

State of New Hampshire HOUSE RECORD

First Year of the 158th Session of the General Court Calendar and Journal of the 2003 Session

Vol. 25

Concord N.H.

Friday, June 27, 2003

No. 50

Contains: Governor's Veto Messages, Meetings, Work Sessions and Notices

HOUSE CALENDAR

NOTICE

MEMBERS OF THE HOUSE:

The House will meet in session on **Monday, June 30, 2003 at 10:00 a.m.** to act on gubernatorial veto messages. We will first take up House Bills and then Senate Bills if the Senate overrides any vetoes.

Study committee appointments are being made. Members are asked to limit the meeting schedule for study committees during the months of July and August to a minimum. Please be considerate of members' schedules and vacation plans.

The 2003 Manual for the General Court ("Red Book") has been printed and is available to members in the Secretary of State's office on the second floor of the State House.

Gene G. Chandler, Speaker

NOTICE

There will be a Republican Caucus on Monday, **June 30** at 9:15 a.m. in Representatives Hall.

Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Monday, **June 30** at 9:00 a.m. in Rooms 306-308 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

NOTICE

There will be **no** House Calendar the week of June 30. The next House Calendar will close on **Wednesday, July 9** at noon for mailing **Thursday, July 10**. During July and August the House Calendar will be published every two weeks. Members and staff who need to schedule meetings should make arrangements with the Clerk's Office for room availability and publication of meeting notices. Please note Calendar will close on **Wednesdays**.

CLOSES NOON WEDNESDAY:

TO BE MAILED THURSDAY:

July 9

July 10

July 23

July 24

August 6

August 7

August 20

August 21

Karen O. Wadsworth
Clerk of the House

GOVERNOR'S VETO MESSAGE ON HB 60

May 14, 2003

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 60, an Act changing the name of the advisory committee on shore fisheries and relative to the definition of shellfish and a rulemaking exemption for certain rules relating to marine species.

I have vetoed this bill only because I object to its last section, which limits the exemption from the provisions of RSA 541-A granted by current law for rules pertaining to marine species managed under the Atlantic States Marine Fisheries Compact. As far as I can tell, the current exemption has generated no problems, and the limitation proposed by H.B. 60 is neither necessary nor warranted. Until there is significant reform of the rulemaking process as currently implemented under RSA 541-A, I am hesitant to extend, even slightly, the rulemaking to which that statute applies. Where as here, the current exemption seems to be working well, there is no reason to limit it.

There has been no claim by anyone that the Department has abused the current exemption or passed rules under the exemption that overstep the authority delegated to the Department by the General Court. Even if I had no concerns about the implementation of RSA 541-A, I would object to the last section H.B. 60 as a solution in search of a problem. The change to the rulemaking exemption proposed in H.B. 60 was not initiated by the Advisory Committee on Shore Fisheries, by the Fish and Game Department, by the commercial fishermen subject to rules passed by the department under the exemption, or by any environmental group. The change was initiated by the Joint Legislative Committee on Administrative Rules.

Since becoming Governor, I have heard from a wide variety of sources, including agency heads, the Attorney General, members of the public and members of the General Court that the rule-making process is in serious need of revision. The fact that administrative agencies should be able to move more nimbly and quickly in adopting detailed rules than can the General Court in adopting legislation, is one of the advantages of rules over statutes and presumably one of the reasons why the legislature has delegated rulemaking power to agencies. This advantage has been deeply eroded by the fact that the process for adopting rules has become in many instances more complex, time-consuming and burdensome than the process for passing legislation.

Another reason why the General Court delegates administrative rulemaking power is to allow an administrative agency with significant expertise in a particular regulatory area to craft regulations within a set legislative mandate. In delegating this power, the legislature has correctly required that agencies seek public input, and follow an orderly and open process in creating rules. At the end of that process, legislative involvement appropriately includes oversight to assure that the rules do not exceed the original legislative intent or the scope of the delegation of authority and includes suggestions on non-substantive drafting issues. My concern stems from the increasing complexity of the process and my belief that substantive decisions made after full public input by the administrative departments to which the legislature has entrusted them, and legal judgments which are properly under the jurisdiction of the Attorney General should not be second-guessed or interfered with during the legislative oversight portion of the rulemaking process. When we ask our agencies to cut unnecessary red tape and to make their procedures as friendly to the public as possible, we should not make the agency, in adopting its own rules, jump through unnecessary bureaucratic hurdles and subject the agency to overly complex and cumbersome process.

I know that many legislators share the view that has been expressed to me by the Attorney General, numerous department heads and members of the public that the rulemaking process must be governed not only by a desire for due process and public input, but also by common sense and good judgment. While I believe in appropriate legislative oversight of the administrative rulemaking process, I am concerned that the RSA 541-A rulemaking process for executive branch agencies is becoming increasingly cumbersome and unnecessarily complex. Legislative red tape during the rulemaking process leads to administrative red tape that defies common sense and disserves the public. The legislative procedures implementing RSA 541-A need to be reformed. Until that happens, I strongly will consider a veto of any bill that extends the reach of RSA 541-A or limits an existing exemption. Because H.B. 60 limits a current exemption from the RSA 541-A rulemaking process, I have

vetoed it.
Respectfully submitted,
Craig R. Benson
Governor

GOVERNOR'S VETO MESSAGE ON HB 164

June 17, 2003

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 164, an Act increasing the gross premium tax on insurance provided by certain unlicensed companies.

H.B. 164 raises the premium tax paid by certain companies from 2% to 3%. I have made it clear that I will veto any bill that comes to my desk that raises taxes. The people of the State have made it clear that government should live within its means without increasing taxes. I have made a commitment to honor their mandate.

One justification offered for the tax increase contained in H.B. 164 is that it will bring the tax into line with neighboring states. If we were to follow that logic, we would adopt a sales and income tax and would suffer, like our neighbors, some of the highest taxes in the country. This is not the New Hampshire way.

Another argument made in favor of the tax increase contained in H.B. 164 is that it only affects out-of-state companies. This argument is unpersuasive because premium taxes are inevitably passed on to New Hampshire consumers.

Because this bill increases taxes, I have vetoed it.

Respectfully submitted,
Craig R. Benson
Governor

GOVERNOR'S VETO MESSAGE ON HB 278

June 11, 2003

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 278, an act reducing the crime of sexual assault from a class B felony to a class A misdemeanor in cases where the victim is between 13 and 15 years old and where the defendant is up to 4 years older than the victim.

I have vetoed this bill because I believe that the penalty for sexual crimes committed against our children should not be reduced. The specific objection I have to this bill is that the age gap between the victim and perpetrator is too great. For example, this bill would reduce the penalty for sexual assault in cases where the victim is only 13 years of age and the defendant is 17 years of age. That age gap represents the considerable developmental difference between a seventh grader and a junior in high school. Likewise, a sexual assault committed on a victim that is only 15 years of age by a defendant who is 19 years of age would receive a reduced penalty under the terms of this bill. Just as there is a significant difference between a 13 year old and a 17 year old, there is a considerable disparity in maturity between an average 15 year old who is still a high school student and a 19 year old who may be living on his or her own. Given the unequal influence an older perpetrator can have on a younger victim in these types of cases and the mental anguish such victims often endure, I do not feel that we should reduce the consequences for committing the crime of sexual assault in these types of cases.

Respectfully submitted,
Craig R. Benson
Governor

LAI D ON TABLE

HB 836, certifying that John Coughlin was elected as county attorney for Hillsborough county at the 2002 general election. (Pending question is the adoption of the majority committee report of ought to pass.)

HR 12, affirming revenue estimates for fiscal years 2003, 2004 and 2005. (Pending question is third reading and final passage.)

SB 29-FN-A-L, refunding certain meals and rooms taxes paid by the city of Manchester. (Pending question is the adoption of the committee report of inexpedient to legislate.)

SB 59-FN, relative to administrative license suspension hearings. (Pending question is the adoption of the committee report of ought to pass with amendment.)

HOUSE DEADLINES

Wednesday, December 3, 2003	Last day to report retained House and Senate bills.
Wednesday, January 7, 2004	First session day.
Thursday, January 29, 2004	Last day to report supplemental House bills going to a second committee.
Thursday, February 5, 2004	Last day to act on retained House and Senate bills and supplemental House bills going to a second committee.
Thursday, March 11, 2004	Last day to report all remaining supplemental House bills.
Thursday, March 18, 2004	CROSSOVER. Last day to act on all remaining retained bills and supplemental House bills.

COMMITTEE MEETINGS

FRIDAY, JUNE 27

WELLNESS AND PRIMARY PREVENTION COUNCIL (RSA 126-M:3), Room 203, LOB

10:00 a.m. Regular meeting.

MONDAY, JUNE 30

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), New Hampshire Department of Revenue Administration, Training Room, Community Services Division

1:30 p.m. Rescheduled regular meeting.

COMMISSION TO ASSESS THE OPERATING EFFICIENCY OF STATE GOVERNMENT (HB 171, Chapter 1:1, Laws of 2003), Room 100, State House

10:00 a.m. Public hearing.

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g), Secretary of State's Office, State House, Concord

Regular meeting, immediately following the House session.

TUESDAY, JULY 8

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:30 a.m. Subcommittee work session on retained *HB 729-FN*, relative to the regulation of tanning facilities.

WEDNESDAY, JULY 9

CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2), Room 201, LOB

9:30 a.m. Regular meeting.

FRIDAY, JULY 11

GOVERNOR'S COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION, AND TREATMENT (RSA 12-J), Rooms 202-204, LOB

9:30 a.m. Regular meeting.

MONDAY, JULY 14

CIVIL WAR MEMORIALS COMMISSION (RSA 21-K:18), Room, 203, LOB

4:00 p.m. Regular meeting.

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

1:00 p.m. Organizational meeting.

EMERGENCY MANAGEMENT SYSTEM OVERSIGHT COMMITTEE (RSA 21-P:51), Room 205, LOB

10:00 a.m. Regular meeting.

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Room 102, LOB

1:00 p.m. Regular meeting.

WEDNESDAY, JULY 16

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

9:00 a.m. Regular business.

THURSDAY, JULY 17

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

9:00 a.m. Regular meeting.

MONDAY, JULY 21

PROBLEMS RELATED TO THE DELIVERY OF LOCAL ASSISTANCE (HB 1109, Chapter 184:1, Laws of 2002), Room 301, LOB

10:00 a.m. Rescheduled regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Grafton County Delegation will meet on Monday, **June 30th** at 2:00 p.m. in Rooms 205-207, LOB to vote on the county budget.
Rep. John R.M. Alger, Chairman
Grafton County Delegation

The 2003 Manual for the General Court (Red Book) is now available. House members are entitled to three (3) copies which may be picked up in the Secretary of State's office.

William M. Gardner, Secretary of State

House members who have not received a copy of the Black Book may pick it up in the Clerk's Office.

Karen O. Wadsworth, Clerk of the House

The bound volumes of the 2002 Session Laws are now available on a first come, first served basis in the Office of Legislative Services, Room 109, State House, for those members who are interested.

Carol J. Holahan, Director, Legislative Services

REVISED FISCAL NOTES

The following HBs and SBs have revised fiscal notes: HBs 25, 65, 66, 69, 79, 91, 104, 109, 135, 177, 185, 198, 205, 210, 258, 274, 280, 302, 311, 316, 332, 353, 360, 387, 447, 483, 517, 521, 524, 528, 533, 543, 577, 578, 593, 598, 603, 605, 607, 608, 609, 610, 611, 612, 613, 614, 615, 617, 618, 619, 620, 621, 622, 623, 624, 626, 627, 628, 629, 630, 631, 632, 633, 634, 636, 637, 638, 639, 640, 644, 645, 646, 649, 654, 659, 661, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 687, 688, 689, 690, 691, 693, 694, 695, 696, 697, 698, 699, 701, 702, 703, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 728, 730, 732, 733, 735, 737, 738, 739, 741, 743, 746, 751, 758, 760, 770, 772, 783, 784, 785, 787, 788, 791, 796, 802, 803, 807, 810, 813, 814, 816, 823, 824, 826, 828, 830 and 835. SBs 14, 29, 33, 34, 35, 36, 46, 47, 54, 58, 63, 69, 70, 71, 78, 79, 94, 95, 96, 97, 98, 101, 107, 115, 120, 132, 152, 159, 161, 169, 197, 210, 215 and 222.

Karen O. Wadsworth, Clerk of the House

When the House Clerk's Office is aware of House Members who are hospitalized or homebound by serious illness, we will publish a list of names and addresses requested.

Albert C. Cernota, 129 Shelley Drive, Nashua, New Hampshire 03062-2550

Natalie S. Flanagan, PO Box 959, Atkinson, New Hampshire 03811-0959

Maurice E. Goulet, 48 Ministerial Branch, Bedford, New Hampshire 03110-5724

Colleagues who so desire may send cards and greetings to the address listed above.

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative policy or social activities and political meetings or events. Publication should not be construed as support for either the events listed or the view espoused by the individual or organization sponsoring the event.

All members are invited to a reception for Gephardt for President, featuring the candidate's son, Matt, on **June 29th**, 11:00 a.m., at the home of Rep. DeJoie, 481 Shaker Road, Concord. For more information call 226-0627

Rep. John DeJoie

The Wolfeboro Republican Town Committee will host its annual July 4 Pre-Parade Breakfast on Friday, **July 4**, from 8:00 to 9:00 a.m. at the Wolfeboro Inn, 90 North Main Street, Wolfeboro. Doors open 7:45 a.m. Special guests include US Senator John Sununu and US Congressman Jeb Bradley. Tickets are \$15 each and may be purchased from David Knox, 569-2530 (jdknox@worldpath.net) or Mark Derby, 569-0145 (mark@markderby.com). Directions to the Wolfeboro Inn may be found at <http://www.wolfeboroinn.com/directions.html>.

Rep. Mark S. Derby

The Coalition of NH Taxpayers will hold an Independence Day Cookout on Saturday, **July 5th** at the Hopkinton State Fairgrounds from noon to 5:00 p.m. Tickets are \$20 each and kids come for free. Menu will include BBQ pork, seafood gumbo, hamburgers and hot dogs. For directions and tickets call 228-3571 or send your ticket donation to: Lois Gardner, Treasurer CNHT, 156 Etna Road, Etna, NH 03750.

Rep. Phyllis L. Woods

Members and the public are welcome to attend the next meeting of the Governor's Commission on Alcohol and Drug Abuse Prevention, Intervention, and Treatment (RSA 12-J) on **July 11** from 9:30 to 11:30 a.m. in Rooms 202-204, LOB. The agenda will include further discussion about future programs, training, evaluation, and public awareness. It is expected to have a report of progress from grantees. Members are encouraged to take the opportunity to attend and provide input to the plan to prevent or overcome the addiction problems in our communities.

Rep. William E. Leber

From time to time the Speaker receives reports and audits from various committees, commissions, and departments. On the chance that some of these reports might be of interest to a member, I will periodically list the report that are received in the Speaker's office and available for viewing.

Reports most recently received include:

NH Supreme Court Annual Report of the Advisory Committee on Rules

Gene G. Chandler, Speaker

The House Republican Alliance will meet each Wednesday at 8:30 a.m. at the Upham Walker House, Park Street (across from

the State House).

Rep. Michael A. Balboni

The Department of Transportation will hold the following meeting:

July 22 – Plymouth Town Hall, Upstairs Meeting Room, 6 Post Office Square, Plymouth, 7:00 p.m. Combined public officials/public informational meeting, Plymouth, pavement rehabilitation and construction at the beginning of intersection of NH 175 and Green Street.

July 24 – Pembroke Academy Auditorium, 209 Academy Road, Pembroke, 7:00 p.m. Commission hearing, Allenstown-Pembroke, alterations to US Route 3 and Turnpike Street.

Rep. Edwin O. Smith, Chairman

Public Works and Highways Committee