

# State of New Hampshire HOUSE RECORD

## Second Year of the 156<sup>th</sup> Session of the General Court Calendar and Journal of the 2000 Session

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Contains: Regular Calendar Reports on Re-referred Bills For January 6

### HOUSE CALENDAR

### NOTICE

There will be a Republican Caucus on Thursday, January 6 at 1:00 p.m. in Representatives Hall.

Rep. Gene G. Chandler, Majority Leader

**THURSDAY, JANUARY 6, 2000**

### REGULAR CALENDAR

### CHILDREN AND FAMILY LAW

**HB 628**, relative to the relocation of the principal residence of a child. OUGHT TO PASS WITH AMENDMENT

Rep. Edward P. Moran for Children and Family Law: This bill simply requires that the issue of relocation be addressed in the final divorce decree and that the standard is in the best interest of the child. Vote 16-1.

### COMMERCE

**HB 693-FN**, limiting access to certain business records. REFER FOR INTERIM STUDY

Rep. Stephen G. Avery for Commerce: This is a bill the committee wants to keep on the table to help prevent harassment from out-of-state tax departments on New Hampshire businesses. New legislation will be introduced next session to create a regional compact to take care of the problem. Vote 16-1.

**SB 52**, requiring insurance coverage for infertility treatments. REFER FOR INTERIM STUDY

Rep. Martha Fuller Clark for Commerce: The issue of how to resolve lack of access for New Hampshire residents who need coverage for the treatment of infertility and at the same time control rising premium costs for health insurance continues to confound the committee. Finding an equitable solution necessitates returning Senate Bill 52 to the House Commerce Committee. Vote 16-1.

## CRIMINAL JUSTICE AND PUBLIC SAFETY

**HB 427**, relative to the laws requiring a prescription to possess hypodermic needles and modifying the drug paraphernalia laws applying to syringes. OUGHT TO PASS

Rep. Patricia M. O'Keefe for Criminal Justice and Public Safety: The committee heard considerable testimony in favor of removing the prescription requirement for hypodermic syringes. Of greatest concern presently in many states, is the disposal of used syringes/needles. When a consumer purchases a needle today, there is no literature accompanying the product speaking to disposal. This legislation would provide that information. In states where the prescription requirement has been lifted, transmission rates of hepatitis and the HIV virus has gone down, and the disposal problem has actually lessened. In fact, needle stick incidents to police officers dropped in Connecticut after Connecticut removed their prescription requirement. A criticism of this type of legislation in the past has been that "it sends the wrong message – that drug use is okay." The committee feels that the message is actually one of health, saving lives, and increasing the incidence of proper disposal of needles and syringes. Health professionals who agree include the American Medical Association, the American Pharmaceutical Association, the Association of State and Territorial Health Officials, the National Alliance of State and Territorial AIDS Directors, the National Association of Boards of Pharmacy, the New Hampshire Medical Society, the New Hampshire Nurses' Association, the New Hampshire Board of Pharmacy, and the New Hampshire Department of Health and Human Services. Vote 11-2.

**SB 143-FN**, relative to penalties for incest. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill removes the statute of limitations for incest and increases the penalties for incest. The penalty is no more than 20 years or less than 10 years, except that any person under 18 years shall not be subject to the minimum. The previous penalty was 3-1/2 to 7 years. The reasons for removing the statute of limitations are (1) the age of people who are able to report incest are usually in the middle 40's. They are in many cases not emotionally or psychologically able to do so earlier; (2) the average pedophile has about 100 victims – the incestuous behavior can not be stopped if charges can't be brought against them; (3) the act of prosecution not only acknowledges a crime and protects society, but can be an integral part of the healing process for a survivor; (4) lack of prosecution can allow a perpetrator to continue the cycle of violence; (5) because victims of incest often suffer low self-esteem, drug abuse and alcohol abuse, and the inability to report, their children often become victims. All this and much more testimony convinced us to make a rare exception to our statute of limitations. Vote 13-3.

## EDUCATION

**HB 466**, establishing a commission to study education options in school districts not maintaining a high school. INEXPEDIENT TO LEGISLATE

Rep. Bruce L. Dearborn for Education: The committee agreed that the work of an oversight committee to review pupil placements and related issues was not the immediate solution to a possible problem in some of our school districts. The Education Committee requested that these issues be studied by the State Board of Education with recommendations to be made to the full committee. More work is needed before legislation can be introduced. Also, we recognize that legislation may require policy changes. Therefore the committee will ask that the bill be recommitted to adopt an amendment to address our needs and conduct needed hearings. Vote 14-0.

## ENVIRONMENT AND AGRICULTURE

**HB 310**, repealing the authority of the department of agriculture, markets, and food to conduct meat inspections and poultry products inspections. OUGHT TO PASS WITH AMENDMENT

Rep. Kenneth R. Marshall for Environment and Agriculture: The committee voted to amend RSA 427 which is the section dealing with inspection of slaughterhouses. Inspection is currently being conducted by the Food Safety and Inspectors Services

Division of USDA. RSA 427 mandates that the NH Department of Agriculture, Markets and Food conduct the inspections. The amendment states that the chapter will not apply unless or until the Feds withdraw from inspections, thereby maintaining the chapter for possible future use. The poultry section, RSA 428, is amended because of its close relationship to RSA 427 and the current provisions and authority of NH Department of Agriculture, Markets and Food is maintained. Vote 16-2.

**HB 335**, prohibiting the land application of sludge in reclamation areas. INEXPEDIENT TO LEGISLATE

Rep. William R. Phinney for Environment and Agriculture: After frank and earnest discussion, it was determined that the complexities of the issue, the potential ramifications of a total ban, and the need for more information precluded support for passage at this time. Vote 10-8.

## FINANCE

**HB 235-FN-A**, increasing the exemption amount under the interest and dividends tax. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: This bill was re-referred to the Finance Committee. Members in several subcommittee meetings listened to suggestions for modifying the tax such as: increased exemptions, exemptions for those over 65, exemptions for those on limited income. Still the Department of Revenue Administration suggests that state revenues would decline from \$8.5 million to \$10.5 million whichever exemption is included. The truth is revenues are increasing from this tax due in part to increased compliance, increasing value of securities and improved income earnings. Percentages of filers over 65, 42% out of 64,870 tax returns. Percent of revenue from filers over 65: 45.8%. A political promise of revenue neutrality was made for a point in time, markets are dynamic and cannot be frozen. The Finance Committee after due deliberation recommends this legislation be turned over to the Tax Equity and Efficiency Commission as it examines the state's revenue structure. Vote 21-1.

**SB 134-FN**, relative to medicaid reimbursement rates and dental care. INEXPEDIENT TO LEGISLATE

Rep. Robert K. Boyce for Finance: The intent of this bill was to increase the percentage of medicaid-assisted children receiving dental care. According to testimony we heard, it was not clear increasing the reimbursement rates was the answer. Vote 16-8.

**SB 153-FN-A**, requiring that a percentage of profits derived by the liquor commission be placed into and continually appropriated to a special fund for alcohol education and abuse prevention and treatment programs. INEXPEDIENT TO LEGISLATE

Rep. Robert K. Boyce for Finance: This bill would have perpetually dedicated up to 5% of the gross profits of the Liquor Commission to an undefined set of programs to treat and prevent alcoholism. This is the cart before the horse. If indeed there are worthy programs that should be funded, then a bill establishing them and providing funding should be proposed. This bill would reduce general funds for programs yet to be devised by \$2 million in this biennium and \$6.8 million in the next biennium. Vote 16-8.

**SB 205-FN**, expanding medical coverage to pay dental assistance for adults on medicaid. INEXPEDIENT TO LEGISLATE

Rep. Robert K. Boyce for Finance: This bill would expand dental services provided to adults on medicaid. In light of other state obligations, the committee believes this is not the time to add to entitlements. The cost to the general fund would have been \$242,000 in FY 00 and \$1.3 million in FY 01. In addition, this would have added to county medicaid costs. Vote 17-7.

## JUDICIARY

**HB 53**, establishing a process for reviewing judges. OUGHT TO PASS WITH AMENDMENT

Rep. Henry P. Mock for Judiciary: This bill originally proposed a "process for reviewing judges," a subject matter thoroughly studied and ultimately addressed in HB 568. During the evaluation review consideration and as a part of the broad judicial reform study, the evaluation and selection of marital masters was an ever-present subject; a subject thoroughly discussed at public hearings. Consequently, a decision was made to attach this subject matter to HB 53, with the knowledge and permission of the bill's sponsors. The committee felt that because of the tremendous impact which marital masters can have on the family, including the children thereof, that their selection should be equally scrutinized and subject to the same procedures as the selection of judges. This issue passed in the 1999 session as a component of the Family Court bill (HB 707-FN) and at this time is in limbo in the state Senate. Vote 14-1.

## LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

**HB 579-FN**, relative to eligibility for unemployment benefits for certain persons commensurate with their attachment to the workforce. REFER FOR INTERIM STUDY

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: The Department of Employment Security is currently studying the issue of unemployment benefit eligibility for part-time workers. The Labor, Industrial and Rehabilitative Services Committee wishes to review this study and may offer a different motion when the bill comes to the floor. Vote 16-0.

## MUNICIPAL AND COUNTY GOVERNMENT

**HB 595-L**, enabling municipalities to grant the elderly property tax exemption to an additional person in a household. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Priscilla P. Lockwood for the Majority of Municipal and County Government: It was the opinion of the Committee that the objectives of this bill could be accomplished by procedures already in place at the local level Vote 14-2.

Rep. Ralph L. Akins for the Minority of Municipal and County Government: The statutory minimum amounts established by the State of New Hampshire for income recognizes the difference between a single person and a married couple (ref. \$13,400 single, \$20,400 married). The statutory amount for assets is "\$35,000 or less," but makes no allowance for a married couple. Municipalities can and do allow higher asset limits, but they too give no consideration for married couples.

**SB 76-L**, allowing certain municipalities to offer tax exemptions to foster commercial and industrial construction. OUGHT TO PASS WITH AMENDMENT

Rep. Betsey L. Patten for Municipal and County Government: Coos County is made up of one city and 43 towns and unincorporated places and wants help to foster economic growth. The Municipal and County Government Committee worked on this issue and is bringing forth the idea of a pilot program that would sunset April 1, 2005. There are three criteria that Coos County meets – it has the lowest equalized taxable valuation per person, the highest unemployment rate for the last three years, and has the lowest population growth for the past five years of all the other nine counties in New Hampshire. Because of these three economically-depressed criteria, the committee recognizes a need to encourage new construction, rehabilitation and improvement of property for commercial and industrial uses. We are proposing the ability to adopt a very specific and focused tax exemption, at the local level, by any of Coos County municipalities. If the city or one of the 43 towns or unincorporated places meets two of the three economically-depressed criteria, which Coos County meets in totality, then it would be able to enact incentives provided. The local legislative body would determine the amount and new construction property tax exemption for commercial or industrial uses or both, as defined in SB 76. The exemption may run for a maximum period of 10 years, provided that for all years the exemption is in place, the dollar amount shall not exceed 500 percent of the increased assessed value. This exemption would not shift their current tax burden to other residents of the city or towns/unincorporated places since the current tax exemption would only apply to the increased assessed value that the new construction would generate. The committee also wants to ensure that if an exemption, as described, was adopted, all other requests for like exemptions would be uniformly administered within the city or town/unincorporated places. We urge our fellow members of the House to agree with us in adopting a needed economic tool for the citizens of the North Country and vote Ought to Pass as Amended. Vote 13-1.

## SCIENCE, TECHNOLOGY AND ENERGY

**HB 387**, relative to local telephone calling areas, access charges, and competitive telephone services. OUGHT TO PASS WITH AMENDMENT

Rep. Jeffrey C. MacGillivray for Science, Technology and Energy: This bill, as amended, addresses the size of local telephone calling areas and intrastate access charges for in-state toll calls. (1) While the Public Utilities Commission has liberalized the procedure for expanding local telephone calling areas in the last two years, certain requests for expansion of calling areas are still automatically denied if there are currently few toll calls being made. The bill encourages the Commission to consider the likelihood of significant increases in the number of calls if these calls become local calls, especially where students attending the same public school would be able to make local calls to each other instead of toll calls. (2) The Science, Technology and Energy Committee supports the Public Utilities Commission's past efforts to reduce in-state toll call access charges to the level of interstate access charges. However, New Hampshire's in-state access charges are now well above interstate access charges and are higher than most other states in the region. The bill encourages the Public Utilities Commission to consider further

decreases in in-state access charges even if customer monthly service charges would need to be increased. Reduction of these in-state access charges should produce greater competition for in-state toll calls and lower rates. The bill also encourages that these in-state access charges not vary greatly between Bell Atlantic customers and independent telephone customers, to reduce subsidies among groups of customers. Vote 18-0.

**HB 457**, extending the committee to study electric rate reduction financing. OUGHT TO PASS WITH AMENDMENT

Rep. Jeb E. Bradley for Science, Technology and Energy: This bill extends the date for the Committee to Study Electric Rate Reduction Financing (securitization) from November 1998 to May 2000. The only purpose of this bill is to study this issue. Vote 18-0.

**HB 733**, relative to a state master plan for the deployment of personal wireless service facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Jeb E. Bradley for Science, Technology and Energy: The bill, as amended, attempts to rationally deal with the increase of telecommunication towers and their visual effect on New Hampshire landscape. The bill balances aesthetic concerns with the need for orderly development of telecommunications sites. The bill allows the Office of State Planning to develop a model zoning ordinance which local planning and zoning boards may use if they choose to adopt local zoning ordinances. The committee believes development of such a model ordinance will give invaluable assistance to local officials trying to develop coherent ordinances consistent with federal law. Such a model ordinance is strictly advisory in nature and does not establish or supersede any existing local ordinances. The bill further allows for regional notification to other New Hampshire municipalities and their residents when a tower would be visible within a radius of 20 miles. Residents from other municipalities would be allowed to comment on a particular tower installation but would not be given legal standing under the proposed bill. The bill also instructs the Office of State Planning to create a statewide map of visible tower facilities in order to encourage orderly deployment of facilities as well as opportunities for co-location of facilities. There is no fiscal note attached to this bill, and the committee believes any fiscal impact will be very, very limited. The committee worked extensively with the bill's proponents as well as representatives of the wireless telecommunications industry. The committee believes that this bill will assist local communities that are struggling to understand both their opportunities and responsibilities under federal law with regard to the siting of telecommunication towers. This bill does not affect towers owned by amateur radio operators. Vote 18-0.

**SB 71** , prohibiting the use of MTBE as an additive in gasoline. INEXPEDIENT TO LEGISLATE

Rep. Jeb E. Bradley for Science, Technology and Energy: This bill seeks to impose a legislative ban on the use of MtBE (methyl tertiary butyl ether) in gasoline by 2003. MtBE is an additive which is widely used in reformulated gasoline. Reformulated gasoline is designed to reduce air pollution. Reformulated gasoline has been required for use in Hillsborough, Rockingham, Merrimack, and Strafford Counties as part of New Hampshire's compliance with the federal Clean Air Act. While reformulated gasoline has reduced emissions of known carcinogens such as benzene, MtBE is water-soluble. Gasoline spills have contaminated wells with MtBE. In the 1999 session, Senate Bill 70 passed. It called for the Department of Environmental Services (DES) to set maximum contamination levels and remediation standards for MtBE. DES should propose this rule by the January deadline of the statute. Senate Bill 70 also required DES to seek a waiver from the EPA so that gasoline with a far lower MtBE content (though higher benzene content) could be used in New Hampshire on an interim basis. The EPA's initial response did not approve this waiver request. Governor Shaheen has resubmitted the request, this time directly to the Administrator of the EPA. As of this writing, Governor Shaheen has not received a reply. In the meantime, an EPA blue ribbon panel has recommended phasing out use of MtBE in gasoline however. Federal law currently severely limits states' flexibility in determining the components of gasoline, and the federal law may need to be changed to allow states more flexibility. The EPA has not recommended immediate removal of MtBE as it is likely there would be a corresponding increase of air emissions. Other additives such as ethanol are used in the mid-west. There is not enough ethanol currently available to supply areas of the country where reformulated is required such as the northeast and California. If cost and supply issues are solved, ethanol could replace MtBE. Ethanol does not have the same water quality problems as MtBE. Ethanol may increase some air emissions however. Senate Bill 70 gave authority to DES (with approval of Governor and Council) to limit or ban MtBE if a gasoline with less or no MtBE was readily available at a reasonable price and decreased public health risks. Compared to other states, New Hampshire has taken a very proactive stand in an attempt to protect water supplies. In addition, a statutory study committee created in 1999 by House Bill 592 has recommended new legislation which would encourage efforts already underway by northeastern states to work with gasoline refiners and EPA to create a regional gasoline with less or no MtBE that protects water quality and that provides equivalent air quality benefits. A check of other states showed that only California has enacted significant legislation. Even in that state, a bill just recently signed into law allows postponement of a MtBE ban originally proposed to take place through an Executive Order by the Governor of California by 2003. Maine and Connecticut have also passed legislation that studies MtBE. The Science, Technology and Energy Committee believes it has done everything it can to

reduce the threat of MtBE to water supplies in the short run. Legislation banning MtBE in 2003 would not improve the water quality situation in that interim. A ban could lead to lawsuits under existing federal law and could undermine efforts to work collaboratively on a regional gasoline solution. Unfortunately, it will take time to develop alternative gasolines with less or no MtBE that have less of an environmental and human health impact and are readily available in adequate supplies. The proponents of Senate Bill 71 believe passage of the bill at this time will increase pressure to act. The Committee believes that passage last session of Senate Bill 70 has already created that pressure and that it will be far more advantageous to pursue creation of a regional gasoline solution than proposing a ban which does little to protect water quality in the short run. Vote 15-1.

ADDITIONAL AMENDMENT

1999-2260h

Floor Amendment to SB 143-FN

Proposed by Rep. Welch

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

AN ACT relative to the statute of limitations for the prosecution of incest.

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

1 Statute of Limitations. Amend RSA 625:8, III(d) to read as follows:

(d) For any offense under RSA 632-A *or for an offense under RSA 639:2*, where the victim was under 18 years of age when the alleged offense occurred, within 22 years of the victim's eighteenth birthday.

2 Statute of Limitations. Amend RSA 639:2, II to read as follows:

II. In cases of alleged incest where the victim is under the age of 18 *when the alleged offense occurred*, the statute of limitations shall ~~[not begin to run until the victim reaches the age of 18]~~ *run pursuant to RSA 625:8, III(d)*.

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

AMENDED ANALYSIS

This bill changes the statute of limitations for prosecuting acts of incest when the victim is under age 18 to the same statute of limitations as sexual assault crimes.