notice of death**. The name of the substitute candidate shall be placed on the ballots as provided in RSA 656:21.

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

AMENDED ANALYSIS

This bill requires that a party committee notify the secretary of state of a substitute candidate for a disqualified or deceased candidate within 5 days of notification of the disqualification or death.

1999-1166h

Amendment to HB 395-FN-A

Proposed by the Committee on Finance - C

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

AN ACT establishing a program of matching grants to preserve historic agricultural structures in New Hampshire.

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

1 New Subdivision; Historic Agricultural Structure Matching Grants Program. Amend RSA227-C by inserting after section 26 the following new subdivision:

Historic Agricultural Structure Matching Grants Program

227-C:27 Purpose. Historic barns and agricultural structures symbolize the distinctive NewHampshire values of heritage, hard work, productivity and stewardship. They are witnesses to the role of agriculture in our state's image and its economy, and they serve as scenic landmarks for residents and visitors alike. They are among our most highly valued heritage resources, but many can no longer generate sufficient income to prevent their loss by decay or demolition. In order to assist the owners who are making an effort to preserve these irreplaceable assets, it is hereby declared to be public policy and in the public interest of this state to establish a matching grants program consisting of funds from private and public sector grants, gifts, and donations for preserving historic agricultural structures in New Hampshire.

227-C:28 Matching Grants Program Established; Barn Preservation Fund.

I. A program of matching grants to preserve historic barns and agricultural structures in New Hampshire is hereby established.

II. There is established a nonlapsing fund in the office of the state treasurer to be known as the barn preservation fund. The division of historical resources, department of cultural resources, is authorized to accept public sector and private sector grants, gifts, or donations of any kind to be awarded competitively to eligible applicants. All such moneys shall be deposited in the fund. Moneys in the fund shall be used solely for grant awards and shall be matched with an equal or greater value of cash, labor, or materials provided by the applicant from private, local, state, or federal sources.

227-C:29 Advisory Committee.

I. For the purpose of soliciting applications, recommending grant awards, and considering any other matter necessary to the administration of this act, an advisory committee to the division of historical resources shall be established, consisting of:

- (a) The commissioner of cultural resources, or designee.
- (b) The commissioner of agriculture, markets, and food, or designee.
- (c) The commissioner of resources and economic development, or designee.
- (d) The chairperson of the state conservation committee, or designee.
- (e) The director of the division of historical resources, or designee, who shall act as the committee chair.
- (f) The executive director of the New Hampshire Farm Service Agency, or designee.
- (g) The director of the New Hampshire Farm Bureau Federation, or designee.
- (h) The director of the university of New Hampshire Cooperative Extension, or designee.
- (i) The master of the New Hampshire state grange, or designee.
- (j) A member of the state historical resources council.
- (k) A staff member of the division of historical resources selected by the director.
- (l) Two individuals actively engaged in agriculture, selected by the committee.

II. On or before November 1 of the second year of each biennium, the committee shall make a report regarding the program to the speaker of the house of representatives, the senate president, and the governor.

227-C:30 Eligibility. In order to qualify for grant assistance, agricultural buildings and structures shall be listed in the National Register of Historic Places, or shall be formally determined to be eligible for the National Register of Historic Places, or shall be listed or formally determined to be eligible for listing in the state register of historic places, in accordance with established procedures of the division of historical resources, prior to receiving any grant funds. Priority will be given to projects that:

- (a) Preserve historic building features.
- (b) Preserve important examples of historic agricultural building types.
- (c) Promote productive long-term use of the property.
- (d) Preserve important local landmarks.
- (e) Are located on designated scenic and cultural byways.
- (f) Would accept a preservation restriction, as defined in RSA 477:45.

227-C:31 Recapture. If a recipient or subsequent owner takes any action within 10 years of the grant award with respect to the assisted building or structure, such as dismantlement, removal, or substantial alteration, which causes it to no longer be eligible for listing on the National Register of Historic Places, within one year from the date of loss of eligibility, the preservation grant shall be repaid in full to the barn preservation fund.

227-C:32 Receipt of Grant Recorded in Registry of Deeds. Receipt of a grant award under this program and conditions of such award shall be recorded in the registry of deeds for the county in which the historic barn or agricultural structure is located.

2 New Subparagraph; Barn Preservation Fund Created. Amend RSA 6:12, I by inserting after subparagraph (www) the following new subparagraph:

(xxx) Moneys collected pursuant to RSA 227-C:28, which shall be deposited in the barn preservation fund.

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

AMENDED ANALYSIS

This bill establishes a program of matching grants to preserve historic agricultural structures. Grant moneys shall be provided by private and public sector gifts, grants, and donations, and shall be deposited in a newly created special fund. Recipients of grants must provide an equal or greater value of cash, labor, or materials from private, local, state, or federal sources.

1999-1268h

Amendment to HB 411

Proposed by the Majority of the Committee on Election Law - R

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

AN ACT requiring voters to present identification.

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

1 Requirements for Obtaining a Ballot Modified. Amend RSA 659:13 to read as follows:

659:13 Obtaining a Ballot. A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his *or her* name ***and present his or her NewHampshire driver's license, identification card issued by the director of motor vehicles under the provisions of RSA 260:21, armed services identification card, or United States passport*** to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, ~~he~~ ***the ballot clerk*** shall put a checkmark beside it and again repeat the name. ***If the person does not have his or her driver's license, passport, or identification card, the person may sign the affidavit provided for in RSA 659:27.*** The voter, unless challenged as provided for in RSA 659:27-33, ***or unless failing to present proper identification and failing to sign an affidavit,*** shall then be allowed to enter the space enclosed by the guardrail. After ~~he~~ ***the voter*** enters the enclosed space, the ballot clerk shall give ~~him~~ ***the voter*** one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.

2 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill requires that voters present identification or sign an affidavit to obtain a ballot.

1999-1351h

Amendment to HB 468

Proposed by the Committee on Municipal and County Government - R

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

1 Powers and Duties of Towns; Power to Make Bylaws. RSA 31:39 is repealed and reenacted to read as follows:

31:39 Declaration of Purpose. The purpose of this subdivision is to further define the home rule powers granted to municipalities by the New Hampshire constitution. It is not intended to impliedly repeal existing state laws and regulations nor to limit the authority granted to cities and towns pursuant to predecessor versions of RSA 31:39-43.

2 New Section; Powers and Duties of Towns to Make Bylaws and Ordinances. Amend RSA31 by inserting after section 31:39-a

the following new section:

31:39-b Bylaws and Ordinances. Any municipality, through the adoption, amendment or repeal of ordinances or bylaws by its legislative body, may exercise any power or function pertaining to its government and affairs which are not prohibited by the state constitution, state statute, or common law. The following provisions shall apply:

I. There is a rebuttable presumption that any ordinance or bylaw enacted under this section is a valid exercise of a municipality's home rule authority.

II. The legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the exercise of that power is inconsistent with a detailed and comprehensive program of statewide regulation.

III. Any local ordinance or bylaw hereafter adopted by a municipality, except where the general court has vested that power in the governing body, shall become effective no sooner than 60 days after its adoption. Unless otherwise specified, an effective date of 60 days after adoption shall be presumed.

IV. Except as otherwise provided by law, penalties established by ordinance or bylaw shall be recovered by the municipality for its use.

V. All ordinances and bylaws affecting the form of local government shall conform to laws adopted to implement part 1, article 39 of the New Hampshire constitution. No municipal charter shall be adopted or modified except in accordance with procedures delineated in those laws.

VI. This subdivision, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect its purposes.

3 Powers of City Councils; Bylaws and Ordinances; Declaration of Purpose. RSA 47:17 is repealed and reenacted to read as follows:

47:17 Declaration of Purpose. The purpose of this chapter is to further define the home rule powers granted to municipalities by the New Hampshire constitution. It is not intended to impliedly repeal existing state laws and regulations, nor to limit the authority granted to cities and towns pursuant to predecessor versions of RSA 47:17.

4 New Section; Powers of City Councils; Bylaws and Ordinances. Amend RSA47 by inserting after section 17 the following new section:

47:17-a Bylaws and Ordinances. Any municipality, through the adoption, amendment or repeal of ordinances or bylaws by its legislative body, may exercise any power or function pertaining to its government and affairs which are not prohibited by the state constitution, state statute, or common law. The following provisions shall apply:

I. There is a rebuttable presumption that any ordinance or bylaw enacted under this section is a valid exercise of a municipality's home rule authority.

II. The legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the exercise of that power is inconsistent with a detailed and comprehensive program of statewide regulation.

III. Any local ordinance or bylaw hereafter adopted by a municipality, except where the general court has vested that power in the governing body, shall become effective no sooner than 60 days after its adoption. Unless otherwise specified, an effective date of 60 days after adoption shall be presumed.

IV. Except as otherwise provided by law, penalties established by ordinance or bylaw shall be recovered by the municipality for its use.

V. All ordinances and bylaws affecting the form of local government shall conform to laws adopted to implement part 1, article 39 of the New Hampshire constitution. No municipal charter shall be adopted or modified except in accordance with procedures delineated in those laws.

VI. This subdivision, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect its purposes.

5 Regulation of Use of Highways, etc. Amend RSA 41:11 to read as follows:

41:11 Regulation of Use of Highways, etc. Unless regulated by the commissioner of the department of transportation as provided in RSA 236:1, the selectmen may regulate the use of all public highways, sidewalks, and commons in their respective towns and for this purpose may exercise all the powers conferred ~~[on city councils by RSA 47:17, VII, VIII, and XVIII, and by any other provisions of the laws upon the subject]~~ **as follows:**

I. USE OF PUBLIC WAYS. To regulate all streets and public ways, wharves, docks, and squares, and the use thereof, and the placing or leaving therein any carriages, sleds, boxes, lumber, wood, or any articles or materials, and the deposit of any waste or other thing whatever; the removal of any manure or other material therefrom; the erection of posts, signs, steps, public telephones, telephone booths, and other appurtenances thereto, or awnings; the digging up the ground by traffic thereon or in any other manner, or any other act by which the public travel may be incommoded or the town subjected to expense thereby; the securing by railings or otherwise any well, cellar, or other dangerous place in or near the line of any street; to prohibit the rolling of hoops, playing at ball or flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets and sidewalks, or to frighten teams of horses within the same; and to compel persons to keep the snow, ice, and dirt from the sidewalks in front of the premises owned or occupied by them.

II. TRAFFIC DEVICES AND SIGNALS.

(a) To make special regulations as to the use of vehicles upon particular highways, except as to speed, and to exclude such vehicles altogether from certain ways; to regulate the use of class IV highways within the compact limits and class V highways by establishing stop intersections, by erecting stop signs, yield right of way signs, traffic signals and all other traffic control devices on those highways over which the governing body has jurisdiction. The erection, removal and maintenance of all such devices shall conform to applicable state statutes and the latest edition of the Manual on Uniform Traffic Control Devices.

(b) The commissioner of transportation shall only approve the installation and modification of traffic signals as to type, size, installation, and method of operation.

III. AUTOMOBILE PARKING CONTROLS. ***The governing body shall have the authority to adopt such bylaws and ordinances as are necessary to control the parking, standing and stopping of automobiles within the town limits, including ordinances allowing for the towing or immobilization of automobiles for nonpayment of parking fines and creating parking fines recoverable by means of civil process.***

6 Food Service Licensure; Exemptions. Amend RSA 143-A:5, I to read as follows:

I. Food service establishments and retail food stores licensed by city health officers ~~[under RSA 47:17]~~.

7 Food Service Licensure; Exemptions. Amend RSA 143-A:5, III to read as follows:

III. Temporary food service establishments and occasional food service establishments which are not under the jurisdiction of city or town health officers ~~[under RSA 147:1 and RSA 47:17]~~.

8 Solid Waste Management Planning. Amend RSA 149-M:17, II(b) to read as follows:

(b) ~~[Notwithstanding RSA 31:39, III,~~ Towns are authorized to levy civil penalties up to \$3,000 for each act which violates the bylaws enacted pursuant to this paragraph. For violations for which any penalty provided in the bylaws is \$500 or less, the official designated in the bylaws as the enforcement authority may issue a summons and notice of fine as provided in RSA 502-A:19-b, except that a copy of the fines for violations of the local bylaws shall be substituted for the uniform fine schedule. Defendants who are issued such summons and notice of fine may plead guilty or nolo contendere by mail by entering a plea as provided in RSA 502-A:19-b. If the plea is accepted by the court, the defendant shall not be required to appear unless directed by the court.

9 Entertainment and Entertainers. Amend RSA 179:19, V to read as follows:

V. On-sale or off-sale licensees may install amusement machines on their premises. Nothing in this paragraph shall be construed in any way to limit the powers of municipalities ~~[under RSA 31:41-d]~~ to adopt bylaws relative to licensing amusement machines and to determining the number, location, and types of machines allowed in the municipality.

10 Parking Enforcement Provisions. Amend the introductory paragraph of RSA 231:132-a to read as follows:

Notwithstanding any other provision of law, a municipality which installs parking meters pursuant to RSA 231:130, or which

establishes other parking restrictions ~~[pursuant to RSA 41:11 or 47:17]~~ or which seeks to enforce the stopping, standing and parking restrictions set forth in RSA265:68-74, may utilize the following provisions in the enforcement of such parking restrictions and parking charges established through parking meters:

11 Equipment of Vehicles; Special Permits. Amend RSA 266:24, I to read as follows:

I. Any person wishing to move objects having a weight, width, height or length greater than prescribed by this chapter, or wishing to move vehicle and load of which the weight, width, height, or length cannot be so distributed that it will meet the requirements of this chapter, may apply to the commissioner of transportation for a permit to move said object or said vehicle and load upon a way. The commissioner of transportation, with the approval of the director, may grant a permit for the moving of said object or vehicle and load upon a specified way and at a specified time if, in ~~[his]~~ **the commissioner's** opinion, it will not be detrimental to the preservation of the ~~[said]~~ way and the public use thereof. Provided, that the applicant, if required by ~~[said]~~ **the** commissioner and director, shall file a bond to cover any possible damage to the ways or to the bridges over which the object or vehicle and load to be moved may pass and shall fulfill such rules as may be prescribed by ~~[said]~~ **the** commissioner of transportation and director; and further provided that the commissioner of transportation or the director of the division may require a hearing before granting ~~[said]~~ **the** permit. This section shall not be construed to limit the powers of the commissioner of transportation, selectmen of towns, and city council of cities to make rules for the protection and to prevent the abuse of ways and bridges as provided by RSA 236:1, RSA ~~[47:17]~~ **47:17-a** and RSA41:11. Any person who violates the conditions of any permit issued pursuant to this section shall be guilty of a violation.

12 Dog Control Law; Referendum. Amend RSA 466:30-b, V to read as follows:

V. A town or city which either does not adopt, or rescinds its adoption of, RSA 466:30-a, may adopt other ordinances pertaining to dogs running at large ~~[under RSA 31:39 or RSA 47:17, XI]~~.

13 Municipal Courts; Duties of Clerk; Disposition of Fines. Amend RSA 502:14 to read as follows:

502:14 Duties of Clerk; Disposition of Fines. The clerk shall receive all fines and forfeitures paid into the municipal court from any source. After deducting court seal, record books, printing blanks, and such other expenses as may be legally incurred in the maintenance and conduct of said court, the clerk shall, except in cases otherwise provided, pay the same over to the commissioner of administrative services, or to such department or agency of the state as the law provides, within 14 days. After deduction of expenses enumerated above, fines and forfeitures collected by the clerk for violations of municipal ordinances, codes, or regulations, except those adopted ~~[pursuant to RSA31:39, I(g); RSA41:11; RSA47:17, IV, VI, VII, or VIII]~~ **under RSA 41:11, and those regulating operation of vehicles, use of public ways, and traffic devices and signals, and those adopted under** RSA105:6-7, shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. All expenses related to the processing of parking violations and the administrative collection of parking fines shall be the responsibility of the local unit of government, and all fines collected shall be retained in their entirety by the local unit of government.

14 District Courts; Duties of Clerks; Disposition of Fines. Amend RSA 502-A:8 to read as follows:

502-A:8 Duties of Clerk; Disposition of Fines. The clerk shall receive all fines and forfeitures paid into the district court from any source. The clerk of any district or municipal court may accept payment of the fine by credit card in lieu of cash payment. Any transaction costs assessed by the issuer of the credit card shall be paid out of the portion of the fine amount which is deposited in the general fund and not out of the penalty assessment charged by a district or municipal court. After deducting court seal, record books, printing blanks, and such other expenses as may be legally incurred in the maintenance and conduct of said court, the clerk shall, except in cases otherwise provided, pay the same over to the commissioner of administrative services, or to such department or agency of the state as the law provides, within 14 days. After deduction of expenses enumerated above, fines and forfeitures collected by the clerk for violations of municipal ordinances, codes, or regulations, except those adopted ~~[pursuant to RSA31:39, I(g); RSA41:11; RSA47:17, IV, VI, VII, or VIII]~~ **under RSA 41:11, and those regulating operation of vehicles, use of public ways, and traffic devices and signals, and those adopted under** RSA105:6-7, shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. All expenses related to the processing of parking violations and the administrative collection of parking fines shall be the responsibility of the local unit of government, and all fines collected shall be retained in their entirety by the local unit of government.

15 Repeal. The following are repealed:

I. RSA 31:39-a, relative to conflict of interest ordinances.

II. RSA 31:40, relative to taxicabs.

III. RSA 31:41, relative to open-air motion picture theatres.

IV. RSA 31:41-a, relative to motor vehicle race tracks.

V. RSA 31:41-b, relative to hazardous embankments.

VI. RSA 31:41-c, relative to electioneering.

VII. RSA 31:41-d, relative to pinball machines and coin operated amusements.

VIII. RSA 31:41-e, relative to bylaws on drug-free zones.

IX. RSA 31:42, relative to regulation by selectmen.

X. RSA 31:43, relative to continuation of bylaws.

16 Applicability. If a constitutional amendment to the New Hampshire constitution providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions is adopted by the voters in the 2000 general election, then sections 1-15 of this act shall take effect January 1, 2001. If such a constitutional amendment is not adopted, then sections 1-15 of this act shall not take effect.

17 Effective Date.

I. Section 16 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect as provided in section 16 of this act.

AMENDED ANALYSIS

This bill provides that municipalities shall have home rule authority to exercise powers which are not prohibited by the state constitution, state statute, or common law. Any municipal ordinance or bylaw shall become effective no sooner than 60 days after its adoption, except where the general court has otherwise vested that power in the municipality's governing body. Under this bill, changes in the law resulting from the passage of this bill shall not become effective unless an amendment to the New Hampshire constitution providing that municipalities shall have such home rule authority is adopted by the voters in the 2000 general election.

1999-1345h

Amendment to HB 649-FN

Proposed by the Majority of the Committee on Science, Technology and Energy - R

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

AN ACT relative to nitrogen oxide emissions from electricity generation.

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

1 Purpose.

I. The general court finds that due to high retail rates in the state, many businesses have sought to control their electric costs by use of internal combustion engine electricity generators that run on fossil fuels. These generators have increased nitrogen oxide (NOx) emissions and use of additional units has the future potential to substantially increase such emissions and to increase electric rates for customers purchasing electricity from sources subject to more stringent NOx regulations. The general court therefore finds that electricity generation equipment, defined as NOx-emitting generation sources, shall be subject to NOx emission requirements more similar to requirements for larger electricity generators that are NOx budget sources. The general court also finds that, as an alternative to such requirements, the owners of such sources may make certain payments to assist in NOx emission reduction from such generators.

II. The general court further finds that the need for such generation equipment, due to its direct link to high electricity rates,

may accelerate unless there is a resolution of the excessive rates plaguing many New Hampshire customers. If settlements cannot be reached that effectively lower rates, the general court may need to consider legislation in the next session that would create special rate structures that would minimize the incentive for customers to install this type of generation.

2 New Paragraph; Definitions; NOx-Emitting Generation Source. Amend RSA 125-J:1 by inserting after paragraph XIX-b the following new paragraph:

XIX-c "NOx-emitting generation source" means any source which generates electricity for use or sale, except for sources which meet the definition of a NOx budget source. NOx-emitting generation source shall not include any generators which:

- (a) Serve as an electrical or mechanical power source when the primary power source is unavailable;
- (b) Are used as a start-up or a temporary supply of power to a facility which generates electricity for use or sale;
- (c) Are used as a portable generator;
- (d) Emit, in total from the facility, 5 tons of NOx or less per calendar year; or
- (e) Are located in an area where electrical power is not reasonably or, considering the type of power needed by the user, reliably available.

3 New Section; NOx-Emitting Generation Source Requirements; Rulemaking. Amend RSA125-J by inserting after section 12 the following new sections:

125-J:13 NOx-Emitting Generation Source Requirements.

I. Each NOx-emitting generation source emitting more than 7 pounds of NOx per megawatt hour generated shall be required to supply to the department NOx emissions information, and the amount of kilowatt hours actually produced during each period listed in subparagraph II(b). Additionally, except as provided either by paragraph I or II of this section, each NOx-emitting generation source shall acquire NOx budget allowances, emissions reduction credits, or other emissions reduction mechanisms on the same basis as a NOx budget source for all of its NOx emissions. However, NOx-emitting generation sources shall not be required to acquire NOx budget allowances, emissions reduction credits, or use emissions reduction mechanisms for the first 7 pounds of NOx emitted for each megawatt-hour of electricity produced and any amounts of NOx above such first 7 pounds that are attributable to the provision of other, non-electric services provided by the generating source, including but not limited to, steam and heat, and any amounts of NOx emitted during any period when the NOx-emitting generation source is operating to provide power during a power shortage at the request of any governmental authority or provider of electrical power to the public generally.

II.(a) NOx-emitting generation sources may, at the option of the generation source, make a direct payment for each ton of NOx emitted which would otherwise require the acquisition and use of emissions reduction mechanisms in accordance with paragraph I, in lieu of acquiring emissions reduction mechanisms.

(b) The payment provided for in subparagraph II(a) shall be made annually and shall be equal to the number of tons of NOx emitted by the NOx-emitting generation source, less the tons of NOx not requiring emission reduction mechanisms under paragraph I, times a fee of \$200 per ton for tons emitted during the period running May 1 to September 30 and a fee of \$100 per ton for tons emitted during the period running October 1 to April 30. These fees shall increase by adding \$200 to the May 1 to September 30 period fee each year for 4 years, and by adding \$100 to the October 1 to April 30 period fee each year for 4 years, such that at the end of the 4 years the fee for the period running May 1 to September 30 will be capped at \$1,000 per ton and the fee for the period running October 1 to April 30 will be capped at \$500 per ton.

(c) There is hereby established the nitrogen oxide emissions reduction fund. This nonlapsing, revolving special fund shall be continually appropriated to be expended by the department of environmental services in accordance with this section. The state treasurer shall invest the moneys so deposited as provided by law. Interest received on investments made by the state treasurer shall also be credited to the fund. All payments collected by the department under this paragraph shall be deposited in the nitrogen oxide emissions reduction fund and used to reduce NOx emissions by NOx-emitting generation sources. Fund moneys may be used for:

- (1) The acquisition and retirement of NOx emissions reduction mechanisms by the department;
- (2) Financial assistance for the purchase of NOx-emitting generation source equipment to obtain NOx emissions reductions from

NOx-emitting generation sources located within the state, including but not limited to new technologies for such emissions control; and

(3) Refunds to NOx-emitting generation sources in proportion to their electric generation.

(d) If any governmental authority imposes NOx emissions reduction requirements applicable to facilities that are also NOx-emitting generation sources, then any emission reductions produced or secured under paragraph I shall be credited as emission reductions produced or secured by the NOx-emitting generation sources that made the reduction and any emission reductions produced or secured under paragraph II shall be credited as emission reductions produced or secured by all NOx-emitting generation sources in proportion to their payments to the dedicated fund.

III. The provisions of paragraphs I and II shall not apply:

(a) For a period of 8 years from the effective date of this section, to any electricity generating source which existed as of July 1, 1999, was permitted by the department, whether on a temporary or permanent basis, including any permit renewal or modification, whether applied for or issued, pertaining to any such generating source; and

(b) For a period of 6 years from the effective date of this section, to any electricity generating source which, as of May 1, 1999, filed an application for a permit with the division containing substantial but not necessarily complete information.

125-J:14 NOx-Emitting Generation Source Rulemaking. The commissioner shall adopt rules under RSA 541-A relative to:

I. Forms and procedures for submission of kilowatt hour data required by RSA 125-J:13, I, payments under RSA 125-J:13, II, and forms, procedures, and identification of NOx emissions information required by RSA 125-J:13, I; and

II. Forms, procedures, administration, and use of the nitrogen oxide emissions reduction fund.

4 New Subparagraph; Nitrogen Oxide Emissions Reduction Fund Created. Amend RSA 6:12, I by inserting after subparagraph (www) the following new subparagraph:

(xxx) Moneys received by the department of environmental services under RSA 125-J:13, II, which shall be credited to the nitrogen oxide emissions reduction fund.

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

AMENDED ANALYSIS

This bill requires any new NOx-emitting generation source to supply NOx emissions information and acquire NOx budget allowances or other emissions reduction mechanisms.

This bill requires such sources to make a direct payment to the department which shall be credited to a special fund, for each ton of NOx emitted if emissions reduction mechanisms are not utilized, and provides a formula for the calculation of such fees.

This bill also defines NOx-emitting generation source.

1999-0896h

Amendment to HB 657-FN

Proposed by the Majority of the Committee on Health, Human Services and Elderly Affairs - SO

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

AN ACT relative to the health services planning and review board and the certificate of need process.

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

1 Legislative Findings; Public Interest; Review and Assessment of New Health Services. Amend RSA 151-C:1, III to read as follows:

III. The state has an interest in promoting and stimulating *competition and* collaboration among providers in the health care marketplace as a means of managing the increases in health care costs.

2 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (c) to read as follows:

(B) ~~Three~~ **Four** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) ~~Two~~ **Three** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The ~~other~~ **second** provider shall be nominated by the New Hampshire Health Care Association. ***The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.***

3 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve only for one 3-year term, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. ***Members of the board are not eligible for reappointment upon expiration of their terms.***

4 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII. (a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. ***The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.*** The commissioner shall also provide space for the board and staff and other assistance and materials as necessary; ***provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire.***

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his ***or her*** duties.

5 Expenditure Decreased. Amend RSA 151-C:5, II(a) to read as follows:

(a) The construction, development, expansion, or alteration of any acute care facility requiring a capital expenditure of more than ~~[\$1,500,000]~~ ***\$1,250,000.*** ~~[The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index.]~~ ***Beginning in 2000, and using that year as a base, the capital expenditure threshold shall be adjusted annually by the rate of change in the Consumer Price Index for medical care in New Hampshire as reported by the Bureau of Labor Statistics of the United States Department of Labor.***

6 Expenditure Increased. Amend RSA 151-C:5, II(f) to read as follows:

(f) The construction, development, expansion, renovation, or alteration of any nursing home, ambulatory surgical facility, rehabilitation hospital, psychiatric hospital, specialty hospital, or other health care facility requiring a capital expenditure of more than ~~[\$1,000,000]~~ ***\$1,250,000.*** ~~[The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index.]~~ ***Beginning in 2000, and using that year as a base, the capital expenditure threshold shall be adjusted annually by the rate of change in the Consumer Price Index for medical care in New Hampshire as reported by the Bureau of Labor Statistics of the United States Department of Labor.***

7 Definition. Amend RSA 151-C:2, I to read as follows:

I. "Ambulatory surgical facility" means a facility ~~[which is not physically attached to a health care facility and]~~ which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

8 Definition; Major New Facilities. Amend RSA 151-C:2, XXV to read as follows:

XXV. "Major new facilities" means the construction, development, or other establishment of a new health care facility, the total cost of which is in excess of ~~[\$1,000,000]~~ ***\$1,250,000.***

9 Duties of Staff. Amend RSA 151-C:3, VII to read as follows:

VII.(a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. The commissioner shall also provide space for the board and staff and other assistance and materials as necessary. ***Notwithstanding this paragraph or any other provision of law to the contrary, the staff members shall report to the board.***

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter~~[-for the conduct of the staff,]~~ and shall timely and appropriately execute ~~[his]~~ ***the director's*** duties.

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

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire. For the purposes of certificate of need, the bill increases the expenditure for certain proposed new facilities from \$1,000,000 to \$1,250,000 and decreases the expenditure for acute care facilities from \$1,500,000 to \$1,250,000.

The bill also requires the staff appointed to serve the board to report to the board.

1999-1145h

Amendment to HB 657-FN

Proposed by the Minority of the Committee on Health, Human Services and Elderly Affairs - SO

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

AN ACT relative to the certificate of need process and ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

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

1 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (c) to read as follows:

(B) ~~[Three]~~ ***Four*** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) ~~[Two]~~ ***Three*** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The ~~[other]~~ ***second*** provider shall be nominated by the New Hampshire Health Care Association. ***The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.***

2 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve only for one 3-year term, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. ***Members of the board shall not serve more than 2 consecutive terms.***

3 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII. (a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. ***The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.*** The commissioner shall also provide space for the board and staff and other assistance and

materials as necessary; ***provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire. Notwithstanding this paragraph or any other provision of law to the contrary, the staff members shall report to the board***

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his ***or her*** duties.

4 Ambulatory Surgical Facilities. Amend RSA 151-C:5, II(f) to read as follows:

(f) The construction, development, expansion, renovation, or alteration of any nursing home~~[- ambulatory surgical facility]~~, rehabilitation hospital, psychiatric hospital, specialty hospital, or other health care facility, ***except ambulatory surgical facilities***, requiring a capital expenditure of more than \$1,000,000. The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index;

(g) The construction, development, expansion, renovation, or alteration of any ambulatory surgical facility or unit of any such facility, subject to the following:

(1) Any conduct that requires a capital expenditure of more than \$750,000, provided that for ambulatory surgical facilities having a capital cost between \$750,000 and \$1,250,000 the board shall adopt rules under RSA 541-A providing for an expedited hearing procedure; or

(2) Any conduct that results in the addition to any institutional health care facility of an operating room used exclusively for outpatient surgery, provided that for circumstances where such conduct results in the addition of only one such operating room, the board shall adopt rules under RSA 541-A providing for an expedited hearing procedure.

5 Reference Addition. Amend RSA 151-C:13, I(f) to read as follows:

(f) Facilities and services which are intended to serve only outpatients and which do not require construction of greater than the appropriate threshold level, as determined under RSA 151-C:5, II(a) or RSA 151-C:5, II(f) ***and (g)*** or new equipment costing more than \$400,000;

6 Ambulatory Surgical Facilities; Definitions. Amend RSA 151-C:2, I to read as follows:

I. "Ambulatory surgical facility" means a facility ~~[which is not physically attached to a health care facility and]~~ which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

7 Definition Added. Amend RSA 151-C:2 by inserting after paragraph XXVI the following new paragraph:

XXVI-a. "Operating room" means any room in a licensed hospital or ambulatory surgical facility equipped and used exclusively for outpatient surgical cases.

8 Reference Addition. Amend RSA 151-C:2, XII to read as follows:

XII. "Construction" includes actual commencement of any construction or fabrication of any new building, or addition to any existing facility, or any expenditure of more than the appropriate threshold level, as determined under RSA 151-C:5, II(a) or RSA 151-C:5, II(f) ***and (g)***, relating to the alteration, remodeling, renovation, modernization, improvement, relocation, repair, or replacement of a health care facility or health maintenance organization, including expenditures necessary for compliance with life and health safety codes.

9 Committee Established. There is established a committee to study the structure and duties of the health services planning and review board.

10 Membership and Compensation.

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

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

11 Duties. The committee's study shall include, but not be limited to, a review of the structure and duties of the health services planning and review board.

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

13 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 1999.

14 Applicability. This act shall not apply to applications or requests filed with the health services planning and review board on or before May 4, 1999.

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

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire. The bill requires the staff appointed to serve the board to report to the board.

This bill establishes a committee to study the structure and duties of the health planning services planning and review board.

The bill also establishes new procedures for ambulatory surgical facilities under the certificate of need law.

1999-1353h

Amendment to HB 666-FN-A-LOCAL

Proposed by the Committee on Finance - R

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

1 Findings and Declaration of Purposes. The legislature finds:

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

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

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

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

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

VI. That the legislature wishes to reiterate its original findings and declaration of purpose, which was to avoid the undesirable effects of taxing earth in the ground as real property, which included the premature excavation of such earth to avoid real property taxation; and that in order to ensure that this and other undesirable and unintended consequences of the taxation of earth, and the real property constituting the area from which earth was being excavated, do not occur, the legislature wishes to

make clear that RSA 72-B must be read in conjunction with RSA 155-E, which provides a statewide comprehensive regulatory framework to regulate the excavation of earth;

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

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

2 Excavation Tax; Excavation Activity Tax. RSA 72-B:1 is repealed and reenacted to read as follows:

72-B:1 Excavation Tax; Excavation Activity Tax.

I. Earth and excavations, as defined in this chapter, shall be exempt from taxation as real property under RSA 72:6 and RSA 72:13, provided that such earth and excavations are subject to the excavation tax or the excavation activity tax as provided in this chapter.

II. Earth, as defined in RSA 155-E:1, I, shall be exempt from taxation as real property under RSA 72:6 and RSA 72:13. An excavation tax shall be assessed upon the excavation of earth against an owner as defined in RSA 72-B:2, VIII. Such tax shall be assessed at the rate of \$.02 per cubic yard of earth excavated.

III. Excavations, as defined in RSA 155-E:1, II, shall be exempt from taxation as real property under RSA 72:6 and RSA 72:13, but shall be subject to the excavation activity tax. The owner of real property containing any excavation shall have assessed against such property an excavation activity tax. The excavation activity tax shall be assessed pursuant to RSA 72-B:12, and shall be assessed at a tax rate equal to the real property tax rate imposed under RSA 72:6. The excavation activity tax for those excavations occurring on public lands shall be assessed to the owner or purchaser of the excavation rights.

IV. The following, except as otherwise noted, shall not be subject to the excavation activity tax, the excavation tax, and related fees; however, the following shall be subject to taxation as real property pursuant to RSA 72:6 independent of any earth contained therein:

- (a) An excavation that has been reclaimed and approved by the regulator to be in compliance with local reclamation standards and ordinances.
- (b) An excavation area that is exposed rock ledge not subject to reclamation under RSA 155-E:5, I and III or RSA 155-E:5-a and has not been excavated during the preceding tax year.
- (c) An excavation that has ceased commercially useful operation prior to August 24, 1977, as set forth in RSA 155-E:2, II(c).
- (d) Permitted areas, or areas not requiring permits, that have not been excavated and remain undisturbed.
- (e) Areas that are ancillary to the excavation.
- (f) Any excavation of earth from a parcel of land that is put back on the parcel, or other parcel that is contiguous and in common ownership, in the construction, reclamation, reconstruction, or alteration of such parcel of land within the same tax year.
- (g) Any excavation of earth that is used exclusively for agricultural or forest management by the owner of the land within the state of New Hampshire.
- (h) Any excavation upon a parcel of land which does not exceed 1,000 cubic yards within any tax year; however, the owner of such excavation shall be subject to the excavation activity tax, shall be required to file a notice of intent to excavate pursuant to RSA 72-B:8, but such owner shall not be subject to the enforcement fee under RSA 72-B:16 and such parcel shall not be subject to the excavation tax lien under RSA 72-B:7, I.
- (i) Any excavation which is solely necessary to construct a foundation, septic disposal system, or which is incidental to other construction projects and does not result in the removal from the parcel of more than 1,000 cubic yards of earth within the tax year.

3 Definitions. RSA 72-B:2 is repealed and reenacted to read as follows:

72-B:2 Definitions. In this chapter:

I. "Ancillary to the excavation" means areas related to the excavation, including, but not limited to, offices; scale buildings; manufacturing plants; preparation plants; together with storage areas; settling ponds; haulage ways; and roadways.

II. "Assessing officials" means those charged by law with the duty of assessing taxes in the city, town, or unincorporated place.

III. "Commissioner" means the commissioner of the department of revenue administration.

IV. "Department" means the department of revenue administration.

V. "Earth" means earth as defined in RSA 155-E:1, I.

VI. "Excavating" means extracting earth from its state of natural repose.

VII. "Excavation" means excavation as defined in RSA 155-E:1, II.

VIII. Owner means:

(a) Any person who owns the land upon which earth is excavated;

(b) A previous owner who retains earth excavation rights to the land, or any person who has purchased earth excavation rights, and has registered a claim with the registry of deeds; or

(c) Any person who has purchased excavated earth or excavation rights on public lands, or removes earth from a public right-of-way.

IX. "Reclaimed" means the reclamation of the excavated area, unless alternate plans for other uses or reclamation are approved by the regulator.

X. "Regulator" means regulator as defined in RSA 155-E:1, III.

XI. "Tax year" means April 1 of any year to March 31 of the next year, inclusive.

4 Assessment of the Excavation Tax and the Excavation Activity Tax. Amend RSA 72-B:4 to read as follows:

72-B:4 Assessment ***of the Excavation Tax and the Excavation Activity Tax.***

I. The excavation tax shall be assessed [~~at the time of excavation~~] by the local assessing officials within 30 days after receipt of a report of excavated material ***form*** by such officials in the municipality in which the operation took place. Interest as provided in RSA 72-B:6 shall be charged 30 days after the bills are mailed by the tax collector, on any tax which is due and payable and which remains unpaid.

II. The excavation activity tax shall be assessed to the owner, as defined in RSA 72-B:2, using the same schedule applicable in the municipality to the billing of real property tax. The excavation activity tax shall be deemed to be assessed upon April 1 of the tax year. The assessing officials shall commit a warrant for the excavation activity tax to the tax collector. Interest as provided in RSA 72-B:6 shall be charged 30 days after the bills are mailed by the tax collector, on any tax which is due and payable and which remains unpaid.

5 Bond. Amend RSA 72-B:5 to read as follows:

72-B:5 Bond.

I. If an owner does not own land in the town where such owner intends to excavate and has filed an intent to excavate form with respect to any parcel of land, the assessing officials shall, within 30 days of the receipt of that filing, notify the owner in writing of the amount and conditions of any bond or other security deemed necessary to secure the payment of the excavation tax to be due from the operation described in the notice of intent to excavate. ***The owner shall provide the bond within 30 days of notice or be guilty of a misdemeanor. No owner who owns land in the town where the owner intends to excavate shall be required to post a bond or other security as a condition for filing an intent to excavate or receiving a permit to excavate, unless the owner is delinquent on town timber taxes, excavation activity taxes, or property taxes.***

II. If an owner does not own land in the town where the owner has excavation rights, the assessing officials shall notify the owner in writing of the amount and conditions of any bond or other security deemed necessary to secure the payment of the excavation activity tax. The owner shall provide the bond within 30 days of notice or be guilty of a misdemeanor. No owner who owns land in the town where the owner intends to excavate shall be required to post a bond or other security as a condition for filing an intent to excavate or receiving a permit to excavate, unless the owner is delinquent on town timber taxes, excavation taxes, or property taxes.

[H:] *III. If an owner ceases to own land in the town where such owner is excavating after filing an intent to excavate form, such owner shall notify the assessing officials in writing of the change in ownership within 15 days of such change. An owner who neglects to so notify the assessing official shall be guilty of a misdemeanor.*

[HH:] *IV. If any [owner or any other] person [who] commences [an excavation operation] excavating or [who] continues [an excavation operation] excavating without first furnishing a bond or other securities [as deemed necessary] required to secure payment of taxes by the assessing officials, such person and the owner of such land shall each be guilty of a misdemeanor.*

6 Lien. Amend RSA 72-B:7 to read as follows:

72-B:7 Lien. Unless a bond or other security is required pursuant to RSA72-B:5[~~all excavation~~]:

I. Excavation tax assessments levied under RSA 72-B:4 shall, on the date the [excavation] **excavating** commences, create a lien upon the land on account of which it is made and against the owner of record of such land. ~~[Furthermore, such liens shall continue for a period of 18 months following the date of assessment by the local assessing officials. All excavation tax assessments shall be subject to statutory collection proceedings against real estate as prescribed by RSA 80.]~~

II. Excavation activity tax assessments levied under RSA 72-B:12 shall, on April 1, create a lien upon the land on account of which it is made and against the owner of record of such land.

III. Liens created under RSA 72-B:7, I and II shall continue for a period of 18 months following the date of assessment by the local assessing officials. All excavation tax and excavation activity tax assessments shall be subject to statutory collection proceedings against real estate as prescribed by RSA80.

7 Notice of Intent to Excavate. Amend RSA 72-B:8 to read as follows:

72-B:8 Notice of Intent to Excavate. Every owner, **as defined in RSA 72-B:2, VIII**, who intends to excavate earth shall, at the beginning of each tax year and prior to ~~[commencing each excavation]~~ **excavating** [operation], file with the proper assessing officials in the city ~~[or]~~, town, **or unincorporated place** where such excavating is to take place a notice of intent to excavate **as** provided by the commissioner, stating ~~[such]~~ **the** owner's name; **type of ownership**; residence; ~~[social security number]~~ **telephone number**; tax map, block, and lot number; the town, city, or ~~[unorganized]~~ **unincorporated** place where the [operation] **excavating** will take place; an estimate of the volume of earth to be excavated; **an estimate of the type of earth to be excavated**; and such other information as may be ~~[required in compliance with all local ordinances]~~ **necessary to locate, identify, verify, and determine the full extent of the excavation and extent of compliance with RSA 155-E and RSA 485-A:17. A separate intent shall be filed for each separate tract of land as identified by the municipal tax maps. If the excavation is located in more than one municipality, a separate intent to excavate shall be filed with each municipality.** A supplemental notice of intent to excavate shall be filed in the same manner ~~[for]~~ **stating** any additional volume of earth to be excavated in excess of the original estimate within the same tax year. The assessing officials shall, within 30 days of signing a notice of intent to excavate, notify the tax collector that an intent to excavate has been filed. **The assessing officials may decline to sign an intent to excavate for noncompliance by the owner with applicable requirements of RSA 72-B:5 relative to bonding, RSA 155-E relative to local regulation excavations, RSA485-A:17 relative to terrain alterations or RSA 79-A relative to current use.** The notice of intent to excavate shall serve as notice that the land is subject to a tax lien pursuant to RSA72-B:7. The appropriate copies of all intents to excavate received by a city, town, or ~~[unorganized]~~ **unincorporated** place shall within 30 days be forwarded to the commissioner by the assessing officials. Upon receipt of an original intent to excavate, the commissioner shall assign an operation number and furnish to the owner a certificate to excavate and report of excavated material form. ~~[Such]~~ **Each** certificate shall be posted by the owner filing such intent to excavate in a conspicuous place within the area of ~~[excavation for each operation conducted within a city, town, or unorganized place]~~ **excavating**. ~~[Starting an operation]~~ **Excavating** before the appropriate notice of intent to excavate has been filed with the city, town, or unincorporated place and signed by the appropriate municipal officials shall constitute a violation by the owner or any other person doing the excavation, or both. Failure to post the certificate on the job in a conspicuous place upon receipt shall constitute a violation, and failure of the assessing officials to forward the appropriate copies of the intent to excavate to the department within 30 days after receipt shall constitute a violation.

8 New Section; Supplemental Notice of Intent to Excavate. Amend RSA 72-B by inserting after section 8 the following new section:

72-B:8-a Supplemental Notice of Intent to Excavate. Every owner who has filed a notice of intent to excavate under RSA 72-B:8 shall file a supplemental notice of intent to excavate for the amount of earth which exceeds the original amount of earth estimated. If the owner originally stated an estimate of 1,000 yards or less and was exempted from the \$100 enforcement fee, the owner shall provide the \$100 enforcement fee with the supplemental intent to excavate. If the owner paid the \$100 enforcement fee with the original intent to excavate, no additional fee is required for the supplemental intent. Failure to file a supplemental intent and failure to provide the required enforcement fee shall constitute a violation by the owner or any other person doing the excavation, or both.

9 Report of Excavated Material. Amend RSA 72-B:9 to read as follows:

72-B:9 Report of Excavated Material. Every owner who has filed a notice of intent to excavate as provided in RSA 72-B:8 shall ~~[make]~~ **sign** under the penalties of perjury and file with the assessing officials a report of all excavated material for each intent to excavate filed. The report shall be upon a form provided by the commissioner, with 2 copies to be sent to the commissioner. If no earth was excavated **during the tax year**, then the report of excavated material shall be returned stating so. If ~~[an excavation operation finishes]~~ **excavating is completed** during the tax year, the owner ~~[may]~~ **shall** file the report of excavated material ~~[at the completion of the operation, and the assessing officials shall make an assessment within 30 days after receipt of the report of excavation form]~~ **no later than 30 days following the completion of the excavating. The assessing officials shall make an assessment of the excavation tax within 30 days after receipt of the report of excavated material form. The** report of excavated material ~~[forms]~~ **form** shall contain the owner's name, **telephone number**, residence, ~~[social security number]~~ **tax map, block, and lot number, the town, city or unincorporated place where the excavation occurred**, the volume **and type** of earth in cubic yards, and such other information as may be necessary to locate, identify, verify, and determine the full extent of excavation, **reclamation, and extent of compliance with either RSA 155-E or RSA 485-A:17**, for which ~~[the]~~ **each** report is filed. ~~[A]~~ **The** report of excavated material ~~[covering]~~ **form pertaining to [an operation]** **excavating** still in progress through March 31 of any year shall be filed no later than **the following** April 15 ~~[of said year]~~ for all earth excavated during the tax year up to and including March 31. The report shall be accompanied by an estimate of the size of the ~~[pit]~~ **excavation** area as it existed at the end of the tax year, or in the alternative, a statement that the size of the ~~[pit]~~ **excavation** area has not changed since the prior tax year. A person who fails to file a report of excavated material with the proper assessing officials or to send copies of the report as required in this section to the commissioner shall be guilty of a misdemeanor. Any owner who falsifies a report of excavated material form shall be guilty of a misdemeanor.

10 Doomage. Amend RSA 72-B:10 to read as follows:

72-B:10 Doomage. If an owner neglects or fails to file a report of excavated material form pursuant to RSA 72-B:9, unless the time is extended by the assessing officials because of accident, mistake, or misfortune to a date not later than the following May 1, or willfully makes any false statement in the notice of intent to excavate, or willfully files a report of excavated material that does not contain a true and correct statement of the amount of earth excavated, or has willfully omitted to give any information required by the report of excavated material form, the assessing officials shall ascertain, in such way as they may be able and as nearly as practicable, the volume of ~~[excavation]~~ **earth** for which such owner should have been taxed and shall assess to such owner, by way of doomage 2 times as much as such ~~[excavation]~~ **earth** would have been taxed had such form been seasonably filed and truly reported. Such doomage shall be collected by the tax collector in the usual manner and paid over to the town or city treasurer for use of the town or city, or, in the case of ~~[a unorganized]~~ **an unincorporated** place, shall be collected by the county commissioners and paid over to the county treasurer for use of the county.

11 Disposition of the Excavation Tax and Excavation Activity Tax. Amend RSA 72-B:11 to read as follows:

72-B:11 Disposition of the Excavation Tax **and Excavation Activity Tax**.

I. The excavation tax, **and the excavation activity tax**, collected in the incorporated towns and cities under RSA 72-B:4 shall be paid by the tax collectors into their respective treasuries for the general use of the city or town.

II. The taxes assessed under RSA 72-B:4 in any unincorporated ~~[town or unorganized]~~ place shall be collected by the county commissioners of the county in which the ~~[town or]~~ place is located and paid by them to the county treasurer. The county commissioners shall have the same powers in collecting the taxes as provided under RSA 80 and RSA 81. All taxes collected by the counties under RSA 72-B:4 shall be credited to the unincorporated ~~[towns and unorganized places]~~ **place** from which the excavation tax **and the excavation activity tax** was collected and shall be used against the unincorporated ~~[town's or unorganized]~~ place's share for the county tax for the ensuing year.

12 Taxation of Excavation Activity. Amend RSA 72-B:12 to read as follows:

72-B:12 Taxation of Excavation Activity. The excavation activity tax imposed under RSA 72-B:1, III shall be administered as follows:

I. The [pit] area ~~[as defined in RSA 72-B:2;]~~ **constituting an excavation subject to the excavation activity tax** shall be determined as of April 1 each year. The owner ~~[or excavator]~~ shall furnish **to the [local] assessing officials for the jurisdiction in which the excavation is located** such information as ~~[they]~~ **the assessing officials** may require to ~~[make such determination]~~ **determine the area constituting a taxable excavation.**

II. The ~~[amount of the excavation activity tax shall be determined by the local assessing officials, by considering a hypothetical owner of land, located in the vicinity of the excavation, but which was devoted to an intense commercial or industrial use, and determining the amount such hypothetical owner would pay in real estate taxes during that tax year upon an area of such land equivalent in size to the pit area, exclusive of any tax amount attributable to buildings or other structures. In making this determination, the assessing officials may take into consideration the land portion of assessments actually assigned to other properties in that municipality devoted to commercial or industrial uses, but shall not consider the value of the earth located upon, or excavated from, the excavation site]~~ **area of any excavation subject to the excavation activity tax shall be appraised as if it contained no earth, as defined in RSA 72-B:2, V.**

III. **For purposes of administering the excavation activity tax, the excavation shall be assessed as if it were an equal size parcel devoted to a comparable industrial use located in a comparable location within the taxing jurisdiction; provided that if the excavation is a quarry, the vertical faces of the excavation shall be assessed as if horizontally level, pursuant to rules adopted by the commissioner under RSA 541-A. If there is no such comparable property within the taxing jurisdiction, such area shall be assessed using the nearest comparable property within a comparable taxing jurisdiction. For purposes of such calculations, the assessing officials shall take into consideration the land portion of assessments actually assigned to such comparable parcels and shall not include the value of any buildings or other improvements when making such comparisons.** ~~[The excavation activity tax shall be billed to the owner, as defined in RSA 72-B:2, using the same schedule applicable in that municipality to the billing of real estate taxes. Such tax shall be deemed to be assessed upon April 1 of the tax year, and shall create a lien against the real estate, which shall continue for 18 months thereafter. All such taxes shall be subject to statutory collection proceedings against real estate as prescribed by RSA 80:]~~

13 New Section; Excavation Activity Tax Appeal and Abatement. Amend RSA 72-B by inserting after section 12 the following new section:

72-B:12-a Excavation Activity Tax Appeal and Abatement.

I. Any person aggrieved by the assessment of an excavation activity tax shall follow the process provided in RSA 76:16, RSA 76:16-a, and RSA 76:17.

II. Each excavation activity tax assessment bill must be the subject of a separate abatement request and appeal.

14 Excavation Tax Appeal and Abatement. Amend the section heading of RSA 72-B:13 to read as follows:

72-B:13 **Excavation Tax** Appeal and Abatement.

15 Excavation Tax Appeals Board. Amend the section heading of RSA 72-B:14 to read as follows:

72-B:14 **Excavation Tax** Appeals Board.

16 Excavation Tax Appeals Board Procedure. Amend the section heading of RSA 72-B:15 to read as follows:

72-B:15 **Excavation Tax** Appeals Board Procedure.

17 Enforcement. Amend RSA 72-B:17 to read as follows:

72-B:17 Enforcement.

I. The department shall administer and enforce this chapter, be responsible for educating municipal officials regarding the chapter, and have enforcement authority in regard to the proper filing of the ~~[permit]~~ **intent** to excavate form under RSA 72-

B:8, authority to check on the volumes turned in on the report of excavated ~~[materials]~~ **material** form under RSA 72-B:9, the authority to issue cease and desist orders **for violations under RSA 72-B**, ~~[the authority to monitor the operational and reclamation standards contained in RSA155-E:4-a, 5 and 5-a,]~~ and the authority to rescind the ~~[certificate issued]~~ **intent to excavate form and certificate** pursuant to RSA 72-B:8 of any excavation in violation of ~~[such standards]~~ **RSA 72-B**. The department shall otherwise assist the towns, cities, and ~~[unorganized]~~ **unincorporated** places in the enforcement of this chapter. It is the intent of this section to authorize the commissioner and the commissioner's agents to have enforcement authority and the right to stop any ~~[operation]~~ **excavation** in violation of RSA 72-B and to report the same to local authorities. Any person failing to comply with a cease and desist order issued under this section shall be guilty of a misdemeanor.

II. ~~[Officials]~~ **The commissioner's agents** responsible for the enforcement of this chapter **have the authority to advise and assist municipalities in regard to RSA 155-E and RSA485-A:17, may report potential violations of RSA 155-E and RSA 485-A:17 to local and state officials, and** may enter upon any lands for which ~~[a permit]~~ **an intent** to excavate or a certificate to operate has been issued pursuant to RSA 72-B. ~~[They also]~~ **The commissioner's agents may enter upon any lands that they believe may have an excavation in violation of RSA 72-B for the purpose of collecting information that may be necessary to the purpose of this chapter, and no owner of such land shall refuse to admit the enforcement agents. The commissioner's agents** may review any records in conjunction with any ~~[gravel or mining operation]~~ **excavation** in the state.

18 Mines, Sand, Gravel, Loam, or Other Similar Substances. Amend RSA72:13 to read as follows:

72:13 Mines, Sand, Gravel, Loam, or Other Similar Substances. Real estate shall be taxed independently of any mines or ores contained therein until such mines or ores shall become a source of profit, and independently of any sand, gravel, loam, or other similar substances contained therein until any of them shall become a source of profit; except when such mines, ores, sand, gravel, loam, or other similar substances, or rights therein are owned by some person other than the one to whom such real estate is taxed, in which case they shall be taxed as real estate to such other person. ***This section shall not apply to real estate containing earth, as that term is defined in RSA155-E:1, I. Earth and the real property constituting the area from which earth is being excavated shall be taxed exclusively under RSA 72-B.***

19 Repeal. RSA 72-B:3, relative to release from taxes, is repealed.

20 Effective Date.

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

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

AMENDED ANALYSIS

This bill:

- I. Clarifies the intent and procedures for taxation of excavations.
- II. Creates exemptions to the excavation activity tax, excavation tax, and related fees.
- III. Allows the creation of liens by excavation activity tax assessments levied on such assessed property.
- IV. Allows enforcement agents to report potential violations of certain excavation and terrain alteration laws to local and state officials. Such agents may also enter land believed to have excavation violations to collect information.
- V. Requires the filing of a supplemental notice of intent to excavate if the original estimate of amount of earth to be excavated is exceeded.

1999-1211h

Amendment to HB 676-FN-A

Proposed by the Committee on Finance - R

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

- I. The commissioner of safety shall establish a force of motor vehicle inspectors to assist the director in enforcing the motor

vehicle inspection laws and rules. A motor vehicle inspector appointed by the commissioner pursuant to this section shall be totally dedicated to enforcement duties related to the inspection process, including inspection station auditing, investigation of alleged inspection station malfeasance, rejected vehicle follow-up, and sticker monitoring. A motor vehicle inspector appointed under this section shall have the authority to enter any motor vehicle inspection station authorized under RSA 266:1, during the station's business hours, to fulfill his or her duties.

Amend the bill by replacing section 3 with the following:

3 Appropriation. The sums of \$311,290 for the fiscal year ending June 30, 2000 and \$195,266 for the fiscal year ending June 30, 2001, are hereby appropriated to the department of safety for the purpose of hiring 6 motor vehicle inspectors to enforce the motor vehicle inspection laws and rules, as provided in section 1 of this act. Said appropriations shall be a charge against the highway fund.

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

4 New Subparagraph; Motor Vehicle Inspectors Excluded from Group II Classification. Amend RSA 100-A:1, VII-a by inserting after subparagraph (c) the following new subparagraph:

(d) Any motor vehicle inspector appointed pursuant to RSA 266:1-a.

1999-1239h

Amendment to HB 685-FN-A

Proposed by the Committee on Finance - C

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

AN ACT relative to the duties of the New Hampshire land and community heritage commission.

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

1 Statement of Purpose.

I. The general court recognizes and supports the principal conclusion of the interim report of the New Hampshire land and community heritage commission, established pursuant to 1998, 161 (SB 493), that in order to maintain New Hampshire's quality of life and economic vitality for its citizens, growth and development should be balanced with protection of New Hampshire's most important natural, cultural and historic resources. Permanent protection of any of these resources, through easements, acquisition or rehabilitation of such lands, culturally or historically significant buildings and other physical assets, or interests in these assets, should be accompanied by long-term stewardship of these resources.

II. The general court finds that it is an appropriate function of state government to enact such permanent policy measures as may be beneficial, to protect and preserve New Hampshire's natural, cultural and historic resources for this and future generations, in partnership with the federal government, municipalities, other political subdivisions, and the private sector.

III. The general court concludes that the enactment of such a program or programs, and such other policy measures as may be beneficial toward these ends, should be considered at the earliest possible date.

IV. Therefore, the general court accepts with gratitude the interim findings of the New Hampshire land and community heritage commission, and directs the commission to complete its work on or before November 30, 1999, according to the duties set forth herein, so that the general court may have the necessary information and recommendations upon which to base its consideration of a new program or programs to protect and preserve New Hampshire's natural, cultural, and historic resources for this and future generations.

2 New Paragraphs; Duties of Commission. Amend 1998, 161:4 by inserting after paragraph III the following new paragraphs:

IV. Work on completion of the original charge to the commission, including but not limited to refinement of the recommendations made in the commission's interim report relative to the scope, design and administration, including development of a plan for public dissemination of information, for a new public-private program to protect New Hampshire's most important natural, cultural and historic resources.

V. Evaluate and recommend specific public and private funding mechanisms to implement such a program.

VI. Examine the opportunity for partnerships among state and federal agencies, municipalities, not-for-profit organizations and others to protect New Hampshire's most important natural, cultural and historic resources.

VII. Evaluate possible economic and community benefits as well as local property tax impacts of public acquisition and protection of resources.

VIII. Develop an outreach and education program to communities, organizations and individuals to promote awareness of the importance of protecting natural, cultural and historic resources and creating effective stewardship programs for such resources.

IX. Cooperate and communicate with relevant committees of the house and senate on matters related to the purposes of this act.

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

AMENDED ANALYSIS

This bill clarifies the duties of the New Hampshire land and community heritage commission.

1999-1251h

Amendment to SB 24

Proposed by the Committee on Children and Family Law - C

Amend the bill by replacing section 1 with the following:

1 Standard for Return of a Child in Placement. Amend the introductory paragraph of RSA169-C:23 to read as follows:

169-C:23. ~~[Before a child in foster care is returned to the custody of its parents,]~~ ***In the absence of a guardianship of the person of the minor, governed by the terms of RSA 463, before a child in out-of-home placement is returned to the custody of his or her parents, the parent or*** parents shall demonstrate to the court that:

1999-1045h

Amendment to SB 25

Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 1 with the following:

1 Decedents' Estates; Waiver of Full Administration. Amend RSA 554:1-a to read as follows:

554:1-a Waiver of ***Full*** Administration.

I. As used in this section, "fiduciary" shall mean any executor or administrator, including voluntary administrator, special administrator, administrator with will annexed (hereafter administrator w.w.a.), and administrator de bonis non.

II. Notwithstanding any provision of law, whenever a deceased dies testate and the surviving spouse or, if no spouse, an only child is named in the will as the sole beneficiary of the deceased's estate and ~~[has also been]~~ ***is*** appointed to serve as ~~[executor or administrator with will annexed, hereafter administrator w.w.a.]~~ ***fiduciary; or whenever a deceased dies intestate and the surviving spouse or, if no spouse, an only child is the sole heir of the deceased's estate and is appointed to serve as fiduciary,*** there shall be no requirement for an inventory of the estate, no requirement for a bond, and no requirement for an accounting for assets. ~~[Any interested person may petition for a full administration of the estate within 6 months after the original grant of administration, and such petition may be granted by the probate court for good cause shown.]~~ Administration of the ~~[will]~~ ***estate*** shall be completed upon the ***fiduciary's*** filing, ***and the probate court's approval*** of an affidavit of administration ~~[with the probate court]~~. Such filing shall occur not less than 6 months nor more than one year after the date of appointment of the ~~[executor or administrator w.w.a.]~~ ***fiduciary***. The affidavit of administration shall state that to the best of the knowledge and belief of the ~~[executor or administrator w.w.a.]~~ ***fiduciary*** there are no outstanding debts or obligations attributable to the deceased's estate and shall list all real estate owned by the decedent at the time of death, including the location, book and page. If the ~~[executor or administrator w.w.a.]~~ ***fiduciary*** fails to file the affidavit of administration within

the time prescribed above, the ~~[executor or administrator w.w.a.]~~ **fiduciary** is in default. The register of probate shall give notice of the default to the ~~[executor or administrator w.w.a.]~~ **fiduciary** by first class mail within 10 days after the default. The register of probate shall issue a citation notice in accordance with RSA 548:5-a. ~~[If the executor or administrator w.w.a. is unable to complete the administration of the estate, administration may be completed pursuant to RSA 553:7.]~~

III. Any interested person may petition for a full administration of the estate at any time from the original grant of administration to the filing of the affidavit of administration, and such petition may be granted by the probate court for good cause shown.

IV. Disclaimer, ademption of legacies, or declination to serve as executor may be effectively used to cause the estate to conform to the requirements of paragraph II.

V. A guardian may be appointed as fiduciary if the ward qualifies under the provisions of this section.

VI. If the fiduciary is unable to complete the administration of the estate, administration may be completed in accordance with this section by the successor fiduciary.

VII. If both this section and RSA 553:31 are applicable to an estate, this section shall take precedence.

1999-1267h

Amendment to SB 101

Proposed by the Committee on Judiciary - C

Amend RSA 540:13, III as inserted by section 3 of the bill by replacing it with the following:

III. The writ of summons and the notice provided in paragraph II shall be returnable 7 days from the date of service of the writ by the sheriff. ***If the writ of summons and notice are not made returnable within 7 days of service, no fee for service shall be due and any prepaid fees shall be reimbursed within 7 days of the return date on the writ. When computing the 7 days, the day of service shall not be included. The last day of the 7 day return period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall extend until the end of the next day that is not a Saturday, Sunday, or legal holiday as specified in RSA 288.*** The writ of summons shall provide an opportunity for the landlord, at the landlord's option, to make a claim for an award of unpaid rent. If the landlord elects to make a claim for unpaid rent, the court shall consider any defense, claim, or counterclaim by the tenant which offsets or reduces the amount owed to the plaintiff. If the court finds that the landlord is entitled to possession on the ground of nonpayment of rent, it shall also award the landlord a money judgment. If the court determines that the amount owed by the landlord to the tenant, as a result of set-off or counterclaim exceeds or equals the amount of rent and other lawful charges owed by the tenant to the landlord, judgment in the possessory action shall be granted in favor of the tenant. If the court finds that the tenant's counterclaim exceeds the amount of the nonpayment, a money judgment shall issue in favor of the tenant. Any decision rendered by the court related to a money judgment~~[-]~~ shall be limited to a maximum of \$1,500, and shall not preclude either party from making a subsequent claim in a court of competent jurisdiction to recover any additional amounts not covered by the \$1,500 judgment.

Amend RSA 540-A:3, VII as inserted by section 5 of the bill by replacing it with the following:

VII. A landlord shall maintain and exercise reasonable care in the storage of the personal property of a tenant who has vacated the premises, ~~[either voluntarily or by eviction]~~ ***who is not a voluntarily departed tenant***, for a period of 28 days after the date upon which such tenant has vacated. During this period, the tenant shall be allowed to recover personal property without payment of rent or storage fees. After the 28-day limit has expired, ~~[such personal property may be disposed of by the landlord without notice to the tenant]~~ ***any personal property of the tenant may be disposed of by the landlord without notice to the tenant. In the case of a voluntarily departed tenant, any personal property of the tenant may be disposed of by the landlord without notice to the tenant after a period of 3 days has expired. The 3-day period starts after the tenant shows an affirmative act or acts indicating that the tenant has permanently relocated.***

AMENDED ANALYSIS

This bill:

I. Extends payments on behalf of tenants to include payments by voucher from the state, a county, or any organization which

disburses state or federal funds.

II. Provides that if a writ informing a tenant to quit the premises served by a sheriff is not made returnable within 7 days, no fee for service shall be due and any prepaid fees shall be reimbursed.

III. Defines "voluntary departed tenant."

IV. Allows a landlord to dispose of personal property of a voluntarily departed tenant without notice to such tenant after a 3-day period has elapsed from the time such tenant displays an affirmative act indicating permanent relocation.

V. Prohibits a landlord from knowingly renting premises or maintaining premises for rent that violate minimum housing standards.

VI. Requires that, if part of a rental agreement requires the tenant to pay part of a utility service used in another dwelling unit not the tenant's own, such part of the rental agreement be confirmed to the tenant in writing.

VII. Requires landlords and tenants to make repairs to correct certain violations.

VIII. Allows a landlord to defend against certain alleged violations of minimum housing standards on the grounds that another caused the violations, and such landlord may counterclaim for cost of repair.

1999-1250h

Amendment to SB 112

Proposed by the Committee on Children and Family Law - C

Amend RSA 458-A:2, III as inserted by section 1 of the bill by replacing it with the following:

III. "Custody proceeding" includes proceedings in which a custody determination is at issue or is one of several issues, including any action or proceeding brought to annul a marriage or to declare the nullity of a void marriage, or for a separation, or for a divorce, ***or relative to the guardianship of a minor***, but not including proceedings for adoption, child protective proceedings or proceedings for permanent termination of parental custody, or proceedings involving the guardianship and custody of ***children found to be*** neglected or dependent ~~[children]~~ ***pursuant to RSA 169-B, 169-C, or 169-D.***

1999-1217h

Amendment to SB 124

Proposed by the Committee on Science, Technology and Energy - C

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

AN ACT establishing a committee to study the integration of technology at the state, county, and municipal levels.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study integration of technology at the state, county, and municipal levels.

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

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

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

(b) Five members of the house of representatives, at least one of whom shall be a member of the municipal and county government committee, and at least one of whom shall be a member of the science, technology and energy committee, appointed by the speaker of the house.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall investigate specific measures which would promote the integration of technology at the state,

county, and municipal levels for the mutual benefit of all entities and the citizens of the state of New Hampshire. In conducting its research, the committee shall seek input from the department of administrative services, division of information technology management, in terms of specific technology applications that the state of New Hampshire is deploying or desires to deploy at the county and/or local level and the New Hampshire Association of Counties and the New Hampshire Municipal Association for their perspective on municipal technology needs. In addition, the committee shall seek the input from the oversight committee on telecommunications, which is considering the feasibility and cost-effectiveness of installing certain high-speed telecommunications lines.

AMENDED ANALYSIS

This bill establishes a committee to study the integration of technology at the state, county, and municipal levels.