State of

New Hampshire

HOUSE RECORD

First Year of the 156th Session of the General Court

Calendar and Journal of the 1999 Session

Vol. 21 Concord N.H. Friday, December 31, 1999 No. 100

Contains: Reports, Committee of Conference Statement, Proposed Amendment to House Rules

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet at 10:00 a.m. on Wednesday, January 5 to complete action on bills from the 1999 session. These are included in House Record No.100. Please note that consideration of this part of the calendar will take place *before* the motion to adjourn the November 3, 1999 session, and *before* the prayer and pledge of allegiance.

Following the lunch break we will officially convene the 2000 session and take up the bills listed in House Record No. 1, which is included with this mailing. The House will also meet on Thursday, January 6 at 1:30 p.m. to consider the reports in House Record No. 2. *Remember to bring House Record 93 (mailed to you last month) which contains the amendments for rereferred bills.*

Please reserve Thursday, January 13 at 1:30 p.m. for a House session as well.

In keeping with tradition, we have extended an invitation to the major presidential candidates of each party to address the House and Senate in joint convention. We will be hearing them on session days as their schedules and ours allow, right up to February 1, Primary Day.

If you have not already done so, be sure to pick up your new black security lapel pin from the Sergeant-at-Arms. We have several new staff who may not yet recognize everyone, so it will be important to wear your black House name tag or lapel pin while at the State House complex.

We were happy to welcome aboard our new nurses in the fall, and they have made some changes to the arrangement of their office. The nurses are is still on the basement level of the State House near the Park Street entrance. However, their reception desk has been moved to the inner office, so feel free to step inside if you need assistance.

Shuttle bus service between the Storrs Street Garage and the Legislative Office Building will resume operation Wednesday, January 5. Pickups start at 8:45 a.m. at the street level of Storrs Street, and run until 10:15 a.m. In the afternoon, passengers should board in front of the LOB between 4:00 and 5:30 p.m. on session days and between 3:00 and 4:30 p.m. on non-session days.

To end the year on a happy note, I am pleased to report that Representative Michael Blaisdell and his wife Theresa welcomed their first child, Jake Clesson, on December 25. I know the House joins me in extending warm congratulations to the new parents.

Chairmen and Vice Chairmen will meet on Tuesday, January 4 at 9:00 a.m. in Room 201 LOB.

Donna Sytek, Speaker

NOTICE

There will be a Republican Caucus on Wednesday, January 5 at 9:15 a.m. in Representatives Hall.

Rep. Gene G. Chandler, Majority Leader

NOTICE

There will be a Democratic Caucus on Wednesday, January 5th at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

NOTICE

A reminder to all Representatives with assigned street parking and assigned LOB Garage parking. If you find that your parking spot has been taken please proceed to the upper level of the LOB Garage, pull up outside the entry to the LOB Lobby and notify security at the Lobby Desk. A spot **will** be found for you. Please do not take another spot on your own as this will compound the problem. Thank you.

Rob Johnson, Sergeant-at-Arms

AMENDMENT TO HOUSE RULES

Proposed by the Committee on Rules

1999-2267h

Amend House Rule 36(b) by replacing it with the following:

(b) All bills, resolutions, petitions, memorials and other papers addressed to the House, shall be endorsed with the name and the district of the legislator presenting them. All legislation shall be numbered serially according to type of legislation introduced. Each bill shall be marked on the first page "House Bill"; each joint resolution shall be marked "House Joint Resolution"; each concurrent resolution proposing a constitutional amendment shall be marked "Constitutional Amendment Concurrent Resolution"; other concurrent resolutions shall be marked "House Concurrent Resolution"; and each house resolution shall be marked "House Resolution."

Amend House Rule 40 by replacing it with the following:

40. All House Bills, House Joint Resolutions, House Constitutional Amendment Concurrent Resolutions, House Concurrent Resolutions and House Resolutions proposing that the House take a policy position may be introduced at any time prior to any deadline established by the House for their introduction. Exceptions:

(a) Notwithstanding any other provisions of the Rules, a House Bill, House Joint Resolution, House Constitutional Amendment Concurrent Resolution, or House Concurrent Resolution may be introduced into the House at any time prior to the crossover date specified in Rule 64, if approved by either a majority of the Committee on Rules, or a two-thirds vote on the floor; and

(b) House Resolutions proposing that the House take a policy position may be introduced into the House at any time after the deadline for introduction of bills and resolutions if approved by either a majority of the Committee on Rules, or a two-thirds vote on the floor.

Amend House Rule 46(b) by replacing it with the following:

(b) All bills and resolutions affecting state revenues or fees shall, if approved by the House when reported from the appropriate policy committee, be referred to the Committee on Finance. Any bill or resolution establishing, amending, or repealing a state fee established in statute, excluding professional licensing fees, shall, if approved by the House when reported by the appropriate policy committee, be referred to the Committee on Finance.

Amend House Rule 63 by adding the following sentence:

With the exception of devices for the hearing impaired, no member shall operate audible electronic transmitting devices and/or receiving devices on the floor of the House.

Amend House Rule 64 by inserting the following after the December 21, 1999 entry:

February 10, 2000, Thursday – Last day to act on remaining re-referred bills

February 24, 2000, Thursday – Last day to act on all bills going to a second committee

March 30, 2000, Thursday – Last day to act on all remaining House bills

April 20, 2000, Thursday – Last day to act on all Senate bills going to a second committee

May 18, 2000, Thursday – Last day to act on Senate bills

May 23, 2000, Tuesday – Last day to form committees of conference

May 26, 2000, Friday – Last day to sign off on Committee of Conference reports

May 31, 2000, Wednesday – Last day to act on Committee of Conference reports

CONTINUED 1999 HOUSE SESSION

REGULAR CALENDAR REPORTS

FINANCE

CACR 16, relating to establishing a restricted education trust fund; establishing a maximum rate on an income tax, and dedicating income tax revenues to education. Providing an education trust fund be established, that revenues from a state-run lottery and revenues from the imposition of an income tax shall be deposited into the education trust fund, and that the moneys in such trust fund shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2 of the New Hampshire constitution, and shall not be transferred or diverted to any other purpose. INEXPEDIENT TO LEGISLATE

Rep. Steve Vaillancourt for Finance**:** This proposed constitutional amendment came to the House after passing the Senate by the requisite three-fifths vote. There was testimony that this CACR passed the Senate in a compromise wherein CACR 17 was passed at the same time. That fact notwithstanding, the Finance Committee considered each CACR separately. This was viewed as a flawed amendment even by those who expressed a modicum of support. It attempts to accomplish several goals. First, it grants the General Court the power to impose an income tax, a power which the General Court already has. Thus, the CACR is not necessary on that front and was viewed by some as an attempt to place forward a referendum in the guise of a constitutional amendment.

The CACR would also limit any income tax, should one ever be passed, to four percent without a three-fifths vote by both the House and Senate. Some viewed this as a compromise, an attempt to minimize the level of what might happen in the future. The majority, however, saw this as both unnecessary and ultimately unwise. If, at some time in the future, an income tax might be viewed as the best solution to raising revenue, would it be best to limit it to four percent or to leave that decision up to the

future legislature which would consider it?

The CACR also attempts to restrict any monies raised by an income tax to the funding of education by placing the monies in the education trust fund. Further, the CACR attempts to guarantee that monies raised from any income tax be used to provide local property tax relief. Whether or not the CACR is worded so as to accomplish these goals is problematic. In any event, all the goals in this CACR could be accomplished by any future General Court which would so desire. It is not constitutional wording which would prevent such legislation but rather the will to move in such a desired direction. Vote 14-6.

CACR 17, relating to the state's responsibility to provide to all citizens the opportunity for a public education. Providing that the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision, provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed. INEXPEDIENT TO LEGISLATE

Rep. William S. Belvin for Finance**:** The Senate passed CACR 17 in November 1999 as a companion amendment to CACR 16, which concerned limitations on any future NH income tax, were such a tax to be enacted. CACR 17 would amend Article 83, second part, and assert legislative authority in setting public education policy, and affirm the state's responsibility for providing to all citizens the opportunity to receive a public education. It also claims legislative power to fulfill this responsibility by imposing rates and taxes on other political subdivisions within the state as long as those rates and taxes were proportional within those subdivisions. In effect it would allow a return to the education funding system in place prior to the various Claremont rulings.

After careful examination of CACR 17, a serious drafting problem was brought to light. There is a difference in the wording of the actual language that would be inserted in the constitution and the wording for the question that would be put to the voters. In similar past circumstances where there is a disconnect between actual amendment language and voter intent, the Supreme Court has ruled such an amendment and vote to be invalid. The Finance Committee considered an amendment to CACR 17 that would remedy this defect, but in testimony by Senate sponsors came to understand that body would likely reject any modifications to the Senate version. An additional amendment was considered that would separate the legislative authority assertion from the funding mechanisms and allow only the legislative authority part to go forward. After additional information gathering and debate this approach too was rejected. It was felt this approach should be considered through a separate CACR.

The funding of public education and various constitutional amendments will continue to be primary legislative concerns. However the committee felt that fresh initiatives in the 2000 session would be a better process to follow rather than to continue with last year's effort that linked both CACRs 16 and 17 and therefore voted Inexpedient to Legislate. Vote 17-1.

COMMITTEE OF CONFERENCE STATEMENT

HB 346-FN-A, relative to permissible fireworks.

On November 30, 1999 a Committee of Conference met in Room 204 of the Legislative Office Building to resolve Senate and House changes to HB 346, relative to the sales of "permissible fireworks" as defined in the RSA 160-B:1. These types of fireworks are considered by the National Consumer Safety Organization to be safe for use by the general public. New Hampshire has created a review board made up of two Senators, two Representatives, members of the fire services, members of the fireworks retail industry and designees of the Department of Safety to review the manufacturing processes and demonstrate the products to determine the actual performance of each device before it can be offered for sale in the State of New Hampshire. Currently, of 6000 devices approved by the federal government, fewer than 400 are available in this state. HB 346 changes the approval process which currently requires a review by the Administrative Rules Committee and is a lengthy, time consuming process which does not allow the statutory requirement of timely approval to take place. For the last three years the legislature has had to approve the accepted list by session law as the requirements of RSA 541-A had not been met. HB 346 eliminates the costly and burdensome RSA 541-A requirement and allows the approved list of "demonstrated and approved" items to be adopted by the Commissioner of Safety. It also allows any device that fails the safety requirements of the Permissible Fireworks Review Board to be immediately removed from store shelves pending review of the product, thus insuring the safety of the fireworks using public. The Senate added changes that would allow "novelty items" to be offered for sale and displayed with the permissible fireworks. HB 346 would allow sales of these fireworks in a facility that only has fireworks for sale. The Committee of Conference added a change that would require the Permissible Fireworks Review Board to approve the entire list of fireworks that has previously been adopted by session law and allows sixty days for that process to be completed. Within the following thirty days, the Commissioner of Safety will have to adopt the approved list before the session laws are repealed. The House and

Senate members have agreed to this additional change.

Rep. David A. Welch

COMMITTEES OF CONFERENCE

HB 346-FN-A, relative to permissible fireworks. **REPORT FILED**

HB 615-FN-A, establishing a registry for brain and spinal cord injuries. (Reps. Emerton, Kurk, Mercer and Donovan)

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills. (Reps. Bradley, Norelli, MacGillivray and Gilmore)

LAID ON TABLE

HB 536, authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power. (Awaiting Supreme Court Opinion which was received December 7, 1999 and printed in HC 98)

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.

CACR 21, relating to gender neutral language in the constitution. Providing that all references to persons in the constitution shall be gender neutral.

HB 116-FN-A-L, establishing an alternative consumption tax as a source of funding for education and making an appropriation therefor.

HB 549-L, relative to the minimum vote required for bond issues by municipalities.

HB 550-L, relative to the date town reports must be made available in towns which have adopted the official ballot referenda form of meeting.

HB 612-FN, relative to compensation paid to jurors.

HB 695-FN-A, providing an exemption under the interest and dividends tax for taxpayers on a limited income.

HB 703-FN-A-L, establishing a regional youth center pilot program in the city of Nashua.

HR 10, affirming revenue estimates for fiscal years 1999, 2000, and 2001.

NOTICE

Clerk's Note: At the time of recess on November 3, 1999, the following House bills remained on the table in the Senate.

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.

HB 295-FN-L, relative to alternative kindergarten programs in cooperative school districts.

HB 503-FN-L, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas.

HJR 1, requesting that the federal government prohibit the U.S. Fish and Wildlife Service or other federal agency from introducing wolf populations to the northeastern United States, especially New Hampshire.

At the time of recess on November 3, 1999, the following House bill remained in a Senate Committee.

HB 707-FN, relative to the family division of the courts. (Senate Finance)