

State of New Hampshire HOUSE RECORD

Second Year of the 157th Session of the General Court Calendar and Journal of the 2002 Session

Vol. 24 Concord N.H. Friday, March 1, 2002 No. 18

Contains: **Reports for Wednesday, March 6**

HOUSE CALENDAR

NOTICE

Members of the House:

The House will meet in session on the following dates at 10:00 a.m.: Wednesday, March 6; Thursday, March 7; Thursday, March 21; Thursday, April 4; Wednesday, April 17; and Thursday, May 2. April 11, 18, and 25 are also tentative dates.

We have scheduled sessions on Wednesday, March 6 and Wednesday, April 17, because they fall the day before a House deadline. Considering the amount of work we have to do to meet those deadlines, I am hopeful that we will avoid some very late nights by getting started a day early.

Chairmen and Vice Chairmen will meet on Tuesday, March 5, at 9:00 a.m. in Room 201, LOB.

Gene G. Chandler, Speaker

NOTICE

There will be Republican Caucuses on Wednesday, March 6 and Thursday, March 7 at 9:00 a.m. in Representatives Hall.

Rep. David M. Scanlan, Majority Leader

NOTICE

There will be a Democratic Caucus on Wednesday, March 6 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building and on Thursday, March 7 at 9:00 a.m. in Rooms 306-308 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

NOTICE

As you remember we conducted a food drive just before the holidays which was a great success and very much appreciated by the NH Food Bank. All members and staff are invited to participate in another drive to benefit the NH Food Bank on March 6 and 7. Please bring non-perishable food items to the back of Representatives Hall and place them in the food drive receptacles.

Gene G. Chandler, Speaker

WEDNESDAY, MARCH 6

CONSENT CALENDAR

CHILDREN AND FAMILY LAW

HB 1299-FN, relative to premarital preparation courses. **OUGHT TO PASS WITH AMENDMENT**

Rep. Claire B. McHugh for Children and Family Law: The amendment changes this bill to a study. The intent of this bill is to provide couples with the skills to enjoy a satisfying and successful marriage. It is critical that people learn skills to improve communication, conflict resolution and understanding of financial responsibilities and dynamics. Couples can learn skills to sort things out. Research during the past twelve years gives hope even to marriages in crisis. Successful couples have the same number of disagreements as couples who divorce, and they argue about the same issues. The difference is how they handle their differences. They refrain from putdowns, silent treatments, withdrawal and invalidation. It's important that as a society we view marriage as worthwhile, not just weddings that cost an average of \$16,000, and only last one day. Curricula are already in place to teach juniors and seniors in high school these skills as well as for couples applying for a marriage license. The study will focus on these issues. **Vote 13-0.**

COMMERCE

HB 1201, relative to charitable trust customer data. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: It is common practice for certain charitable organizations to engage private contractors to solicit donations for the organization. This bill insures that the charitable trust(s), which pay for these services, shall have access to the donor list data developed by the solicitor both during and after the campaign. The Commerce Committee believes that if a company is paid to develop a donor list, then the resulting data is the property of the contracting entity and the information must be made available upon request. **Vote 15-0.**

HB 1203, relative to retroactive health insurance denials. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: Historically, health insurers who had, for any number of reasons, sought to recover from providers payments mistakenly made could do so for any length of time. Testimony at the public hearing disclosed that one company had gone back five years, and the hospital had to return \$750,000 (estimate) in payments. It was clear that with the advent of information technology not having time limits for these revenues was no longer appropriate. HB 1203 addresses these concerns. This legislation now before us offers several items. First of all, the insurer who mistakenly makes the payment now has one year in which to request a retroactive recovery. Further, this insurer must give 30 days notice in advance to the provider that it will be requesting recovery. Secondly, the provider has six months from the date of notice in which to make a claim against another insurer, if indeed they determine there is another company. Thirdly, there is contained within the amended version several exceptions to the one year rule, such as if duplicate payments, fraud, or claims being subject to legal proceedings or the claim was covered by a federal or a state program. **Vote 13-0.**

HB 1208, relative to real estate broker liens. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: The broker lien law, if adopted, would help to create a more level playing field for approximately 300 commercial real estate brokers here in New Hampshire. These brokers provide a vital service to New Hampshire businesses and businesses relocating to New Hampshire. Most of the time, commercial brokers, who are frequently independent contractors, have excellent relationships with the property owners they represent. However, upon occasion, the landlords or property owners use our current laws to deny a commercial broker compensation that has been agreed to for services already provided. The only recourse today is to institute legal proceedings against the owner. The problem is the property owner frequently has the property as his or her only asset. The broker is given a choice- accepting a greatly reduced payment or go to court. Neither alternative was acceptable to the Commerce Committee so that the provision of HB 1208 as amended was accepted unanimously by the committee. If this legislation is adopted, a lien can be placed on the property before closing so that the brokers' fee is fully protected. **Vote 15-0.**

HB 1225, relative to disclosure of referral restrictions. **OUGHT TO PASS**

Rep. Anthony R. DiFruscia for Commerce: The committee believes that health insurance companies must explain to subscribers in writing any referral restrictions. The explanation of benefits section shall include a general statement regarding the existence of physician hospital organizations within the insurer network, to which primary care providers may be associated. The bill is consumer friendly. **Vote 11-0.**

HB 1289, relative to personal health and financial information privacy. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This bill, if adopted, would address issues relative to confidentiality of non-public personal health and financial information about consumers. The bill would be quite similar to rules implemented by the New Hampshire Insurance Department in 2001. The health insurers are currently striving to come into compliance. Further, the committee learned that the Health and Human Services Committee is dealing with the same issue. **Vote 11-1.**

HB 1413, relative to disclosure of information by hospitals. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This bill is a follow-up to RSA 151:31 and RSA 151-C: 2, relative to reporting requirements of hospitals to the attorney general. This proposed legislation would clarify in greater detail those issues that are the subject of the report. The attorney general in turn is required to make an annual report to the House Speaker, Senate President and chairs of the respective committees of both the House and Senate that have jurisdiction of commerce and health issues. The amendment would allow the submitting party to request that certain information contained in the report be considered confidential and not subject to public disclosure. The second part of the amendment would no longer require the submitting hospital to report on an affiliated hospital, as the affiliated hospital is required to report as well. **Vote 12-0.**

HB 1429, relative to the scope of the consumer protection act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation comes before the House as a result of a study committee that met many times over the past summer. The basic purpose of this legislation is to clarify issues pertaining to consumer protection. The committee has recommended an increase in manpower at the Attorney General's Office in order to investigate and prosecute fraud. This issue was addressed in a companion bill (HB 1438). The committee's second recommendation is better coordination and communication between departments. Thirdly, it addressed in the bill the extent to which highly regulated industries such as a public utility company, banking or insurance should be subject to the consumer protection law. This bill, as amended, adds a new violation of the Consumer Protection Act for pricing practices that impede competition. It also narrows the scope of the Act's exemption for regulated trade or commerce from the Act. The amended bill will exempt only activities by regulated businesses or professions that are expressly permitted by governing laws, regulations or standards. The department of justice may enforce an activity that is not exempt and violates the Act. An injured individual in a private right of action may also recover actual damages. Further, the defendant may recover reasonable attorney's fees and costs if the court should determine that the lawsuit was frivolously brought. **Vote 15-0.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1255-FN, relative to an extended term license to carry a concealed firearm. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill was intended to make it easier for gun collectors to purchase firearms at gun shows by creating an "extended term" license to carry a concealed weapon. Under the conditions imposed in this bill, the applicant would be required to submit to a criminal history record check and a protective order check conducted by the Department of Safety. This "background check" complies with the federal exemption as a state permit type not requiring record checks at time of purchase of a firearm. The committee feels, however, that the unintended consequence of this

bill is that it creates a "lifetime" permit to carry a concealed weapon and takes away local control. **Vote 12-1.**

HB 1421-FN-A, relative to criminal extradition expenses and making an appropriation therefor. **REFER FOR INTERIM STUDY**

Rep. William J. Kelley for Criminal Justice and Public Safety: This bill would establish a county extradition account in each county and appropriate \$100,000 to each county to pay for expenses related to the extradition of fugitives from justice. Funding for these accounts would have come from forfeited bail money. The committee has learned that those monies may have been allocated for another purpose. The committee would like to study this matter further to determine whether or not there is a financial problem in the counties that needs to be fixed by the state **Vote 12-0.**

HB 1436-FN, relative to requiring treatment for persons convicted of DWI offenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This is a bill intended to get DWI offenders into treatment at the earliest possible moment. All the studies available show that the sooner treatment begins after offense/conviction, the greater the possibility that it will achieve the desired effect. Currently an offender will often delay his/her entry into treatment and completion of the treatment program until the end of the revocation period, often a period of several years. HB 1436 addresses this issue by requiring that the offender complete the required treatment program within the first half of the revocation period. Failure to complete the program in the first half of the revocation period will result in an additional period of revocation added to the sentence equal to one half of the original period of revocation. Thus an offender who enters and completes his/her treatment program within the first half of the revocation period will be eligible for reinstatement at the end of the ordered period of revocation. An offender who fails to enter and complete the program within the first half of the revocation period will serve a period of revocation equal to 150% of the original period of revocation. The committee feels that early intervention and treatment is the best way to reduce the number of repeat offenders. **Vote 14-0.**

HB 1454-FN, requiring hepatitis testing and vaccination of department of corrections' employees and inmates in the state prison system. **REFER FOR INTERIM STUDY**

Rep. Maxwell D. Sargent for Criminal Justice and Public Safety: HB 1454 would seem to be a very simple piece of legislation aimed at detecting and treating hepatitis B and C in inmates and Department of Corrections employees. The committee, however, has an abundance of questions, including: does the department offer hepatitis B vaccinations to employees or inmates; is mandatory testing of employees legal; would testing be required just of employees in danger of being exposed, etc? Also, there are new CDC protocols for hepatitis being drawn up which won't be ready until later this year or even early next year. Because of this, and because the committee still expressed an interest and concern on the subject, a vote to refer for Interim Study is recommended. **Vote 14-0.**

HB 1457, authorizing emergency medical care providers to withdraw blood for certain alcohol concentration tests. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jonathan E. Hill for Criminal Justice and Public Safety: This bill enables law enforcement officers to request that emergency medical care providers withdraw blood for certain alcohol concentration tests when it appears likely that a patient will be brought to a medical facility outside of the state of New Hampshire. Currently under RSA 265:84, law enforcement officials may request that New Hampshire hospitals perform this test. However, a loophole exists when that patient is transported to a hospital out of state. The committee heard testimony from the Department of Safety and several police chiefs that they have been hindered in their ability to pursue certain Driving Under the Influence cases, that resulted in serious injury and death, when the vehicle operator was transported to a hospital in Massachusetts. While this happens infrequently, and mostly in border communities or when the operator is transported by medical helicopter to Boston, the police community stated that a half dozen cases a year are negatively impacted by this loophole. The committee also heard concerns from fire department paramedics that their acting as an agent for law enforcement could compromise patient care or present ethical dilemmas. The committee in amending the bill struck a balance between criminal justice and public safety. On one hand this is enabling legislation that allows our law enforcement agencies to vigorously pursue DUI offenders that have been involved in a serious accident that are currently slipping through the cracks. On the other hand, recognizing that there may be medical or ethical reasons that an emergency medical care provider may not wish to participate, we have allowed three different options for them to opt out of performing the test. Thus this legislation gives law enforcement another option in the fight against DUI operators, and allows the emergency medical care providers the option to not participate. **Vote 14-0.**

HB 1460-FN, relative to penalties for alcohol- and drug-related offenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: HB 1460 is one of the results of a two-year study committee

dealing with Driving under the Influence (DUI) and the penalties. The bill adds the word "renewal" to RSA 215-A:15-1 and RSA 265:82-d requiring all obligations to be paid prior to restoration of license. It amends RSA 651:5 to conform to the changes made to the DWI statutes changed last session. The bill also amends RSA 263:64 to say that a license that has been suspended or revoked for a violation of the DWI statutes shall remain revoked/suspended for that offense until age may have their drivers license, operating privileges, or denial of license for alcohol abuse or violations of the controlled drug act (318B:1, VI or VI-a). The committee heard testimony from law enforcement and representatives of the court systems. The majority of the committee felt that these were appropriate steps to be taken in assuring the safety of the public. **Vote 13-1.**

HB 1472-FN, amending the definitions, applications, and fees relating to explosives and explosive substances, and relative to background investigations and criminal records checks for applicants for private detective or security services. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: Since the Sept. 11 attack on the World Trade Center in New York, our safety officials have had to re-examine many of the statutes and suggest changes in the way we do business. This bill is a result of an examination of our explosives statutes and licensing requirements for purchase and transportation of explosive materials. Section 1 of the bill adds a requirement to RSA 106-F:7, for detectives and armed security guards to be subject to a fingerprint examination conducted by the Federal Bureau of Investigation and puts the cost of such examination on the applicant. Currently the FBI will not do these background checks unless the state statutes require it. Section 2 adds a requirement to RSA 158:9-b, that those who apply for a license to purchase and transport explosives and explosive materials possess a certificate of competency in the use and handling of these items. A new section, RSA 158:9-b, IV, adds a licensing requirement for the use, purchase, and transport of black powder and other flash powders in excess of 50 pounds, for the use of fireworks manufacturing. Section 3 increases fees for certain licenses to reflect the new requirements for approval and inspections. Section 4 updates the definition of explosives and exempts components used for hand loading rifle, shotgun and pistol ammunition, as well as the rifle, shotgun and pistol ammunition itself. Section 5 adds duties for certain officials to report threats to the Division of State Police **Vote 14-0.**

EDUCATION

HB 1105, relative to the appointment of non-certified employees within a school administrative unit. **INEXPEDIENT TO LEGISLATE**

Rep. Russell N. Cox for Education: This bill tries to give additional flexibility to school administrative units in employing non-certified employees. However, the potential unintended consequences outweigh the limited objectives of the sponsor. **Vote 16-2.**

HB 1333, establishing a committee to study the definition of an adequate education. **INEXPEDIENT TO LEGISLATE**

Rep. J. D. Colcord for Education: The committee, while understanding the frustration of the sponsor, believes that the Adequate Education Commission established by current law should be addressing this issue and therefore did not support forming a new commission which may merely duplicate that mission. **Vote 17-1.**

HB 1443, relative to liability for educational expenses incurred during placement in certain department of health and human services facilities. **OUGHT TO PASS**

Rep. Sharon M. Carson for Education: This bill seeks to correct an existing inconsistency within RSA 193:12 regarding payment for expenses incurred during a student's placement outside their current school district. Subsequent research revealed no pertinent reason as to why the arbitrary date of January 1st was chosen and why this date should be different from every other date corresponding to residency requirements. Testimony stated that the arbitrary date may place an unreasonable burden on one school district even if the student moves out of district. The committee agreed that to update the current statute was appropriate. **Vote 16-0.**

SB 199, relative to the voting procedures for authorizing certain capital projects in interstate school districts. **INEXPEDIENT TO LEGISLATE**

Rep. John R. M. Alger for Education: The sponsor of this bill was able to arrange for the subject of the bill to be enacted into law separately, at the end of the 2001 legislative session under HB 726. Therefore, all agreed that the bill is unnecessary. **Vote 16-0.**

ELECTION LAW

HB 1308, relative to checklist corrections on election day. **OUGHT TO PASS WITH AMENDMENT**

Rep. Steve Vaillancourt for Election Law: This legislation represents a small step forward in keeping voter checklists as up to date as possible. As amended, it demands that ballot clerks do what the committee believes most of them already do – ask a voter to verify his or her address at the time of voting. If the address is incorrect, the ballot clerk, by this legislation, will make a correction in red ink on the checklist so that changes can then be made on the master list. This in no way will prevent anyone who still lives in the voting district from voting that day. **Vote 17-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1123, establishing a committee to study the feasibility of integrating the functions of the departments of education and health and human services. **INEXPEDIENT TO LEGISLATE**

Rep. Merton S. Dyer for Executive Departments and Administration: The purpose of this bill was to study the integrating of the functions of the department of education and health and human services. RSA 21-G:1 also known as the Executive Branch Reorganization Act of 1983, HB 1 of 1983, would guide the study and implementation. The subject matter does not fit the guidelines set forth in RSA 21-G:3 and 4 and the missions of the agencies are very different, therefore, the committee voted not to pass this study bill. **Vote 14-0.**

HB 1218, relative to the regulation of pharmacists and prescription drug orders. **OUGHT TO PASS**

Rep. Michael O'Neil for Executive Departments and Administration: This is a housekeeping bill requested by the Board of Pharmacy. It will allow the board to promulgate rules on electronic transmission of prescriptions, clarify and provide a complete audit trail of drugs dispensed through a centralized prescription processing system. **Vote 14-0.**

HB 1304, prohibiting preferences in hiring, promotion, or admission by state agencies, the university system, the regional community-technical colleges, and the postsecondary education commission. **INEXPEDIENT TO LEGISLATE**

Rep. Donald R. Lent for Executive Departments and Administration: The bill states, "No quotas, goals, or guidelines for hiring or promotion (or college or university admission) based on race, sex, national origin, religion or sexual orientation may be established." However, none of the state entities referred to in this bill have quotas. Indeed quotas are not allowed as a result of the 1978 U.S. Supreme Court Decision in the Bakke case. Goals and guidelines are necessary to assure equal opportunity without superseding the concept of merit. Having heard lengthy testimony from officials of the University System and many concerned citizens, the committee believes the present state hiring practices and the university admissions policy are fair and dedicated to making known to diverse populations that opportunities are available. **Vote 15-0.**

HB 1323, establishing a committee to study performance-based public salaries. **INEXPEDIENT TO LEGISLATE**

Rep. Raymond C. Cummings for Executive Departments and Administration: It is not possible to have performance-based pay because of RSA 273-A which requires the State to negotiate employee salaries. The Joint Committee on Employee Relations (RSA 273-A:9) might consider offering some money for performance, which would have to be the subject of negotiations under current law. The bill was quite broad and some felt it might create a 28-a problem for towns, cities and counties. The Hay study indicated that New Hampshire was 25% below other New England states. An 8% raise would still make New Hampshire 14% below the average. Under the circumstances it is unclear where the money would come from for additional performance pay. **Vote 13-0.**

HB 1352-L, relative to establishing a hazardous duty classification in the length of service awards program. **OUGHT TO PASS**

Rep. Charles Q. Hall for Executive Departments and Administration: This bill establishes a hazardous duty classification in the length of service awards program. The program will provide a retirement plan for local firefighters, including on-call, volunteer, and emergency medical services personnel. Participation requires political subdivisions to take action to accept or reject the program. The original length of service bill did not meet Internal Revenue Service requirements. This bill intends to correct that problem. **Vote 14-0.**

HB 1359-FN, establishing a department of financial services. **REFER FOR INTERIM STUDY**

Rep. Joan H. Schulze for Executive Departments and Administration: This bill establishes a department of financial services merging banking and insurance oversight functions. The interim study will investigate current insurance and banking laws to determine if legislation can be created to allow a merger of the banking, insurance and securities departments. This merger

could prevent overlap of work and service. In addition, we recommend that a member of the Commerce Committee should be consulted by the study group. **Vote 14-0.**

HB 1366-FN, establishing a state employee cost-saving award program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Joan H. Schulze for Executive Departments and Administration: The amendment to this bill enhances RSA 99-E, which established an evaluation committee to review employee cost saving suggestions, as well as extra ordinary services. The purpose is to encourage employees to submit creative proposals to their department head and to the Legislative Budget Assistant. This program will be publicized frequently and will recognize the contribution and/or reward the employee. If the reward be monetary, the total amounts awarded annually are not to exceed \$10,000. The legislative budget assistant will determine the terms and conditions of the State Employee Recognition and Award Program. The governor and council recently awarded three nurses at the New Hampshire Hospital each the sum of \$333 for extra ordinary service with a sense of urgency or emergency prevailing. **Vote 14-0.**

HB 1372-FN, relative to certain residential care facilities. **OUGHT TO PASS**

Rep. Merton S. Dyer for Executive Departments and Administration: This bill was sent to the Executive Department and Administration Committee to review the rule-making portion of the bill dealing with RSA 541-A. The process outlined in the bill meets the guidelines needed in bills to implement rule making authority so the committee voted to send this bill to the floor as ought to pass without an additional amendment. **Vote 13-0.**

HB 1455-FN-L, relative to allowing political subdivision employees who are members of the retirement system to make payment for prior service with other retirement assets. **OUGHT TO PASS WITH AMENDMENT**

Rep. William R. Zolla for Executive Departments and Administration: The bill, as amended, would allow the transfer of an individual's qualified funds from a political subdivision's retirement system to the New Hampshire Retirement System without subjecting the funds to taxation or jeopardizing the New Hampshire Retirement System's tax exempt status. The bill covers only retirement arrangements that are federal tax qualified under sections 403(b) or 457 of the United State Internal Revenue Code of 1986, as amended. The retirement system is awaiting further clarification from the IRS on other types of plans which may be transferred into the New Hampshire Retirement system by future legislation insuring that the system's tax exempt status continues intact. **Vote 13-0.**

HB 1458-FN-L, allowing emergency medical service personnel to be group II members of the New Hampshire retirement system. **INEXPEDIENT TO LEGISLATE**

Rep. William R. Zolla for Executive Departments and Administration: This bill would have established a new category of group II personnel who do not meet the existing criteria under the system. The committee felt there were other ways to qualify these people by incorporating them into the political subdivision infrastructure without modifying the existing system. **Vote 12-1.**

FINANCE

HB 556-FN-A, making certain appropriations to the department of cultural resources and the department of safety. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill funded developing handbooks and holding conferences on building rehabilitation and historic preservation. Since the office of State Planning, NHHFA and CDFA have agreed to pay for them, no state funds need be appropriated, and the amendment eliminates them. **Vote 19-0.**

HB 557-FN-A, relative to victims' assistance programs and the victims' assistance fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: The Committee felt that aiding victims of sexual assault was a worthy goal. This bill increases the cap on the victims' assistance fund from \$750,000 to \$1,000,000. The fund is derived from fine dollars. This seemed to be an appropriate source of revenue. It is consistent with the philosophy that the perpetrators should support the victims. Despite the higher cap, the general fund should still receive its anticipated \$150,000 due to more recent, higher estimates of fine revenues. **Vote 19-0.**

HB 1206-FN, increasing the annuity paid to a surviving spouse or beneficiary upon the accidental death of a group II permanent firemen member in the performance of duty. **REFER FOR INTERIM STUDY**

Rep. Joseph E. Stone for Finance: This bill increased the annuity paid to a surviving spouse or beneficiary upon the accidental death of a group II permanent firemen member in the performance of duty. After reviewing all the information provided, the Committee was unanimous in determining that the bill should be referred to interim study in the policy committee to cover all of the new information that had been presented to Finance regarding this bill. Furthermore, it was felt that because the passage of this bill would set a precedent for all other members covered under the state's retirement plan, we should do it right the first time. **Vote 20-1.**

HB 1230-FN, authorizing the commissioner of the department of education to expend funds for special education advocacy. **OUGHT TO PASS WITH AMENDMENT**

Rep. Linda T. Foster for Finance: This bill requires the Commissioner of the Department of Education to contract with a non-profit agency for the provision of additional special education advocacy services to parents or legal guardians of children with educational disabilities. The contract shall provide for the minimum equivalent of 2 full-time special education advocates and overhead and administrative costs not to exceed \$105,000 for FY 2003 and \$105,000 for FY 2004. The program requires no supplemental appropriation, as the monies will be allocated from discretionary funds within the special education department. Goals and outcomes including sufficient numerical data to quantify results will be included in the department's Request For Proposals report for this advocacy program. We're hopeful that this will make the process more efficient. **Vote 20-0.**

HB 1302-FN, relative to the purchase of certain prior service credit by members of the retirement system, relative to legislative review of retirement fund investment practices, and relative to the payment of medical benefits costs for retired state employees. **OUGHT TO PASS**

Rep. Robert L. Wheeler for Finance: This bill allows for purchase of some but not necessarily all of a participant's past service, removes requirements of legislative review that have been updated by the system and changes a date of payment to accommodate the accounting system without any negative implication on the general fund. **Vote 20-0.**

HB 1324-FN, requiring that budget requests made by the state government be limited by inflationary and population growth indices. **REFER FOR INTERIM STUDY**

Rep. Elizabeth S. Hager for Finance: This bill set maximum guidelines for departmental biennial budget requests. Up to a two year increase in the total percentages of CPI and population would be the cap for growth. Special circumstances and legislative mandates could cause the caps to be exceeded. Five other states now use the total of CPI and population growth to cap increases.

There were too many questions as to how to apply these growth factors to pass the bill now. Material from the other states has been insufficient in setting benchmarks, thus the recommendation of interim study. **Vote 20-0.**

HB 1409-FN-A-L, relative to payment of autopsy expenses and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: The Committee felt that since there was no money for this appropriation and the Attorney General has gone to the fiscal committee to resolve financial difficulties in this area the last two times they occurred, that solution should continue. The amendment removes the appropriation and leaves the policy intact. Autopsy expenses will be competing for dollars in the next biennial budget. **Vote 18-1.**

HB 1437-FN-A, relative to increasing the staff in the consumer protection and antitrust bureau of the department of justice and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: This bill, as amended, creates positions in the Consumer Protection and Antitrust Bureau of the A.G.'s office. It further removes the appropriation and changes the effective date to July 2003. It is expected that funding these positions will be part of the next budget preparation for the A.G.'s office. The need for financial support for this Bureau was clearly demonstrated in a study by the Commerce Committee regarding the changing nature and amount of consumer fraud. **Vote 18-0.**

SB 201-FN, creating a dedicated fund for the job training program for economic growth and making certain changes to the program. **OUGHT TO PASS**

Rep. Betsy A. Coes for Finance: This bill makes necessary changes to RSA 188, enabling the Challenge Grant Program to continue successfully. Under SB 201, three changes are made: 1) With \$1,000,000 now available, the \$25,000 cap is removed. 2) Funds will be available to a broader spectrum of businesses. 3) The Grant Program will be administered by the New Hampshire

Community Technical College with the Commissioner of Employment Security acting as fiscal agent. **Vote 20-0.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 1465, extending the New Hampshire task force on deafness and hearing loss. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: The New Hampshire task force on deafness and hearing loss has been effective in studying important issues relating to the needs of those with hearing loss and deafness and recommending pertinent legislation. The task force feels that their work is not complete. All that the bill does is allow the task force to continue their work until November 1, 2002. **Vote 17-0.**

JUDICIARY

HB 1393, relative to the determination of just compensation in eminent domain proceedings **OUGHT TO PASS WITH AMENDMENT**

Rep. Loren J. Jean for Judiciary: This bill addresses the issue of just compensation for businesses that have been displaced due to New Hampshire eminent domain actions. The committee views the present policies inadequate to satisfy the ideal of just compensation in relocating small businesses. A business taking and subsequent relocation is far more involved as to costs that governmental agencies are willing to pay, such as location, setbacks, interim zoning changes, etc. This bill provides for payments equal to the replacement costs of the business. Replacement costs shall mean the present value cost as documented by competent evidence. The business, however, may choose to receive payment at the fair market value of the property as provided in RSA 498-A:25. **Vote 13-0.**

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 1463-FN, relative to sole proprietors under the unemployment compensation law. **REFER FOR INTERIM STUDY**

Rep. John M. Whittier for Labor, Industrial and Rehabilitative Services: This bill was brought to us on the deadline for bills going to a second committee with no time to understand the very significant ramifications. Although the committee recognized the problem being addressed by this bill, the Department of Employment Security testified that, as written, the bill had a number of problems. This bill requires employers to allow employees who are crime victims to leave work to attend court or other proceedings and/or counseling sessions. **Vote 11-0.**

HB 1479-FN, establishing the crime victim employment leave act. **REFER FOR INTERIM STUDY**

Rep. Randolph Holden for Labor, Industrial and Rehabilitative Services: The majority of the committee, in addition to the Department of Labor, business and the sponsor, felt that an Interim Study was most appropriate course of action. **Vote 11-0.**

HB 1480, relative to liability for benefits under workers' compensation. **REFER FOR INTERIM STUDY**

Rep. Randolph Holden for Labor, Industrial and Rehabilitative Services: This bill clarifies that it is the carrier which was the carrier on the date of the medical diagnosis that is liable for further medical treatment if any injury has reoccurred. The majority of the committee, along with the sponsor and the Department of Labor, felt that because of the complexity of the issue an Interim Study was in order. **Vote 11-0.**

LEGISLATIVE ADMINISTRATION

HB 1103, establishing a committee to study the budget process. **INEXPEDIENT TO LEGISLATE**

Rep. Peter H. Burling for Legislative Administration: The committee did not feel that this study was required at this time, at least not as a statutory committee. Any member wishing to study this budget process is, of course free, to do so. **Vote 11-0.**

HB 1314, requiring candidates for speaker of the house of representatives to file certain reports and register as political committees. **OUGHT TO PASS**

Rep. Peter H. Burling for Legislative Administration: The committee felt this bill reflects an idea whose time has definitely come. Passage of this bill will make it clear that contributions to speaker candidates will be reported. The integrity of the House

requires nothing less. **Vote 11-0.**

HB 1329-FN, relative to fiscal notes. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter H. Burling for Legislative Administration: The committee feels this bill will clarify the need for accurate fiscal notes which meet the requirements of RSA 14:44, 45 and 46. The committee specifically requests referral of this bill to Finance. **Vote 12-0.**

HB 1387, relative to toll exemptions for legislators. **INEXPEDIENT TO LEGISLATE**

Rep. Donald R. Philbrick for Legislative Administration: This bill provides that a member of the legislature shall get toll-free use of the state highways whether as a driver or passenger by displaying a legislative I.D. card. Because of the similarity of the legislative I.D. Card and the New Hampshire Drivers License it would delay legislators at the toll gate and possibly cause traffic delays. This bill was opposed by the Department of Transportation. **Vote 11-1.**

HB 1435, extending the reporting dates of certain study committees. **OUGHT TO PASS**

Rep. Maurice E. Goulet for Legislative Administration: This bill extends the reporting dates of the following study committees: (1) Creation of an At-Home Infant Care Program in New Hampshire Study; (2) Information, Training, and Support Needs of Family Caregivers in New Hampshire Study; (3) the Shortage of Health Care Personnel and Support Staff in New Hampshire – to November 1, 2002. **Vote 12-0.**

HB 1441, relative to the availability of records of the joint committee on legislative facilities. **OUGHT TO PASS**

Rep. Robert E. Clegg for Legislative Administration: The bill amends RSA 17-E by adding a new section requiring records of minutes of meetings of the Joint Legislative Facilities Committee be made available in the office of legislative accounting. **Vote 12-0.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 1121, relative to planning board recommended programs of capital improvements. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: Presently, there is frustration at the local level regarding the authority of planning boards in their preparation of the six year Capital Improvements Program (CIP), since RSA 674:5 allows the legislative body to authorize only the planning board to prepare and amend a recommended CIP. This amendment gives municipalities an option to appoint a capital improvement program committee which may include, but not be limited to, members of the planning board and the budget committee of the governing body of the municipality without affecting any current practices at the local level. **Vote 15-0.**

HB 1193-LOCAL, relative to local enforcement of junk yards and motor vehicle recycling yards. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mary R. Cooney for Municipal and County Government: HB 1193 as amended, allows municipalities to assess a civil penalty on owners of property determined to be not in compliance with junk yard licensing laws. The local governing body or enforcement official of the town, city or unincorporated place may impose a fine of up to \$50 per day for this noncompliance with the junk yard laws, after notice to the property owner. The municipality will keep civil penalties collected. This amendment enables the municipality to have more local enforcement authority regarding junk yards and motor vehicle recycling yards. **Vote 14-0.**

HB 1274, relative to deputy town clerks. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: The qualifications for a deputy town clerk have always been the same as for a town clerk. A situation was brought to the attention of the committee two years ago about some deputy town clerks who were not living in the town where they worked. The New Hampshire City and Town Clerk's Association reviewed the policy and asked that this bill be brought forward to allow currently non-domiciled deputy town clerks to retain their position for the duration of their job, but to require future appointed deputy town clerks to meet the domicile requirement.

Another situation was discovered during administrative rules procedures involving a town clerk's authority to fill out burial transit forms. In 1997, there were changes made in the laws relative to the administration of vital records. The town clerk is the

"keeper" of these vital records at the local level and works in conjunction with the bureau of vital record and health statistics. With this amendment, the town clerks can again sign burial transmit forms when there is no funeral director easily available or close by. **Vote 15-0.**

HB 1344-LOCAL, establishing a village plan alternative in zoning and land use planning laws. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: This bill establishes the village plan alternative in zoning and land use planning by amending RSA 674:21 with a new subparagraph entitled "Village Plan Alternative." A village plan alternative development grants a developer or owner of land the option to develop a limited portion of the property in an expedited manner and without certain dimensional requirements while keeping the major portion of the property undeveloped open space. The village alternative's purpose is to encourage the preservation of open space wherever possible, the retention in private ownership of parcels of land large enough to be conducive to farming, efficient management of timber resources and the preservation of wildlife habitat. An owner of record wishing to utilize the village plan alternative shall provide to the political subdivision within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire original lot, solely for agriculture, forestry and conservation or for public recreation. **Vote 16-1.**

HB 1407, relative to the definition of property in planning and zoning laws, and allowing planning and zoning boards to require public notice by posting signs for hearings on the property. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: Currently, only land owners are notified by planning and zoning boards as required by law. This means that a person in a manufactured home in a park who owns and pays taxes on a home, but does not own the property, is not notified. The amended bill includes in the definition of an abutter for land use boards, owners of manufactured housing which adjoins or is directly across the street or stream from the land under consideration. The amended bill also enables land use boards to require an applicant to post signs on the property to notify the public of the time, place and purpose of any public hearing relative to the applicant's property. Finally, as amended, this bill clarifies certain criteria to permit variances and specifies the three additional conditions of "unnecessary hardship" recently ruled on by the Supreme Court. **Vote 14-0.**

HB 1410-LOCAL, permitting the city of Dover to hold a municipal election in conjunction with the 2002 biennial election. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: The amendment completely replaces the original bill. This bill ratifies actions taken at town meetings in two separate towns. In the first instance, all acts, notices, votes and proceedings pertinent to articles 4 and 7 of the Amherst town meetings held on February 7, 2001 and March 13, 2001 are hereby legalized, ratified and confirmed. In the second instance, all acts, votes, notices, and proceedings pertinent to article 3 of the Pembroke town meeting held on April 21, 2001 are hereby legalized, ratified and confirmed. The original bill dealt with a request from the city of Dover to hold a municipal election in conjunction with the 2002 biennial election which the committee determined was contrary to the intent of the Constitutional Convention in 1870 and was contrary to the strong support by a previous legislature in HB 532 in 1997 and was strongly opposed by the current Secretary of State. **Vote 17-0.**

HB 1415, relative to requiring taxpayers requesting abatements to answer inquiries of the assessors, and relative to appeals of certain abatement decisions. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: This bill is substantially changed from the original bill. The bill has been amended to include an improvement to RSA 76:16,II, since the committee noted that abatement appeal with no restrictions, is a right of every taxpayer. If the taxpayer chooses not to pay his tax bill, a penalty or loss of property is possible. The bill removes certain provisions for extension of the date for decision, reply or appeal in abatement cases in the effective year of a property revaluation for towns having 9,000 or more parcels. **Vote 15-0.**

HB 1445, establishing a committee to study growth ordinances for municipalities. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: The prime sponsor in testimony indicated that the constituent that had requested this bill had lost interest and the sponsor asked that the bill be voted "inexpedient to legislate". **Vote 15-0.**

HB 1466-FN-LOCAL, providing for the assignment to the state of the collection of certain state education property taxes deemed uncollectible due to bankruptcy or disaster. **REFER FOR INTERIM STUDY**

Rep. William G. Johnson for Municipal and County Government: HB 1466-FN-LOCAL would allow the state to give tax and educational relief to New Hampshire towns faced with significant tax revenue loss by when a taxpayer having at least 20% of

the tax base valuation goes bankrupt or is hit by a natural disaster. However, the committee heard extensive testimony that major technical revisions were needed to the bill. The lateness of the legislative calendar did not afford sufficient time for the committee to be sure that both the state and municipality would be protected equally with regard to the revenue stream available. Given the importance of the matter, the committee recommends interim study. **Vote 17-0.**

HB 1476, relative to the age of retirement or early retirement in the city of Manchester employees contributory retirement system. **OUGHT TO PASS**

Rep. Robert W. Brundige for Municipal and County Government: Prior action by this legislature allowed the City of Manchester to establish an employees contribution retirement system. This bill sets up the referendum question for the City of Manchester to lower the age qualifications for retirement or early retirement in the retirement system. The Committee agreed that the referendum process is the proper method to resolve this question and this change would not go into effect until ratified by the voters of the City of Manchester. **Vote 17-0.**

HB 1477, relative to the use of the real property of counties. **INEXPEDIENT TO LEGISLATE**

Rep. Robert W. Brundige for Municipal and County Government: This bill would require officers or employees of a county to obtain approval of the county commissioners and ratification by the county convention before there may be any alteration to the existing state of county real property. It also would clarify that the county may not accept a gift of services or equipment for the alteration of its real property without the approval of the county commissioners , ratified by a majority of the county convention. Since RSA 28:8-d already provides this option, any additional restrictions on the county commissioners could have unintended consequences on a state wide level through the micromanaging of counties daily operations. The Committee agrees that this issue is best resolved at the local level. **Vote 17-0.**

PUBLIC WORKS AND HIGHWAYS

HB 1473-FN-A, relative to the capital appropriation made to the department of transportation for the new garage and testing lab facility. **OUGHT TO PASS**

Rep. Candace C. W. Bouchard for Public Works and Highways: This bill allows the Department of Transportation to move forward with the process to build a new garage and testing lab facility. Negotiations for the sale of the existing property are still ongoing. **Vote 13-0.**

RESOURCES, RECREATION AND DEVELOPMENT

HB 1111, establishing a committee to study regulation and procedures for lake level investigations and orders. **OUGHT TO PASS WITH AMENDMENT**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: The charge of the committee is to expedite and clarify the hearing and order process for setting the level of dam controlled lakes. The amendment broadens the scope somewhat to consider the impact on related waters both upstream and downstream of the specific lake under investigation. It also allows for modification of the related duties and responsibilities of the Department of Environmental Services (DES). **Vote 14-0.**

HB 1172, relative to the adoption of rules for certain wetland permits. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judith T. Spang for Resources, Recreation and Development: This agency – initiated bill allows the Department of Environmental Services (DES) to develop rules to fast-track dredge and fill permits for specified minor projects by reducing permit applications to a mere notification process. Response time for the agency and municipal conservation commissions is also shortened. **Vote 14-0.**

HB 1252, relative to the membership of the wetlands council. **OUGHT TO PASS WITH AMENDMENT**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: This bill modifies the membership of the wetlands council to eliminate the conflict of a council member from the Department of Environmental Services (DES) from overseeing the work of DES. It also broadens the membership to include representation by a natural resource scientist, and an appointee by the Commissioner of the Department of Agriculture in recognition of the impact wetland regulations have on the agricultural community. To increase public representation in the wetlands appeal process, a member of the Executive Council shall also be appointed to the Wetlands Council. **Vote 14-0.**

TRANSPORTATION

HB 1134, relative to lighting requirements for motor vehicles and trailers. **OUGHT TO PASS WITH AMENDMENT**

Rep. John W. Flanders for Transportation: This bill and amendment clarifies the law that if a motor vehicle is manufactured with multiple stop lamps or tail lamps, they must be in working order. **Vote 13-0.**

HB 1475, establishing a committee to study the use of state-issued identification by law enforcement to enhance public safety. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Letourneau for Transportation: The committee understands the sponsors' intent and purpose, however, this bill as written outlines many specific duties that cannot be reasonably achieved within the study timeframe. Additionally, other duties are not within the state's current technology ability as related to driver identifications (IDs). The committee also felt that the threat of terrorism is not within the current experience of our legislature. Congress has tasked many Federal agencies to come up with Federal guidelines concerning these issues. The committee felt that it would be best to hold off on any action until Congress makes its recommendations. **Vote 13-0.**

WAYS AND MEANS

CACR 31, relating to the valuation of real estate. Providing that real property in the state shall be valued in accordance with the method enacted into law by the general court and at such times as it shall order. **INEXPEDIENT TO LEGISLATE**

Rep. Jeffrey D. Gilbert for Ways and Means: The committee, in a bipartisan vote, agreed that recent court decisions, legislative action, and the ongoing work of the Department of Revenue Administration to establish a fair and uniform statewide real estate valuation system obviates the need for this bill. Its passage would confuse our citizens and undercut the progress that has been made to ensure a fair and uniform system. **Vote 13-1.**

CACR 36, relating to the funding of public education. Providing that the state shall fund an amount not less than 40 percent of the total average statewide expenditure for public education for kindergarten through grade 12 during the previous biennium and that the general court shall have the power to apportion this amount by statute; that the state shall assure the opportunity for an adequate public education for all pupils in the state in grades kindergarten through 12; and that no tax in any form on the value of real property shall be used to fund the state's obligation to cherish and support public education. **REFER FOR INTERIM STUDY**

Rep. Frank V. Sapareto for Ways and Means: The majority of the committee believes that there is some merit to this CACR. At this point some of the amendment's concepts are vague. It is believed that an interim study committee would easily be able to clear up some of these issues. At the sponsor's request, we have decided the best place for this bill is in interim study. **Vote 15-2.**

HB 1126-FN-A, establishing the weights and measures laboratory accreditation program. **INEXPEDIENT TO LEGISLATE**

Rep. Vivian R. Clark for Ways and Means: This bill would have imposed high registration fees on companies which calibrate measuring equipment in order to fill a dedicated fund. That fund would then pay for the maintenance and repair of the state weights and measures laboratory's equipment. The committee believes this is an inappropriate way to fund a normal expense of the department. A non-lapsing budget line would be preferred. **Vote 13-1.**

HB 1234-FN, relative to an education property tax cap for retired residents. **REFER FOR INTERIM STUDY**

Rep. Christine M. Konys for Ways and Means: Although the committee agrees that the issue of tax relief for low income senior citizens needs to be addressed, this bill, as written, has several technical problems. The prime sponsor agreed to send the bill to interim study to work on correcting those problems so the bill actually accomplishes what the sponsor had intended. **Vote 14-2.**

HB 1235, relative to operation of motorized vessels and safe boater education. **OUGHT TO PASS WITH AMENDMENT**

Rep. Vivian R. Clark for Ways and Means: At the request of the Department of Safety, this bill would replace a boater's acknowledgement of familiarity with safe boating regulations with a required exam and Boater Safety Certificate. A boater safety course, including the exam, is available online and could also be offered by agents. The amendment sets the fee for the certificate at \$15, which will cover the cost of its issue. It also limits the fee an agent could charge for the course to \$35, and eliminates a small dedicated fund. **Vote 14-0.**

HB 1317-FN-A-L, targeting aid for education to certain school districts. **REFER FOR INTERIM STUDY**

Rep. Frank V. Sapareto for Ways and Means: This bill when finished is designed to provide a fair and more accurate method of education funding. The committee wishes to proceed with exploring the issues in this bill, however, there are various technical difficulties that, due to time constraints, remain unresolved. The committee feels more time is necessary to work the details out, and the most important venue for this will be interim study **Vote 16-0**.

HB 1427-FN-A-L, establishing a property tax relief program for low income homeowners. **REFER FOR INTERIM STUDY**

Rep. Christine M. Konys for Ways and Means: The original bill, with the agreement of the prime sponsor, was replaced with an amendment by another sponsor which was to replace the entire bill. However, there were several changes to the bill as amended that the sponsor was still attempting to make, and did not have the time to do so. At the sponsor's suggestion, the committee voted to send the bill to interim study. **Vote 15-0**.

HB 1438-FN-A, relative to fees collected by the attorney general. **OUGHT TO PASS WITH AMENDMENT**

Rep. David J. Alukonis for Ways and Means: HB 1438 would increase some, and create other, business registration fees in order to fund a new dedicated fund whose monies would be used to offset the costs of operating the Consumer Protection Bureau in the Office of the Attorney General. The original bill would have targeted eight types of businesses with increased or newly enacted registration fees. The committee believes that these eight fees unfairly target a very small population of our business community. The amendment eliminates the dedicated fund and establishes a fee for the registration of health clubs to register with the Office of the Attorney General, but does not call for a registration fee or a fine for not filing. This has led to many health clubs not following the required registration requirements with no consequences for non-compliance. The amendment imposes an annual fee of \$100 on all health clubs and would impose a \$1,000 administrative assessment for failure to register. The committee believes that this fee will adequately cover the costs incurred by the Department. **Vote 17-0**.

WEDNESDAY, MARCH 6

REGULAR CALENDAR

CHILDREN AND FAMILY LAW

HB 1301, relative to grounds for divorce for persons with minor children. **REFER FOR INTERIM STUDY**

Rep. Carolyn M. Gargas for Children and Family Law: The committee felt that the intention of the bill is laudable, to keep families with minor children intact and to reduce divorce. However, to remove irreconcilable differences as a reason for divorce and to revert to fault divorce for these families would cause more harm than good. In most cases divorce would still occur. For a parent to prove fault against the other parent would make divorce more acrimonious and more expensive. It would also make cooperation and co-parenting post-divorce more difficult. It was felt it would be more effective to take measures to strengthen marriage and deal with problems before a couple files for divorce. **Vote 10-3**.

COMMERCE

HB 1150, relative to insurance compliance self-audits. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Stephen G. Avery for the **Majority** of Commerce: This bill would allow insurance companies the ability to conduct internal insurance compliance self-audits, audits aimed at uncovering areas when the insurance company may have broken the law. Secondly, although the company must report the problems to the insurance department, it would also give them the privilege to keep the information secret, immune from discovery, even when a New Hampshire consumer is injured by the insurance companies' bad acts. During the public hearing and the subcommittee work session, there was no evidence presented indicating that there is a problem that warrants this kind of law. Similar legislation has been defeated in Maine, Massachusetts, Connecticut, Rhode Island, New York and other states. While four states have enacted similar laws there is no compelling need for New Hampshire to do so. The whole Enron situation should raise a red flag, a warning that not all companies act properly, and that the manipulation and abuses relating to corporate audits does exist. The majority of the committee feels that this is not the time to give insurance companies this privilege. **Vote 10-7**.

Rep. Paul D. Spiess for the **Minority** of Commerce: Insurance is one of the most heavily regulated industries under state supervision. The myriad of laws, rules and regulations imposed at both the state and federal level make it extremely difficult for insurers to comply without constant internal and external audit examination and self-critical evaluation. This bill was intended to address the conflict between an insurer's desire to evaluate its business practices with an equally strong desire not to expose themselves unduly to litigation. The original bill would have exempted all the information developed by an internal audit or self-evaluation from "discovery" in legal action against the insurer. This privilege or protection is intended to encourage insurers to uncover and correct problems without the worry that their efforts would be turned against them in a court of law. The subcommittee, with input from the Insurance Department, amended the bill to limit this privilege only to the analysis and conclusions of the audit, not to the underlying facts of the examinations. In addition, the privilege would not extend to the insurance department, which would have full access to the entire report. Further, the amended bill would have required the insurer to take corrective action if a problem or violation were uncovered. If we want to encourage good business practices we must provide incentives for complex commercial entities to self evaluate their compliance with the law without running the risk that their efforts can be used against them in class action litigation. Any effort to compare this piece of legislation to the Enron fiasco is a disservice to the industry, the insurance department and the subcommittee that worked hard to encourage positive business practices.

HB 1159, prohibiting mail-order pharmacies from substituting generic drugs without written authorization. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: The language in the amended version of this bill is modeled after administrative rule Ph 704.06. This legislation, as amended, would allow pharmacists to substitute generic drug products for all legend and non-legend prescriptions unless the practitioner specifies that the brand name drug product is medically necessary. **Vote 10-5.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1365-FN, requiring that the county departments of correction be charged the medicaid or lowest rate for inmates who need medical services within the community. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Beth Rodd for the **Majority** of Criminal Justice and Public Safety: Most day to day medical care in county jail facilities is provided by on-site medical staff. When hospital care is required, the cost to county budgets is expensive and unpredictable. Due to changes in federal laws, inmates at county jails no longer qualify for Medicaid benefits. Counties are responsible for all medical costs incurred by inmates. The common practice at hospitals is to charge inmate patients the full cost of care with steep profits built in. Although the subcommittee encouraged the differing parties to negotiate a fair standard of cost and payment so that legislation could be avoided, they were unable to do so. This legislatively set formula allows hospitals to charge 110% of the current Medicare rate to county jails. This rate approximates accepted, private insurance rates commonly used in this industry. This bill is a reasonable approach to addressing sky-high health care costs that allow hospitals to realize a fair market profit while protecting counties from unregulated, excessive medical costs. **Vote 9-5.**

Rep. James R. Splaine for the **Minority** of Criminal Justice and Public Safety: Having the state dictate by law to any private or non-profit business what it must charge for any service or product is not a path the New Hampshire legislature should walk. The process of negotiation between business and the state or counties for services or products is our long-term, time-honored, proven tradition. It works well. It should not be changed by a law, no matter how well-intended.

HB 1433, prohibiting constructive possession of alcohol by minors. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. John E. Tholl, Jr. for the **Majority** of Criminal Justice and Public Safety: HB 1433 was the result of a two-year study dealing with DWI and its penalties. Testimony was received from law enforcement and others, including the administrative judge for the district courts, about the lack of ability to charge a person under the age of 21, who cannot legally consume alcoholic beverages, with possession, even though they have consumed large quantities. This contributes to the abuse of alcohol in our cities and towns by underage drinkers. HB 1433 addresses this problem in two ways. It allows voluntary use of a testing device to determine the alcohol concentration, or by observation, that the underage person has consumed the alcoholic beverage and is intoxicated. The minority of the committee felt that this was a violation of search and seizure. There is nothing in HB 1433 that compels the underage person to take any test, and there is no penalty for refusal. Therefore it meets that the constitutional requirements. The majority of the committee felt that this was a public safety issue that needed to be addressed. **Vote 10-4.**

Rep. William J. Kelley for the **Minority** of Criminal Justice and Public Safety: This bill, although well intended, does not pass the test of constitutionality. *Welch vs. Wisconsin*, 466 US 740 (1984). The United States Supreme Court has held that the "exigent circumstances" warrant exception cannot be constitutionally applied to certain evidence of petty offenses not punishable by imprisonment. The only possible justification for allowing the police to compel a minor to take a warrantless breath test would be "exigent circumstances" needed to ascertain the minor's alcohol level. The crime in question, minor in possession of alcohol, is a petty offense not punishable by imprisonment. The bill is a clear violation of 4th and 5th amendment rights.

EDUCATION

HB 1190, relative to local school management of teacher hiring and retention. **OUGHT TO PASS WITH AMENDMENT**

Rep. Warren C. Henderson for Education: This bill, as amended, gives much needed flexibility to our local school districts to hire non-certified teachers in cases where a critical local shortage exists or where there is an exceptional individual available to teach who is not certified. The majority of the committee strongly felt that giving this limited authority to local districts, as opposed to the current system in which the state wields almost total control, is long overdue. There is every reason to believe that local school leaders will work to assure that the best available person is recruited to teach because they are on the front lines of assuring educational excellence. **Vote 15-3.**

HB 1244, establishing a committee to study the curriculum content of an adequate education. **INEXPEDIENT TO LEGISLATE**

Rep. Bruce L. Dearborn for Education: The sponsor of this bill was concerned that the existing study groups and commissions were not moving forward rapidly enough. Testimony from the two members of the Education Committee who are on the Adequacy Commission indicated that they and the other members of the Commission are actively pursuing the adequacy issue and the many facets it covers. **Vote 14-4.**

HB 1260-FN, relative to certification and licensing of teachers and school administrators. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charles E. Sova for Education: The amendment requires the State Board of Education to adopt rules for the recertification of teachers by using a peer review process. This process could include rules for mentoring as part of the process. **Vote 13-5.**

ELECTION LAW

HB 1474, relative to creating county commissioner districts in Strafford county. **INEXPEDIENT TO LEGISLATE**

Rep. Michael S. Rollo for Election Law: The bill as presented to the committee would have established three separate county commissioner districts in Strafford County. The committee heard no compelling evidence as to why things should change. The argument was made that the nine other counties do this, why shouldn't Strafford? Strafford County is unique in that it is the smallest county in land mass and is serviced by only one daily paper. The end result is the concerns of all citizens are heard no matter where they reside. As chance may have it, the current commissioners now are from different regions of the county. This committee applauds the attempts by the sponsor, but is uncomfortable changing the law without just cause. **Vote 15-2.**

ENVIRONMENT AND AGRICULTURE

HB 1267-FN-LOCAL, relative to a ban on landfilling and incinerating aluminum cans. **WITHOUT RECOMMENDATION**

HB 1313, relative to spreading sludge on excavation sites for reclamation. **REFER FOR INTERIM STUDY**

Rep. James G. Phinizy for Environment and Agriculture: The basic premise of this legislation is sound. However, further work is necessary to clarify certain definitions and references. While the Interim Study is being completed, "EPA" and the "The McDowell" Report will be published and will aid completion of this Interim Study. **Vote 10-9.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1318, relative to the regulation of the use of pharmaceutical agents by licensed optometrists. **OUGHT TO PASS WITH**

AMENDMENT

Rep. Michael O'Neil for Executive Departments and Administration: New Hampshire optometrists have had the authority to diagnose glaucoma for over eight years. This bill begins the first step in allowing optometrists to treat this disease. The subcommittee reviewed numerous drafts and amendments to assure the committee that all possible avenues have been taken to ensure patient safety. The amendment provides a process whereby an optometrist can be certified to treat glaucoma patients, by a collaborative agreement between the patient, the optometrist and the ophthalmologist. In addition, optometrists will complete at least 40 hours of classroom education on medical issues relating to glaucoma and its treatment and then pass an examination approved by the Board of Optometry. After certification, optometrists shall refer each new glaucoma patient within 30 days to an ophthalmologist for confirmation of diagnosis and review of the treatment plan. The committee felt that this approach adequately addresses the issue of patient safety. **Vote 13-1.**

HB 1351-FN, granting group II retirement system status to certain positions in the department of corrections. **INEXPEDIENT TO LEGISLATE**

Rep. William R. Zolla for Executive Departments and Administration: The bill was intended for interim study but was voted inexpedient to legislate late in the day for the following reasons: 1. A list of 60 department of corrections positions now in group I, that were recommended for group II, made up the bill. 2. After the list was made, 6 positions were removed. 3. When the scope of work for each of the positions was reviewed, it appeared that some did not meet group II requirements. The subcommittee asked for interim study for time to review each job description in detail, which was ultimately not granted in the full committee. While it is realized that this action results in having to have to submit a new bill to be acted on in 2003, it will give a new committee with new ideas an opportunity to resolve this issue. **Vote 9-5.**

HB 1388, relative to respiratory care. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judson K. Dexter for Executive Departments and Administration: This bill replaces the current respiratory care practice act, which has not been up dated in over ten years. This bill reflects the changes in education, technology and training of respiratory care practitioners. This bill also clarifies definitions of diagnostic and therapeutic medications, criteria for licensure, examination criteria, the certifying board, interim licensing, rights of the consumer and public safety. **Vote 13-0.**

FINANCE

HB 179-FN, including 17 year olds under RSA 169-B, the juvenile delinquency statute. **OUGHT TO PASS**

Rep. Mary Jane Wallner for Finance: This bill would raise the age of adult criminal responsibility from 17 years to 18 years, effective July 1, 2004. This bill, and the policy it embodies, indicates that juveniles between age 17 and 18 are best served in the juvenile justice system, where they can receive appropriate services and the intensive supervision that are not available in the adult criminal justice system. The bill was supported by the Children and Family Law Committee and by the full House. This bill does not change existing law, which permits serious, violent or repeat juvenile offenders to be tried in the adult system through the certification process that was strengthened by the General Court in 1996. The counties that have financial responsibility for both the portion of the cost of services provided by the juvenile justice system and the costs of operation of the county correctional system testified that they were neutral on this bill.

There is no cost to the state budget in this biennium or the first year of the next biennium, since the bill takes effect on July 1, 2004. When the bill takes effect, the annual cost is estimated to be approximately \$650 thousand per year in general funds to cover the cost of services and Juvenile Probation and Parole Officers to supervise the 17-year-olds. The county share of additional services will be approximately \$111 thousand annually. It is difficult to estimate cost savings to the state and county from not serving 17-year-olds in the adult corrections system. **Vote 17-2.**

HB 212-FN, providing an alternative method of calculating state education property tax hardship relief. **OUGHT TO PASS WITH AMENDMENT**

Rep. Marjorie K. Smith for Finance: This bill, as amended, accomplishes three goals: 1) It corrects an omission in which the general court provided funds in the current budget for DRA to administer the property tax hardship relief program, but neglected to establish the necessary positions. 2) It corrects an inequity created when citizens of certain cities and towns who otherwise would have been eligible for state education property tax hardship relief inadvertently lost that eligibility because the cities and towns, acting however laudably, revaluated property in their jurisdiction. 3) It allows DRA to use rules already in place. This correction was necessary only for the property tax year beginning April 1, 2001. It is estimated that the cost will be less than \$300,000. Funds far in excess of this amount are already in the budget for this purpose. **Vote 17-0.**

HB 1231-FN, implementing a pre-engineering technology curriculum in the public high schools in the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Finance: An optional pre-engineering technology curriculum in our public schools will prepare our young people for more successful careers and provide the staff for economic development of high-tech business in our state. The amendment takes \$250,000 of bonded funds previously appropriated for regional vocational schools, but not used, to pay for a portion of classroom equipment necessary to get the programs started. Operating expenses will be the responsibility of the participating school districts. **Vote 20-0.**

HB 1233-FN-A, requiring an audit of the department of education and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Linda T. Foster for Finance: This bill would require a performance audit of the Department of Education (DOE) to be started on or about July 1, 2002 and completed by February 1, 2003. Since 1999, five DOE audits, requiring thousands of work hours, have been performed. 1) July 1999 – Special Education, CAT Aid Program. 2) June 2000 – Financial and Compliance Audit Report. 3) June 2001 – Single Audit of Federal Financial Assistance Programs. 4) August 2001 – Bureau of Vocational Rehabilitation and Service Delivery. 5) September 2001 – Construction and Renovation Programs. The committee believes that if a new audit were authorized, the scope and parameters should be more narrowly delineated. The process and procedure for performance audits is clearly defined in RSA 17-N, which established a ten-member Legislative Performance Audit and Oversight Committee. Its charge is to consider the need to review state departments, boards, institutions, commissions and agencies, and to make recommendations to the Fiscal Committee for such reviews as provided in RSA 14:30-a, II. The nine-member LBA Audit Division is currently working on four audits. An additional topic has been approved, but the work has not yet begun. This bill does not specify whether or not these "works in progress" would cease in order to perform this particular audit. The Committee believes that, if any further audit of the Department of Education is to be done, its purpose should be clearly defined, and it should be effected through the existing statutory procedures. **Vote 17-3.**

HB 1279-FN-A, making an appropriation for the purchase of equipment to record committee sessions. **INEXPEDIENT TO LEGISLATE**

Rep. Joseph E. Stone for Finance: This bill would appropriate \$20,000 for the purchase of equipment to record committee sessions. Last year the House ran a pilot program by recording the sessions of two policy committees. The program is still being evaluated but is reported by those involved to have been successful. The Finance Committee received testimony that the cost of financing an expanded program can occur through the current legislative budget. This is a program that can be implemented and handled through an internal administrative function. Therefore, while the Committee supports the recording project, this bill is not needed in order to go forward. **Vote 20-0.**

HB 1363-FN-L, requiring the state to reimburse counties for the costs of incarcerating certain prisoners. **REFER FOR INTERIM STUDY**

Rep. Beverly T. Rodeschin for Finance: Due to the complexity of the financial impact on the state, the counties and perhaps all taxpayers, the Committee needs time for a complete review. **Vote 21-0.**

HB 1376-FN, relative to distribution of tobacco settlement funds. **INEXPEDIENT TO LEGISLATE**

Rep. Fran Wendelboe for Finance: This bill would have taken the approximate \$40 million a year of tobacco settlement funds, which are currently being used to fund education, and put an additional \$7.8 million into tobacco prevention and the approximate \$32 million balance into the health care fund. This legislature has already approved the funding of \$3 million a year to tobacco prevention and there has not been enough time to assess the outcome so far. Rather than continue to use the \$32 million for education, this bill would create more funds to provide health care for low-income people and under-served populations. While the intent is noble, under the current fiscal climate, the passage of this legislation is fiscally imprudent. Our legislature has already taken large steps with the expansion of the children's health insurance program, and expansion of continued coverage for disabled citizens who enter the work force. Additionally, low-income seniors are eligible for health care under Medicare and the final safety net is the backbone of charity care provided by hospitals under their non-profit status. The majority of the Committee clearly felt it inappropriate to take \$40 million out of the budget under challenging financial times to enact sweeping new social programs. **Vote 12-7.**

HB 1419-FN-A, increasing the capital appropriation made to the fish and game department for the Berry conservation camp building replacement and increasing a capital appropriation to the New Hampshire veterans' home to design and build a new

facility. **OUGHT TO PASS WITH AMENDMENT**

Rep. O. Alan Thulander for Finance: The Barry conservation camp, located at the fish hatchery in Berlin, may lose its accreditation from the National Camping Association should necessary building and facilities upgrades not be made. The camp is operated jointly by New Hampshire Fish and Game and the 4-H groups, and serves up to 210 campers per season. The additional bonding authorization of \$100,000 will be supported by the Fish and Game Fund and has no effect on the General Fund. The amendment removes the capital appropriation for the New Hampshire Veterans' Home, which has been funded in other legislation **Vote 20-0**.

HB 1439-FN-A, relative to an agreement between the state of New Hampshire and city of Laconia and making an appropriation therefor. **OUGHT TO PASS**

Rep. Elizabeth S. Hager for Finance: This bill appropriates \$347,629 in order for the state to keep its promise to Laconia to build ballfields at the site of the correctional facility. The money comes from unspent bonding authorizations previously appropriated **Vote 20-0**.

SB 102-A, making a capital appropriation to support affordable housing solutions in the state of New Hampshire. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kenneth L. Weyler for Finance: Housing demand in our state has been strong due to a decade in which our population has increased more than 11%. In 1988, the legislature established a statewide affordable housing fund with \$4 million. The New Hampshire Housing Finance Authority (NHHFA), using a revolving fund and providing incremental financing for qualified projects, has multiplied that into \$14 million dollars of investment. To qualify, projects must construct or rehabilitate rental units that remain affordable to working families. Qualifying tenant families are often at the income level of schoolteachers and nurses. The growth of the affordable rentals has not kept up with the demand. New money is needed to alleviate some of that problem. The amendment provides an additional \$5 million to NHHFA to create more affordable housing, \$2.5 million dollars in the capital budget in this biennium, and an equal amount in the next.

The bill also funds higher, more recent cost estimates for an addition to the New Hampshire Veterans' Home in Tilton. The original approval was based on 1998 construction estimates. Steep demand for construction in the last few years has raised that estimate by \$1.9 million, a 19% increase. Federal dollars will provide \$650,000 of the extra, if commitment is made by April. That left the state a \$1.25 million increase. Earlier appropriations in capital budgets yielded \$650,000 of money appropriated but not spent. An additional \$600,000 will be new money in the capital budget. These sums are necessary to move this project forward. **Vote 20-0**.

SB 161-FN-A, relative to treatment for individuals with disabilities and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard J. LaRose for Finance: As it came to the Finance Committee, this bill would have significantly expanded our existing treatment program for mentally disturbed individuals who engage in behaviors that potentially endanger their communities. The Committee believes that the state is not in a financial position to assume the additional operating costs involved in such a large expansion. However, mindful of the need, the Committee was able to find a way to support a more modest expansion, increasing the number of places available for those in need of services.

The Committee amendment bonds an additional \$1.5 million to replace an existing 6-bed facility on the Laconia state campus with a larger 12-bed facility. To ensure a suitable building, the Capital Budget Overview Committee must approve the plans for the facility. To ensure that new matching federal Medicaid funds are available, pre-approval of the program and building by federal Medicaid authorities is required. To assure Laconia residents that the facility will be secure, security components of the facility will be designed in consultation with the city.

Other than debt service, this expansion will not increase the state's general fund operating budget. The amount currently budgeted for operating the 6-bed facility plus the new matching federal Medicaid money should cover the cost of operating the new 12-bed facility. **Vote 19-1**.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 1194, relative to medical records. **OUGHT TO PASS WITH AMENDMENT**

Rep. Alida I. Millham for Health, Human Services and Elderly Affairs: Privacy of medical records is an important issue for the

citizens of New Hampshire. HB 1194 started out as an effort to make some minor changes to RSA 332-I:1. Five amendments and eight subcommittee meetings later, the committee proposed an amended bill addressing the issue of privacy of medical records. The federal Health Insurance Portability and Accountability Act (HIPAA) is a federal act that has a section devoted to the privacy of health information and medical records. It is a comprehensive and complicated act that requires healthcare providers to insure that their patients records are private. The significant changes to RSA 332-I:1 as a result of this amendment include: (1) A statement of purpose that makes it clear that New Hampshire intends to make laws that complement the federal law. This is done to avoid potential conflicts between state and federal law that could ultimately interfere with quality of care issues. (2) The bill includes definitions that are HIPAA compatible. (3) The major area where state law will be "more stringent" is regarding marketing. In New Hampshire healthcare providers will be required to get consent for marketing contact prior to the contact. In the federal law one marketing contact is allowed before consent is required. **Vote 13-4.**

HB 1468-FN, relative to prescription drugs and medicaid best practices. **OUGHT TO PASS**

Rep. Fran Wendelboe for Health, Human Services and Elderly Affairs: This bill is composed of three major pieces with the goal to enhance access to prescription drug coverage for low income seniors. The first piece would required outreach by the Department of Health and Human Services (DHHS) to enroll our citizens who are eligible for medicaid (which includes pharmaceuticals) but are not enrolled. These are seniors and the disabled whose income does not exceed \$559 per month for one person or \$818 per month for two people. The second piece enhances prescription coverage for a limited group of New Hampshire citizens who are seniors or disabled and are eligible for one or two programs, the Qualified Medicare Beneficiary (QMB) or the Specified Low Income Medicare Beneficiary (SLMB). The person must not be eligible for prescription drugs through a third party payor or supplemental medicare policy. This would require DHHS a demonstration waiver with the federal government. Part of the waiver application requires the state to fund part of the drug benefit costs. This legislation requires a disease management program be enacted to save costs for current medicaid health care costs. Other states have proposed their portion be funded by requiring larger rebates from drug companies. The courts have struck down these waivers based on the rebate aspect. However, this legislation proposed funding from the general funds saved by disease management. Under this expansion of medicaid drug coverage, the elderly and disabled who have income under 100% of poverty (QMB's) and those with income under 120% of poverty (SLMB's) would become eligible for medicaid coverage on drugs only – thereby getting matching federal funds. The QMB's have income levels under \$736 per month for individuals and \$988 per month for couples. Eighteen states currently provide this level of coverage. (SLMB's) coverage would allow a 20% increase over the (QMB) level. The third part of this legislation establishes a three-year task force on the establishment of the NH prescription senior patient assistance program. **Vote 9-8.**

JUDICIARY

HB 1292, relative to interpreters for the deaf in certain governmental or public proceedings. **REFER FOR INTERIM STUDY**

Rep. Larry G. Elliott for Judiciary: This bill, as introduced, went beyond the Americans with Disabilities Act (ADA) and beyond current state law in the requirements for providing an interpreter for the deaf and hard of hearing citizens of our state, creating a potential 28-a issue (unfunded mandates). A subcommittee met on two occasions in an effort to meet the intent of the sponsor of the bill, while at the same time trying to ensure that the legislation did not violate Part First, Article 28-a of the State Constitution. The subcommittee was able to meet this goal. However, significant issues surrounding the penalty provision of this proposed legislation and issues arising out of how a person conducting an initial investigation by a state agency or by a police officer could be in compliance without the individual investigator having prior knowledge of the person's inability to hear became a real concern. Furthermore, any information obtained during the initial investigation without an interpreter would not be admissible evidence. This brought the Judiciary Committee to the conclusion that this bill needed to be studied so that we can further evaluate it and determine how it would interact with current laws. We want to ensure that we are providing equal protection to the deaf and hard of hearing community without providing protections that go beyond what the non-hearing impaired citizens of our state receive. **Vote 10-4.**

HB 1360-FN, relative to appointments and qualifications of marital masters and procedures for cases heard by marital masters. **OUGHT TO PASS WITH AMENDMENT**

Rep. Larry G. Elliott for Judiciary: This bill, as amended, would change the current method of appointing marital masters. Currently, candidates are chosen by a five-member panel of judges appointed by the Chief Justice of the Superior Court known as the Marital Master Committee to serve in this quasi-judicial capacity. The federal funding for marital masters comes from the Executive Branch and requires that marital masters are non-judicial officers. Recognizing the fact that the funds for marital masters flow from the federal Department of Health and Human Services to our state Department of Health and Human Services for enforcement of child support regulations and then to the Judicial Branch and that marital masters are supervised

by the Judicial Branch, both the Executive Branch and Judicial Branch should have input into the nomination and confirmation of marital masters. Therefore, we recommend that the Judicial Branch submit a list of three candidates to the Governor who will choose one nominee to bring forth to the Council. A marital master's initial term shall be for the period of three years. Should an existing marital master wish to be renewed or re-nominated for service and the Marital Master Committee wishes to recommend that individual, the Committee will only submit the name of the one individual wishing to be renewed to the Governor and Council. If the Governor and Council approve the continued service of the marital master, each subsequent term shall be for a period of five years. If a marital master wishes to be reappointed, he or she is to notify the Governor and Council ninety days prior to the expiration of his or her current term. The other significant change in the bill as reported out by the committee from what the sponsor had asked for was in the area of marital masters wearing black judicial robes. The sponsor wanted the marital masters to wear no robes; however, after hearing testimony provided to the committee on this point, the committee felt that it was important to distinguish the marital master so as to provide the appropriate amount of respect and decorum for the authority of the position, yet still allow the individual who appears before a marital master to recognize the fact that the marital master is not a judge. The committee felt that there was a significant amount of confusion by the general public about who is a marital master or who is a judge. So, the solution that the committee arrived at was to require marital masters to wear robes of such color and type to distinguish themselves from judges, but they would still wear a judicial-type robe to foster that respect. **Vote 13-2.**

HB 1420, relative to exceptions to the prohibition on persons practicing as attorneys when not admitted to practice by the supreme court. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Phyllis L. Woods for the **Majority** of Judiciary: New Hampshire law for nearly 300 years has recognized the right of the individual to choose his or her attorney so long as such attorney is a person of good character. This right of choice is enshrined in statute and should not be lost. It has never been demonstrated that anyone has ever been harmed by a non-lawyer representative. In fact, lawyers who are members of the New Hampshire Bar are not currently covered by consumer protection laws, but non-lawyers acting as attorneys-in-fact, can be sued under the Consumer Protection Act. There exists a whole body of rules that regulate the conduct of non-lawyers administered by the Professional Conduct Committee. Lawyers are not required to carry malpractice insurance; it is optional, and non-lawyers as well can obtain insurance coverage. Regardless of whether one is represented by a lawyer or a non-lawyer, the judge remains the final authority in charge of the courtroom and can dismiss anyone who is obviously unqualified to represent a client. The right to use non-lawyer representation is, however, subject to limitations. A person who is not admitted to the New Hampshire Bar may not "commonly" represent clients. There have been some inconsistencies among various courts in the interpretation of the term "commonly". This bill will correct this by defining the term and provide for consistency throughout the state courts. It provides that a person of good character may represent up to six clients, or take six cases during each year. The majority of the committee agreed that this personal choice should be preserved and protected for the citizens of New Hampshire. **Vote 10-5.**

Rep. Peter S. Espieffs for the **Minority** of Judiciary: The minority sees no urgency to change the existing law (RSA 311:6) which permits a party to represent himself in legal proceedings or to obtain the services of a person of good character to represent him or her. The majority wants to specify that such persons (of good character) can represent up to six persons or take up to six cases during a 12-month period. No public necessity has been shown for specifying that non-lawyers can take up to six cases a year. This bill is clearly for the benefit of some well known non-lawyers. It certainly is of no benefit to the public or to the poor who already are afforded legal representation through the Public Defenders Program in criminal cases, and the Pro Bono Program, New Hampshire Legal Assistance, and Reduced Fee Program. It is said that law degrees and a license to practice law don't ensure competence. But if your life or property is on the line, you would most likely hire Attorney F. Lee Bailey or Attorney Johnny Cochran rather than take your chances on a "what's-his-name". Licensed practitioners have been educated in the technical rules of procedure and evidence, as well as in the law. Most non-lawyers are no match for them. Moreover, non-lawyers cannot be disciplined for their maledictions by the Professional Conduct Committee of the Bar Association and do not carry malpractice insurance which is available only to licensed lawyers. Further, non-lawyers are not subject to the rules governing attorney (client) trust accounts. There is no public necessity or benefit in this legislation, and it exposes the gullible and vulnerable populace to the increased risk of deceit, exploitation and disaster.

LEGISLATIVE ADMINISTRATION

HB 1331, requiring that the effect on revenues, expenditures, and fiscal liability be included in the reports of house standing committees. **REFER FOR INTERIM STUDY**

Rep. George N. Katsakiores for Legislative Administration: The Legislative Administration Committee felt that procedures need to be in place to require effects on revenues, expenditures, and fiscal liability of bills and resolutions be included in the reports of

house standing committees. The committee felt going to Interim Study with this bill will provide time to develop procedures to fulfill the bills mandates. **Vote 9-2.**

HB 1342, relative to preparation of fiscal notes. **OUGHT TO PASS**

Rep. Robert E. Clegg for Legislative Administration: This bill stops the current practice of allowing the Legislative Budget Assistant to request fiscal information from registered lobbyists. Any information obtained shall be obtained only from those not paid to advocate one position over another. **Vote 11-1.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 1320, establishing a committee to study establishing enterprise zones in economically deprived communities. **OUGHT TO PASS WITH AMENDMENT**

Rep. William G. Johnson for Municipal and County Government: The Committee felt that the worsening economic climate of the municipalities in the north country combined with the growing disparity of resources between our communities warrant the legislature's concern and attention. Since there are many fragmented sources of economic help and advice available, but not presently coordinated to address local needs, enterprise zones may be a valid remedy for such deprived areas. This study committee will examine the issues and report its recommendations. **Vote 17-0.**

HB 1389, enabling towns to charge fees for the disproportionate use of municipal safety services. **INEXPEDIENT TO LEGISLATE**

Rep. Dudley D. Dumaine for Municipal and County Government: HB 1389 would have enabled towns and cities to adopt an ordinance that regulates excessive use of fire and police services by individual local residents by charging a fee for excessive calls made annually by those individuals to the fire/ police departments.

There are already sufficient statutes to deal with these offenses-False Fire Alarm (RSA 644:3a,b,c), False Report to Law Enforcement (RSA 641:4), and Harassment (RSA 644:4)-that could result in a misdemeanor or class B felony charge.

Also, the enabling ordinance statutes for towns and cities (RSA 31:39 and RSA 47:17) already give those entities adequate authority to set up rules and regulations for the smooth running of the municipalities and to address the concerns that were heard during the public hearing. Therefore the majority of the committee felt that the passage of HB 1389 was unnecessary and the issues should be handled at the local level with appropriate rules and regulations. **Vote 10-4.**

PUBLIC WORKS AND HIGHWAYS

HB 1459-FN-A, making an appropriation to the Alan B. Shepard discovery center. **INEXPEDIENT TO LEGISLATE**

Rep. Bernard L. Benn for Public Works and Highways: While supportive of the Alan B. Shepard Discovery Center Project, the committee felt that this bill has been submitted prematurely and out of a proper procedural sequence. Last year, a sum was allocated in the Capital Budget to fund a study to establish the feasibility of raising private funds for part of this project. That feasibility study is currently in progress and is due in June 2002. This project will be included in the next Capital Budget request, at which time it will be reviewed in context of the overall Capital Budget and with the input of the above mentioned feasibility study. **Vote 10-4.**

HB 2000, relative to the state 10-year transportation improvement program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Edwin O. Smith for Public Works and Highways: The committee recognizes the long and tedious work by the communities, regional planning commissions, Department of Transportation, and the Governor and Executive Council. The projects are listed in priority and published in a plan dated December 2001. It provides for anticipated \$140,000,000 of Federal aid in 2003, with a \$5,000,000 increase each year to 2012. However, Federal appropriations sometimes do not match the anticipated amount. The Federal funds assigned to turnpike projects for Exit 12 to Exit 16 for the Spaulding Turnpike reverts back to Turnpike Funding. There was a reported shortfall in Federal aid anticipated under Transportation Equity Act for the 21st Century (TEA-21). There was a reported deficit in the New Hampshire Highway Fund of \$25,000,000. These financial difficulties have delayed projects by one to two years. The circumferential highway around Hudson and Litchfield is delayed unless turnpike revenues are increased. The amendment reestablishes the authority to install the toll booths that were removed in 2000. The House removed the toll booths in the 10-Year Highway Plan because the department felt that Federal monies were increasing at a rate allowing tolls to

be totally removed from all NH roads. Times have changed and the Federal money will be more than \$30,000,000 less than last year. This is an automatic decrease due to lower than expected Federal revenues. These toll booths were always planned and are not new to the project. Bonds were issued using the toll revenue as payback. The other part of the amendment moves the long planned Troy Village bypass forward without additional requirements from the Department of Environmental Services. This project has been delayed because misunderstandings have occurred between DOT and DES. DES has already responded and made their objections known, and DOT is addressing these issues. The plans modified at the request of DES are the plans that the committee feels should be finalized, however, DES has 60 days after passage of this legislation to make final modifications. The committee understands and respects our environment and the role of DES, however, in the balance long delays allow unsafe roads, causing physical and mental anguish to NH motorists as well as increasing costs. The only two changes made by the committee are listed above and all other projects remain unchanged in any way. **Vote 14-0.**

RESOURCES, RECREATION AND DEVELOPMENT

HB 1273-FN, relative to planning and procedures for state owned or leased trails for all-terrain vehicles and relative to registration fees for certain off highway recreational vehicles. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Bob Odell for the **Majority** of Resources, Recreation and Development: This legislation encompasses many of the recommendations provided by the ATV study committee that held six public meetings and heard from more than 50 witnesses last fall. The concerns of the ATV community, state government, environmental groups and citizens were all taken into consideration. This legislation increases ATV annual registration fees but uses the increased fees solely for ATV related activities. These include increased law enforcement, funds for ATV trail maintenance and development, purchase of land or easements for ATV use and educational programs. Environmental concerns are addressed on a statewide basis by putting in statute a "coarse and fine filter" evaluation standard. This standard was developed over many months by an interdepartmental working group and will be used by the Department of Resources and Economic Development when public lands are being considered for ATV trail development. ATV use in New Hampshire is increasing dramatically and this bill establishes new ground rules through which the state may work to meet this change. **Vote 10-4.**

Rep. Deanna P. Rush for the **Minority** of Resources, Recreation and Development: HB 1273-FN allows the Department of Resources & Economic Development (DRED) to expand ATV trails on state lands if certain criteria are met. However, in its current form, HB 1273-FN does not allow a local community to "opt out" of the creation or expansion of ATV trails on public lands in which it has a vested interest. The minority believes that expanded trails on public lands create a myriad of problems for some communities including public safety, financial impacts and environmental issues. We heard testimony that Bear Brook State Park encompasses 51% of the town of Allenstown. Increased expenses for the fire and police departments and emergency personnel are not fully reimbursed by the state, thus creating a devastating financial burden to a town with limited resources. An amendment to exclude Bear Brook State Park from expanded trails was defeated because it did not offer the same opportunity to the other state park communities. The minority feels the issues of local control and the 28-a issues of not fully funding fire and police protection on state lands are serious problems. The minority amendment allows a local community to "opt out" of expanded ATV trails in state parks.

HB 1343, relative to processing excavating and dredging permits. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judith T. Spang for Resources, Recreation and Development: This bill, supported by the Department of Environmental Services (DES), provides for shorter time limits for review of excavating and dredging permits. Testimony by experts and the construction industry indicated that the time saved for their projects would be well worth the additional fees required to give the Department of Environmental Services (DES) the resources to reduce turn-around time. Fees related to timber harvesting were not increased. **Vote 12-0.**

SCIENCE, TECHNOLOGY AND ENERGY

HB 1349-FN-A, establishing a New Hampshire power authority. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeb E. Bradley for Science, Technology and Energy: The amendment totally replaces both the title and content of the bill. The amendment establishes a legislative committee to examine issues pertaining to electric industry restructuring in the Connecticut Valley Electric Company's service territory. The Science, Technology & Energy Committee hopes that by establishing such legislative study, a settlement may be reached among the various parties. **Vote 16-0.**

TRANSPORTATION

HB 1357-FN, relative to the form of drivers' licenses. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.**

Rep. George N. Katsakiores for the **Majority** of Transportation: This bill permits a driver's license holder to determine whether his or her mailing address shall be printed on the driver's license instead of his or her home address. The applicant of a new New Hampshire driver's license shall provide his or her Social Security Number. Once proper identification is confirmed, the applicant may have his or her Social Security Number removed from the Department of Safety records. **Vote 12-1.**

Rep. Charles F. Weed for the **Minority** of Transportation: Current Federal law, Section 466 (a) (13) of the Social Security Act requires the recording and keeping on file Social Security numbers from driver's license applications. The SSN does not appear on the driver's license, but is on file to enable the Child Support Enforcement Program to locate individuals for the purposes of establishing paternity and establishing, modifying and enforcing child support obligations. If we pass this bill, all child support money, \$10,000,000 to \$12,000,000 sent to New Hampshire as a categorical grant could be at risk.

HB 1456-FN, relative to information on drivers' licenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert J. Letourneau for Transportation: This bill makes it a misdemeanor for any person knowingly to scan, record, retain or store in any electronic form or format, personal information obtained from any driver's license unless authorized by the Department of Safety. While this is current law, this bill establishes clear language outlining unauthorized methods of obtaining and retaining personal information. The amendment provides clearer language relating to legitimate business use of motor vehicle records. **Vote 12-1.**

WAYS AND MEANS

HB 1268-FN, establishing a net operating loss deduction in computing the business profits tax. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank V. Sapareto for the **Majority** of Ways and Means: The majority of the committee felt that after three consecutive years of substantial business tax increases totaling over \$150 million in new business taxes and in order to preserve New Hampshire as an attractive place to do business, this bill is absolutely necessary. The net operating loss deduction created with the business profits tax allowed a company with losses to limit the amount of losses to \$250,000 per year, going forward five years and going back two years. This puts us as the worst state in the country for any corporation experiencing business losses. With this bill, we are now brought up to par with the federal deduction limits, placing us on a level playing field with other states. It is believed by the majority that this bill will result in a positive tax impact for New Hampshire once the full effect of the tax increases hits businesses. In order to preserve New Hampshire's business advantage and to attract new business and jobs to our state, the majority believes that allowing businesses to re-capture their losses is crucial to the state. We have been strangling businesses through business profit tax increases and tripling the business enterprise taxes. This bill provides at least some consolation for the damage we have done. **Vote 10-7.**

Rep. David J. Alukonis for the **Minority** of Ways and Means: The minority of the committee cannot justify a complete elimination of the cap imposed on net operating loss deductions in one fell swoop. It simply costs too much. The majority proposal would lead to the loss of nearly \$60 million in the next biennium. The majority suggests that elimination of the cap will be offset by increased economic development. In order to achieve revenue neutrality, the profitability of our business will need to increase by 15% to 20%. This is simply not realistic. In fact, there is absolutely no guarantee that any business realizing reduced taxes as a result of this proposal will invest those savings in New Hampshire. The profitability of New Hampshire businesses has repeatedly been the highest in New England and amongst the highest in the United States. Most observers will say that productivity, profitability and investment have been hampered not by our tax structure but, rather, by the lack of available workers. The minority agrees with the majority that the New Hampshire Business Profits Tax should be reformed so as to eliminate the cap on the net operating loss carry-forward, but the minority wishes to accomplish this by phasing the cap out over time, thereby reducing the losses to the General Fund and the Educational Trust Fund. The minority amendment would increase the cap to one-half million dollars in 2002 and \$1 million in 2004; it would remove the cap entirely in 2006.

HB 1417-FN-A, eliminating the payment of the business enterprise tax on interest paid by business enterprises. **INEXPEDIENT TO LEGISLATE**

Rep. David W. Hess for Ways and Means: The Business Enterprise Tax, or BET, consists of three interrelated levies: business

salary and wages; dividends; and, interest payments. As drafted in 1994 and signed into law by Governor Merrill, the tax is an integral whole imposed on the labor and capital costs of a business. It was enacted to close a significant loophole whereby virtually all professional associations, including doctors and lawyers, all closely held corporations, and all partnerships and sole proprietorships escaped payment of the business profits tax because they could compensate themselves through wages and interest payments instead of declaring a profit. Removal of the interest component from the BET would re-open this loophole at a cost in lost revenues of more than \$12 million. This bill contains no offsetting revenue. We can't continue to spend money and reduce revenue without an adequate replacement. Removal of the interest component might also jeopardize the legality of the entire BET. Finally, the impact of this tax on small business is nominal. A company that borrows \$300,000 at 8% interest pays a tax of only \$180 at most, and possibly as little as \$90. **Vote 10-6.**

HB 1450, authorizing the sweepstakes commission to allow multi-hall, linked bingo games. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howard C. Dickinson for the **Majority** of Ways and Means: This bill will allow New Hampshire charities that sponsor bingo to use linked bingo in addition to their current paper bingo games to raise funds for charitable purposes. Present New Hampshire law allows paper bingo and electronic bingo systems for use by New Hampshire charities. This bill authorizes the Sweepstakes Commission to license multi-hall linked bingo, which is simply bingo played using 21st century technology. Players in different locations within New Hampshire can play the same game at the same time. This is not a replacement for traditional paper bingo. It is an additional fundraising tool for charities. Charitable bingo revenue and attendance has been in decline in the past decade, some up to 70 percent. This additional tool will help reverse this trend. The technology provides total accountability for both the charity and New Hampshire Sweepstakes Commission. Current New Hampshire law relative to enforcement, administration and inspection will still apply. Charities from across the state appeared in support of this bill, stating that they need HB 1450 in order to continue the good work they have done without resorting to seeking tax dollars. **Vote 9-8.**

Rep. Susan W. Almy for the **Minority** of Ways and Means: The minority of the committee fears that, rather than save social bingo, this bill would kill it. These solitary machines would bleed off enough players to kill the accompanying paper bingo games, which are valued by their patrons for the social opportunities they provide. The bill was heard one day before the vote. No machine or evidence of its workings in the eight Native American casinos that have them was produced, other than oral testimony about ranges of revenues. The bill leaves it up to the Sweepstakes Commission to decide how to regulate this new technology, who would benefit from it and by how much, and which charities would be left out. In short, it is a pig in a poke – and the pig may be a tusked wild boar.