

State of New Hampshire HOUSE RECORD

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Calendar and Journal of the 2004 Session

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Friday, January 16, 2004

No. 6

Contains: Reports and Amendments for January 22, Hearings and Notices

HOUSE CALENDAR

A MESSAGE FROM SPEAKER CHANDLER

MEMBERS OF THE HOUSE:

The House will meet in session on Thursday, **January 22** and February 5, at 10:00 a.m. The House will tentatively meet on Thursday, January 29, if necessary.

C-SPAN will have its "School Bus" in Concord on Wednesday, **January 21**, from 11:45 a.m. to 1:15 p.m., on the plaza in front of the State House. This 45-foot vehicle is specially outfitted with video monitors, computer and television equipment. Half of the bus serves as a mobile classroom while the other half functions as a working production studio. Members, along with the public, are invited to visit the bus on Wednesday.

Please note that all legislative and executive offices will be closed on Monday, **January 19**, in observance of Martin Luther King, Jr./Civil Rights Day. There will be no legislative business conducted on Tuesday, **January 27**, the day of New Hampshire's first-in-the-nation primary.

Chairmen and Vice Chairmen will meet on Tuesday, **January 20**, at 9:00 a.m. in Room 201, LOB.

Sincerely,
Gene G. Chandler, Speaker

NOTICE

There will be a Republican Caucus on Thursday, **January 22**, 2004 at 9:00 a.m. in Representatives Hall.
Rep. David W. Hess, Majority Leader

NOTICE

There will be a Democratic Caucus on Thursday, **January 22**, 2004 at 9:00 a.m. in Rooms 305-307 of the Legislative Office Building.

Rep. Peter H. Burling, Democratic Leader

NOTICE

Governor Craig Benson cordially invites all members and staff to attend his NH State of the State Address

on Thursday, **January 29** at 7:00 p.m. It will be held at the Silver Cultural Arts Center at Plymouth State University, Main and Court Streets in Plymouth. There will be a reception before the address beginning at 6:00 p.m. Please RSVP to 271-2121.

Gene G. Chandler, Speaker

Shuttle Service

For the convenience of the members during the winter months I have again instituted a shuttle service from the Storrs Street parking garage to the State House complex. I am pleased to inform you that the van, on loan from the Department of Transportation, operates on an alternative fuel, LNG (liquid natural gas).

The shuttle will operate **Tuesdays, Wednesdays, and Thursdays from 8:00 to 10:00 a.m. and again from 2:00 to 4:00 p.m. or until session is over.** The van will drop off and pick up on State Street between the State House and LOB. If you have any questions or need any assistance please feel free to call my office or Protective Services at 271-3321.

Gene G. Chandler, Speaker

NOTICE

LEGISLATIVE ETHICS COMMITTEE

Printed below is the Formal Statement of Charges and Notice of Hearing relative to Complaint 2003-3, as adopted unanimously by the Legislative Ethics Committee at its meeting held on January 13, 2004:

Dear Representative Kerns:

At its meeting on January 6, 2004, the Committee completed its preliminary investigation of Complaint #2003-3. After careful consideration, the Committee, by a unanimous affirmative vote, determined that this matter would proceed to a formal hearing on the basis of the facts and violations alleged and developed during the course of the preliminary investigation. In accordance with Procedural Rule 7, II, because additional facts concerning your conduct were developed during the course of the investigation which were consistent with the original complaint and appeared to constitute a pattern of behavior similar to the allegations contained in the complaints, the Committee has included these incidents in the statement of charges.

The hearing has been scheduled for February 9, 2004, at 9:00 a.m. in Room 105-A of the State House.

The Committee has voted to formally charge you with purposely violating Ethics Guidelines Section 1, Principles of Public Service, for conduct reflecting badly upon the legislature. The alleged conduct forming the basis of the formal charges is as follows:

- 1) Acting in a manner, through the use of your office of state representative, that was threatening and intended to intimidate others, including public officials and members of the public, as evidenced by voice messages directed to the Dover School Board; and other conduct included in the public record;
- 2) Using your title in a manner intended to make others believe that you were acting in an official capacity when that was not the case; and
- 3) Negotiating a personal check with "State of New Hampshire" printed on its face with the intent that the payee believe that it was drawn on the good faith and credit of the State of New Hampshire and which was drawn on insufficient funds.

Cumulatively, these violations constitute inappropriate conduct that reflects upon the legislature in accordance with RSA 14-B:3, I(d).

Please be advised that Procedural Rule 7, VI, states that you "shall file an answer with the committee, setting forth all denials, affirmative defenses, mitigating circumstances and other matters" which you intend to raise at the hearing within 14 days of your receipt of this letter. You may be represented by counsel at the hearing, you may secure the attendance of witnesses and the production of documents by subpoena, and you may examine and cross-examine witnesses.

Please contact me if you have any questions regarding this matter.

Very truly yours,
Representative Shawn N. Jasper
Chairman

NOTICE

LEGISLATIVE ETHICS COMMITTEE

All legislators and legislative officers are required to complete and file the annual "Financial Disclosure Form" with the Office of the Secretary of State no later than **January 31, 2004**. A copy of the form has been sent to each member of the House.

Rep. Shawn N. Jasper, Chairman
Legislative Ethics Committee

THURSDAY, JANUARY 22

REGULAR CALENDAR

SPECIAL ORDER

EDUCATION

CACR 2, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mark S. Carter for Education: This amendment has the endorsement of Governor Benson. It seeks to restore the authority of the Legislature over education policy and funding. It endorses the concept that the Legislature must cherish education, and that the representatives of the people are empowered to determine how to cherish it. It was the opinion of the majority of the Education Committee that after ten years without a say, the people must be given a voice at the ballot box in November 2004.

Vote 11-7.

SPECIAL ORDER

JUDICIARY

CACR 9, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms, which may be renewed. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Alf E. Jacobson for the **Majority** of Judiciary: This bill seeks to alter fundamentally the current life appointment system to a definite term of seven years later amended to ten-year terms. Since no evidence that the current appointment system has failed the people was offered to the committee, the committee voted the proposed CACR 9, as amended, Inexpedient to Legislate. One of the basic concerns was that judicial appointments, based on a seven- or ten-year method, may increase the political climate with judicial appointments. Further, many members who would have otherwise supported the ten-year term voted against the bill because the new retirement system was not compatible with the ten-year term. The term of ten years with no vesting after ten years would discourage younger applicants for a judgeship. **Vote 11-6.**

Rep. James E. Wheeler for the **Minority** of Judiciary: In order to better ensure quality in our judiciary, the minority believes that this proposal for a judicial term is essential. We believe that a judge who is aware that his or her term is going to expire and to have any possibility of re-nomination will have to be more aware of the way they treat litigants, will treat litigants more courteously, and will give the people of New Hampshire a more responsive judiciary. Furthermore, we are of the opinion that to give the people of New Hampshire the best judiciary possible, we should give the Governor a chance every ten years to examine a judge to see if they are the best person for the job, as the minority amendment does. We also reject the argument that there will be a lack of qualified candidates for a judicial position just because it is only for ten years – ten years is more job security than most people have. The minority believes this bill Ought to Pass with Amendment.

Constitution.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 747, establishing the crime victim employment leave act. **INEXPEDIENT TO LEGISLATE**

Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: Although the committee saw merit in the bill, there was no hard data or any study done to show that it was necessary. **Vote 11-7.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 803-FN-A-LOCAL, establishing the New Hampshire downtown development program. **WITHOUT RECOMMENDATION**

SB 74-FN-A-L, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Thomas J. Gillick for the **Majority** of Municipal and County Government: In order to provide for records management and preservation, a plan presented by the town clerk needs to be voted on by the local legislative body at an annual town meeting pursuant to RSA 31:95-c, II(c). The requirement to preserve these records is an obligation for the municipalities as set forth in RSA 41:58 and 41:59. The fund mechanism is to add a one-dollar fee onto the preparation fee established in RSA 261:152, Motor Vehicles; Preparation of Documents. Half of the fee (\$.50) will be kept at the local level for the management and preservation of all town documents and the other half (\$.50) will be sent to the state to supplement the Local Government Records Management Improvement Fund established under RSA 5:48. The committee heard compelling testimony from state and local officials on the need for additional local funding sources to enable towns to preserve their records. **Vote 11-4.**

Rep. David L. Buhlman for the **Minority** of Municipal and County Government: The funding mechanism attached to this bill is an extra dollar on the vehicle registration fee. This is just another way for municipalities to extract more money from citizens. Since nearly everyone pays the vehicle registration fee, there is no escape from paying the additional dollar. With taxes as high as they are, there ought to be enough money in the municipal budgets for record preservation without having to take more money from drivers, who may or may not live in the municipality.

SB 95-FN-L, relative to the development of workforce housing within municipalities. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert W. Brundige for the **Majority** of Municipal and County Government: The committee amendment to SB 95 expands the definition of “inclusionary zoning” in RSA 674:21, IV(a) to include workforce housing which allows the municipalities to adopt this zoning at the local level. This amendment clearly establishes “workforce housing” to be “housing that is affordable to a household with the income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published in the US Department of Housing and Urban Development in the Federal Register”. The regional planning commissions may compile a regional housing needs assessment that would include housing for persons and families of all levels of income. Also, the Office of State Planning and Energy will assist municipalities by developing, in conjunction with the New Hampshire Housing Finance Authority, a recommended uniform methodology for the development of regional housing needs assessment and provide guidelines for the development of municipal master plans that promote workforce housing. A three-year priority for financial grants to regional planning commissions granted by the Office of State Planning and Energy was also established. **Vote 9-6.**

Rep. Mary R. Cooney for the **Minority** of Municipal and County Government: The amendment replacing SB 95 removes all the definitions of workforce housing and removes the expedited court process for court cases involving denial of developers’ approvals by local planning boards. This bill was the result of a study committee. The court case Britton vs. the Town of Chester established that a municipality cannot zone out what is now termed workforce (or affordable) housing. The goal of SB 95 was to codify the case law. There are no definitions in law for what is “workforce” or “affordable”. The original bill established those parameters. Planning boards have expressed a need for guidelines so they will know if they are complying with the no exclusionary zoning statute and court decision. As is now and with the current amendment, the courts will have to decide case by case whether or not a municipality is in compliance. An important piece of the original bill was an expedited court process. One of the problems has been that local boards hold up a developer’s plan for so long in the planning process, and the courts are so slow to hear a case, that the developer cannot afford to proceed. It is a tactic used to discourage development. The lack of codification will result in more lawsuits and various judicial interpretations of the law as it exists. When one town illegally restricts development, it pushes the needed development to neighboring towns. The original amended SB 95 set guidelines the courts need to be able to decide court cases quickly. The way it is now, the court must decide each individual case, thereby further defining the parameters only by case law. The original SB 95 does not mandate any zoning changes on municipalities, it simply defines what constitutes compliance with current law. It allows municipalities to exercise local judgement concerning development.

RESOURCES, RECREATION AND DEVELOPMENT

HB 143-FN, relative to the registration fees and requirements for snow traveling vehicles. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David H. Russell for the **Majority** of Resources, Recreation and Development: The committee chose to retain this bill in order to give the new snowmobile laws a full calendar year to see how they work. The committee heard overwhelming testimony on the success of SB 315. Of 67,064 snowmobile registrations, 57,861 were members of a club, over 86%. The general consensus was that, in addition to the financial gain, the amount of volunteers also increased dramatically. Of particular interest was the case of the Pittsburg Ridge Runners, the largest club in the state. They were very skeptical of the bill initially, but since it has been in effect, the membership has increased over 400%. Also, they now have a full-time secretary, and for the first time in the club’s history, they have not borrowed money in the fall for trail maintenance. For these reasons, the committee recommends we find HB 143 Inexpedient to Legislate. **Vote 9-7.**

Rep. Richard T. Cooney for the **Minority** of Resources, Recreation and Development: This bill would remove the \$30 differential snowmobile fee levied on registrants who are not members of a snowmobile club. The bill also adds \$10 to each registration fee to get needed money in the hands of clubs which do trail maintenance. The minority feels that the Legislature should not be

forcing snowmobile owners to pay an extra \$30 to join a club. The minority also recognizes the clubs' need for more money to maintain the trails and feels a \$10 fee increase across the board should be sufficient for the short term. Snowmobile clubs should recruit members the old fashioned way – they should earn new members.

HB 516-LOCAL, relative to the standard of review for requests for excavating and dredging permits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kevin L. Camm for the **Majority** of Resources, Recreation and Development: This bill removes the Wetlands Bureau at the Department of Environmental Services from the task of substantiating bridge and highway designs such as public need, traffic counts, and traffic projections. The Department testified they do not have the expertise for bridge and highway design and they are in favor of the amendment. No environmental aspect of review regarding soils, wetlands, habitat, etc. is affected. The second part of this amendment confirms the need to dredge the Seabrook Harbor in the timeframe necessary, by the end of March 2004. The money is already appropriated in the capital budget. The Department testified in favor of this part of the amendment, as well. **Vote 14-2.**

Rep. Donald Brueggemann for the **Minority** of Resources, Recreation and Development: As written, this bill significantly circumscribes the ability of local communities to question many aspects of projects brought by the Department of Transportation. By limiting the scope of appeal on Department of Transportation projects, these local concerns may not be given the weight they deserve, thereby limiting the breadth of vision and experience that is brought to a particular project. In the end, better project designs will result by including more and varied voices which this bill seeks to silence.

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard T. Cooney for the **Majority** of Resources, Recreation and Development: This bill, as introduced in the Senate, would put in statute the provisions of Governor Shaheen's Executive Order 2002-Y, dated May 15, 2002. This order requires the Department of Environmental Services to notify owners of property with wells within 500 feet of a well which is found to be contaminated. Radon and arsenic are naturally occurring contaminants and not covered by this process. This notification is intended to warn well owners of potential contamination and to suggest that their wells be tested. This process is intended to protect public health. The amendment improves on this process by shortening the time delay in the notification and by requiring notification of remediation when it occurs. The Senate added a provision to require a report on a Department of Environmental Services plan to opt out of the MtBE program. The committee amendment clarifies this requirement by referring to RSA 485:16-b, which requires the Department to have a plan in place by January 1, 2004 to opt out of the MtBE program. **Vote 9-7.**

Rep. Pierre W. Bruno for the **Minority** of Resources, Recreation and Development: This bill creates legislation that codifies an Executive Order of former Governor Shaheen. The minority of the committee feels that SB 19, though well intentioned, does not serve the public good. The language requires that notification of groundwater contamination be made to all property owners within 500 feet of the contaminated well, regardless of the actual distance to their wells, and regardless of the position of those wells with respect to the actual presence of contamination. Such notification tends to incite concerns that may not be grounded in scientific reality and will unnecessarily place a stigma on many unaffected properties. Such stigma does little to protect public health, while undermining the property values of adjoining properties even if they are not contaminated. Department of Environmental Services (DES) rules that have existed since prior to the Executive Order require that owners of contaminated groundwater identify and remediate the source of contamination, as well as require the testing of water supply wells that are potential receptors of that contamination. SB 19 would even require notification to well owners that are up hydraulic gradient ("uphill") of a groundwater contamination source. DES issues "no further action at this time" when the standards are met. The caveat of "at this time" means that those property owners who were unnecessarily notified will always have an unnecessary stigma attached to their property. Since DES is complying with the Executive Order, there is no need to codify something that will cost \$63,500 in FY 2004 and increase by 3% annually in FY 2005 and each year thereafter.

SCIENCE, TECHNOLOGY AND ENERGY

HB 366, relative to mercury reduction. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Roy D. Maxfield for the **Majority** of Science, Technology and Energy: This bill establishes certain restrictions on the sale, distribution and use of mercury added products for which non-mercury alternatives exist. The majority of the Science, Technology and Energy Committee agrees that these actions will reduce incidental exposure to mercury, reduce mercury in the solid waste stream, and facilitate the recycling of mercury-containing products. Several states in the northeast region are taking similar action to ban specific products containing mercury and we are concerned that these products could be promoted in states that do not take action. Approximately 20% of the mercury deposited in the northeast originates from sources within the region. The committee held nine public hearings on this bill and concluded that this amended version will continue our commitment during the past several years for emissions reductions. The committee rejected an outright disposal ban proposed by the bill sponsor because of 28-a issues associated with monitoring, collection and disposal. **Vote 10-1.**

Rep. Lee G. Slocum for the **Minority** of Science, Technology and Energy: This bill bans the most commonly used thermostat,

the round Honeywell thermostat, that is known for stability and efficiency. Inexpensive substitutes result in temperature fluctuations, which tend to cause the user to raise the temperature setting. The net effect is that more energy is consumed which generates more pollution, which increases the mercury in New Hampshire lakes and streams. This bill also bans switches used in gas ranges which have no electrical supply and bans certain pressure-sensitive switches which, according to industry spokesmen, have no substitute and involve significant safety issues. Finally, the bill bans several types of medical equipment which are, by law, already disposed of properly by medical providers and are, in some cases, the most reliable. While we can all agree that we need to reduce mercury in New Hampshire waters, this is clearly not the way to go about it.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HCR 10, recognizing New Hampshire's ratification of the original Thirteenth Amendment to the United States Constitution. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Peter M. Sullivan for the **Majority** of State-Federal Relations and Veterans Affairs: This bill calls upon the Legislature to recognize the ratification of the so-called "original Thirteenth Amendment". This issue may have a place in the internet political discussion groups, but does not receive the support of the committee. **Vote 7-4.**

Rep. Richard Marple for the **Minority** of State-Federal Relations and Veterans Affairs: Page 101 of the House Journal of December 9, 1812 recorded that the committee assigned to report on this amendment was, "in their opinion, not expedient to adopt". The innate wisdom of the entire General Court ignored the committee's opinion, and it was ratified as recorded on Page 101 as aforesaid. The minority asks that the current General Court emulate their forebearers and do likewise.

HCR 11, relative to state and federal government relations. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter M. Sullivan for the **Majority** of State-Federal Relations and Veterans Affairs: In the 1860's, the United States fought a civil war over the issue of state vs. federal authority. In the 1950's, southern segregationists cited "State's Rights" in a failed effort to deny millions of Americans their God-given rights. Now, HCR 11 once again joins the battle over state vs. federal sovereignty. This resolution would have the New Hampshire Legislature second-guess the United States Supreme Court. To allow such activity is to undermine the rule of law and to turn our backs on over two centuries of established Constitutional principles. **Vote 9-2.**

Rep. Henry W. McElroy for the **Minority** of State-Federal Relations and Veterans Affairs: In 1787, the peoples' representatives for the thirteen sovereign states in session in Philadelphia in the Continental Congress took materials from several sources, including their then-existing State Constitutions, and wrote the United States Constitution. In this United States Constitution, the thirteen sovereign states spelled out precisely what the states wanted the federal government to do for them in Article 1, Section 8, Clauses 1-18. All other powers as stated in the 10th Amendment would remain with the sovereign states, respectively, or to the people. The states were to be the ultimate authority. HCR 11 states that any activity on the part of any United States government official or function that is deemed as unconstitutional by the New Hampshire General Court shall not have any authority in New Hampshire.

TRANSPORTATION

HB 243, relative to motor vehicle exhaust noise standards. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Lawrence A. Artz for the **Majority** of Transportation: This bill addresses redundant language in respect to the current statute that is causing some confusion regarding interpretation and enforcement of the current motor vehicle exhaust noise standards. The bill still retains the language requiring a muffler defined by current state law on every motor vehicle to be maintained in good working order and to prevent excessive or unusual noise, as well as to prevent the escape of excessive fumes, smoke, flame, gas, oil or fuel residue. This bill permits the use of non-factory specification exhaust system components that are industry-certified for legal use on motor vehicles where strict interpretation of the current statute would otherwise prohibit its use. This is of particular concern in situations where factory specification exhaust system components are no longer available due to vehicle age or other circumstances, or where a more durable and/or performance-oriented exhaust system component becomes available for a particular motor vehicle application. **Vote 8-7.**

Rep. Brenda L. Ferland for the **Minority** of Transportation: This bill was about exhaust noise levels and setting a 95-decibel reading on aftermarket systems. Some new systems have been modified by owners and car owners should be able to purchase another system and meet the standards. Because there are laws already in existence regarding noise levels and aftermarket exhaust systems, the minority of the committee feels this bill is not necessary.

HB 266, requiring youth bicyclists and skateboarders to wear protective headgear. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. George N. Katsakiores for the **Majority** of Transportation: The amended bill requires youth bicyclists under 16 years of age to wear protective headgear. As we are all aware, serious head injuries to bicyclists can be traumatic and devastating. Testimony before the committee supported the amended bill from organizations such as the New Hampshire Hospital Association to the Department of Health and Human Services Office of Community and Public Health to the American

Automobile Association (AAA) and the New Hampshire Bike Association. Nobody appeared in opposition. A total of 335 children less than 16 years of age were seen in hospital emergency departments for head injuries resulting from riding bicycles in 1999-2000. The New Hampshire Transportation Safety Agency (NHTSA) states that bicycle helmets are 85-88% effective in mitigating head and brain injuries. **Vote 8-7.**

Rep. Robert J. Letourneau for the **Minority** of Transportation: The minority of the committee adamantly opposes this proposed legislation that, in our opinion, reaches too far into the lives of New Hampshire citizens. While we believe that all children should protect their head, knees and elbows while riding bicycles, rollerblades, rollerskates, skateboards, skydiving, skiing, or when engaged in any other numerous risky activities, we also believe that this is a personal responsibility issue that is best left to the parents and citizens involved. After all, they have a vested interest in their own safety. We believe that this legislation is flawed in many ways. There is no exemption for private property. There is no standard for the protective headgear and the bill leaves that decision to the Commissioner of Health and Human Services. The penalty for this infraction is a violation. Who will enforce the law? Who will be responsible for the fine, and how will this criminal record affect the child's future in terms of law enforcement? Will the parents be responsible for the fine and ultimately the record? We do not know, and the bill does not address these concerns. The sponsors of this bill did not show any evidence that this is a major problem in New Hampshire. There were no New Hampshire statistics showing that we need this law. The testimony was based upon emotion rather than fact. We understand the compassion and intent of the sponsors, but disagree on the solution. The bottom line is that this bill reaches into the personal lives of New Hampshire citizens, and the minority of the committee trusts our citizens to make the right choices in terms of safety both for themselves and their children.

SB 159-FN, relative to milfoil and other exotic aquatic weeds. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Letourneau for Transportation: This bill creates an access water permit fee to fund programs relative to milfoil and other exotic weeds. The bill creates a myriad of splits to the boat registration fees, thus creating a number of special accounts. The amount of revenue that will be created by this legislation is unknown and cannot be determined by the state agencies involved. Testimony did not reveal how this will resolve the milfoil issue, nor where there are any specific programs mentioned - only that more revenue is needed. This House passed legislation last session that added fees to the boat registration and directed those dollars into the milfoil problem. The Director of Marine Patrol has told us that he believes that this issue is best resolved on a regional basis rather than by individual states. The U.S. Fish and Wildlife Service, through the International Association of Fish and Wildlife agencies, has awarded New Hampshire a grant to study this issue on a regional basis. When this three-year grant is concluded, the four regions will get together and pool their resources to formulate a plan or model for all states to follow. We believe that this bill is not needed at this time, and we will be addressing this issue in the future with a better understanding of the problem. **Vote 11-3.**

WAYS AND MEANS

HB 760-FN-A, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John M. Gibson for the **Majority** of Ways and Means: Any increase in the New Hampshire tobacco tax will create a noticeable effect on retailers along the border region. This could create a downward ripple effect on several important sources of revenue like the business enterprise tax, business profits tax, rooms and meals tax, gasoline tax, and the tax on beer and liquor. Reducing the rate of those who smoke in our state is a laudable goal. Any state-sponsored program to reduce the rate of smoking in New Hampshire should be prioritized in the budget of the Department of Health and Human Services during the budget process. This tax increase targets low- and middle-income smokers. Raising the tobacco tax will not guarantee a reduction of smokers in the state. This legislation also creates another dedicated fund in the State Budget. For the above-mentioned reasons, the majority of the committee voted Inexpedient to Legislate. **Vote 13-6.**

Rep. Susan W. Almy for the **Minority** of Ways and Means: New Hampshire has, by far, the lowest tobacco tax in the region. It also has among the highest smoking rates in the country, yet it spends less than any other state per capita on prevention and cessation. For the last few years, as the State contributed \$4.6 million annually toward these activities, the number of teen smokers dropped by 25-50%. The minority believes it is important to continue these tobacco prevention efforts and to increase them to the levels recommended by the national epidemiology center (CDC). Under the current budget, the State has invested \$1.6 million toward smoking reduction, but these dollars come from grants that will disappear due to the loss of matching funds. Our current low tobacco tax encourages youth smoking. By raising the tobacco tax, we could do a great deal to discourage childhood smoking and subsequent adult addiction. More teen smokers today means vastly higher health care costs, as well as productivity losses for the State's government, business and citizens in years to come. The new Commissioner of Revenue testified in March 2003 that a \$1.52 tobacco tax would conservatively generate \$102 million per year. By voting for this bill, the Legislature could restore the \$20 million in cuts to the Health and Human Services budget. By voting against it, we are increasing the burden for social welfare on our cities and towns, our seniors and disabled. We believe it is important to dedicate part of the revenues to reversing these cuts before sending the remainder (about \$80 million for 2005) to the Education Trust Fund to be distributed through legislative action for the reduction of escalating local property taxes.

HOUSE DEADLINES

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 retained bills and supplemental House bills.
Thursday, March 18, 2004	CROSSOVER. Last day to act on all remaining retained bills and supplemental House bills.

LAI D ON TABLE

HB 220, creating a committee to study amending the constitution to require that government decisions affecting the environment reflect consideration of the welfare of future generations. (Pending question is ought to pass)
HB 359, establishing a procedure for apportioning state senate and representative districts. (Pending question is inexpedient to legislate.)

COMMITTEE MEETINGS

TUESDAY, JANUARY 20

CHILDREN AND FAMILY LAW, Room 206, LOB

11:00 a.m. **HB 1410**, relative to terminating parental rights.
1:00 p.m. **HB 1415**, relative to de facto child custody.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

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

4:00 p.m. Regular meeting.

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1252-FN**, requiring the posting of notice by uninsured liquor licensees.
11:00 a.m. Continued public hearing on **HB 1342-FN-A-LOCAL**, establishing a new system of coinage for the state.
1:15 p.m. **HB 1178-FN**, relative to sales of tobacco products to persons under 21 years of age.
2:00 p.m. **HB 1240**, prohibiting minors from sitting in the smoking sections of restaurants.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

COMMISSION TO STUDY CHILD SUPPORT AND RELATED CHILD CUSTODY ISSUES (HB 310, Chapter 277:1, Laws of 2003), Room 206, LOB

3:00 p.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY

10:00 a.m. Tour of the New Hampshire State Prison for Women at Goffstown

EDUCATION, Room 207, LOB

10:00 a.m. **HB 1188**, relative to indoor air quality in public schools.
1:00 p.m. **HB 1297**, relative to credit for American sign language and transliteration as a foreign language.
1:30 p.m. Public hearing on proposed amendment to **HB 1353-FN**, mandating open enrollment schools statewide. The proposed amendment establishes an education certificate program. (Copies of the proposed amendment are available from the Sergeant-at-Arms counter)
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ELECTION LAW, Room 308, LOB

10:00 a.m. **HB 1269**, establishing a citizens' legislative redistricting advisory board.
10:30 a.m. Full committee work session on redistricting.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 10:00 a.m. Subcommittee work session on **HB 1338**, establishing Patriots Day in New Hampshire.
- 10:30 a.m. Subcommittee work session on **HB 1231-FN**, relative to the state flag.
- 11:00 a.m. Subcommittee work session on **HB 1208**, relative to standards of certification in credentialing for New Hampshire public school food service directors and staff.
- 1:00 p.m. Subcommittee work session on **HB 1160**, relative to the membership of the board of professional geologists.
- 1:30 p.m. Subcommittee work session on **HB 1248-FN**, adding a licensed nursing assistant member to the state board of nursing.

FINANCE, Rooms 210-211, LOB

- 10:00 a.m. **HB 612-FN-L**, making certain changes to the allocation of catastrophic aid expenditures.
- 11:00 a.m. **HB 369**, relative to the Henniker and Hillsborough district courts.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FINANCE – (DIVISION I AND DIVISION III), Rooms 210-211, LOB

Work and executive sessions on the following bill:

- 1:00 p.m. **HB 511**, transferring authority over the New Hampshire hospital security force to the department of safety.

FINANCE – (DIVISION I), Room 209, LOB

Work and executive sessions on the following bills:

- 2:00 p.m. **HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program and making an appropriation to the barn preservation fund.
- 2:30 p.m. **HB 781-FN-A**, establishing the office of corrections ombudsmen.

FINANCE – (DIVISION II), Room 212, LOB

Work and executive sessions on the following bills:

- 1:30 p.m. **HB 698-FN**, relative to electronic toll collections.
- HB 812**, relative to state acquisition of privately-owned airports.
- HB 1223**, establishing a committee to study state reimbursement to municipalities for emergency responses along interstate highways.

FINANCE – (DIVISION III), Room 210-211, LOB

Work and executive sessions on the following bill:

- 2:00 p.m. **HB 1339-FN-A-L**, relative to distribution of tobacco settlement funds.

FISH AND GAME, Room 307, LOB

- 10:00 a.m. **HB 1237**, allowing deer hunting with a primitive flintlock muzzleloader.
- 10:30 a.m. **HB 1313**, relative to establishing a spring season for bear baiting.
- 11:00 a.m. **HB 1126**, relative to obstructing or hindering hunting, fishing, or trapping of fish and game.
- 1:00 p.m. **HB 1420**, relative to requirements of the fish and game department before a coastal area may be closed to fishing of marine species.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

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

JUDICIARY, Room 208, LOB

- 10:00 a.m. **HB 1295**, relative to the right-to-know law.
- 11:00 a.m. **HB 1176**, relative to government access to private property.
- 1:00 p.m. **HB 1242**, establishing a committee to study protecting law enforcement officers and others from public disclosure of their personal information.
- 2:00 p.m. Continued public hearing on **HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB

- 10:00 a.m. Rescheduled regular meeting.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1182-FN**, allowing municipalities to adopt a property tax exemption for long-time resident elderly persons.
- 11:00 a.m. **HB 1346**, relative to income qualification in the elderly property tax exemption.
- 1:30 p.m. **HB 1211**, relative to the expenditure of land use change tax revenues.
- 2:30 p.m. **HB 1187-LOCAL**, allowing municipalities to deposit land use change tax revenues into a heritage fund.
- 3:00 p.m. **HB 1405-LOCAL**, relative to requiring municipalities to use official ballot voting procedures for bond issues.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

- 9:30 a.m. Subcommittee work session on **HB 1166**, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

- 1:00 p.m. **HB 1399-FN-A**, establishing the telecommunications planning and development fund.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

- 10:00 a.m. **HB 1372**, defining certain terms relating to military service.
- 11:30 a.m. **HR 24**, opposing the exploration for oil in the Arctic National Wildlife Refuge.
- 1:00 p.m. **HB 1245**, nullifying the Sixteenth amendment to the United States Constitution.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.
- 2:00 p.m. Subcommittee work session on **HB 1207-FN-A**, relative to an Operation Iraqi Freedom service bonus payment.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 1401-FN**, limiting the use of traffic signal preemption devices.
- 11:00 a.m. Continued public hearing on **HB 1258-FN**, establishing supporting public schools number plates.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WAYS AND MEANS, Room 202, LOB

- 10:15 a.m. Continued public hearing on **HB 1387-FN-A**, reducing the rate of the business enterprise tax.
- 11:00 a.m. Continued public hearing on **HB 1388-FN-A**, reducing the rate of the business profits tax.
- 11:30 a.m. **HB 1402-FN-A**, requiring a discount to wholesalers on cash purchases of tobacco tax stamps.
- 1:00 p.m. **CACR 20**, relating to: the conservation of the gravel and water resources of the state. Providing that the general court may provide for special assessments, rates and taxes on gravel and water extracted from the resources of the state.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WEDNESDAY, JANUARY 21

CHILDREN AND FAMILY LAW, Room 206, LOB

- 10:00 a.m. Subcommittee work session on **HB 1315**, relative to the disclosure of the identity of the person filing a report of suspected child abuse.
- 11:00 a.m. Subcommittee work session on **HB 1198**, relative to reporting child custody statistics.

COMMERCE, Room 302, LOB

- 10:00 a.m. **HB 1210**, relative to self-service storage facility liens.
- 11:00 a.m. **HB 1244**, relative to subcontractors' liens for labor and materials.
- 1:15 p.m. **HB 1180**, relative to the creation of express trusts for pets.
- 2:00 p.m. **HB 1224**, establishing the Uniform Trust Code in New Hampshire.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HCR 23**, on non-citizens during times of war.
- 10:45 a.m. **HB 1385**, establishing the protection of liberty act.
- 11:30 a.m. **HB 1414**, establishing a commission to study issues regarding the women's prison facility.
- 1:15 p.m. Electronic bracelet discussion/demonstration.

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

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

1:00 p.m. Subcommittee work session on **HB 1229**, establishing a commission to study bioaccumulative toxic chemicals.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

10:00 a.m. Subcommittee work session on **HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care.
10:45 a.m. Subcommittee work session on **HB 1174**, relative to acceptance of electronic records by government agencies.

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

9:00 a.m. Regular business.
9:30 a.m. Audits: The Unique College Investing Plan Annual Report September 30, 2003.
Fidelity Advisor 529 plan annual report September 30, 2003.
State of New Hampshire comprehensive annual financial report for the fiscal year ended June 30, 2003.
State of New Hampshire New Hampshire Sweepstakes Commission comprehensive annual financial report for the year ended June 30, 2003.

**GOVERNOR’S INCENTIVE AND REWARD PROGRAM EVALUATION AND REVIEW COMMITTEE (RSA 99-E),
Department of Safety, 2nd Floor Conference Room**

9:00 a.m. Organizational meeting

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

9:00 a.m. Subcommittee work session on **HB 1290**, establishing a time limit on the receipt of Temporary Assistance for Needy Families and **HB 1170**, establishing a committee to study access to medical records of persons with highly communicable diseases.
10:00 a.m. Executive session on pending legislation, if needed.

JUDICIARY, Room 208, LOB

9:30 a.m. **HB 1389**, relative to appearances and representation in courts.
10:30 a.m. **HB 1321-FN**, relative to claims before the state commission on human rights.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

10:00 a.m. **HB 1335-LOCAL**, relative to workers’ compensation requirements for out-of-state employers doing business in New Hampshire.
11:00 a.m. **HB 1298**, relative to dispute resolution within the context of public employee labor relations.
1:00 p.m. **HB 1376**, relative to agency fees assessed pursuant to collective bargaining agreements and representation of certain employees in grievances.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

2:00 p.m. **HB 1336**, relative to the procedures for the legislative ethics committee.
2:30 p.m. **HB 1403**, extending the reporting dates of certain study committees.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1189-FN-LOCAL**, increasing the property tax credit for service-connected total disability.
11:00 a.m. **HB 1333-LOCAL**, extending the veterans’ property tax credit to all honorably discharged veterans.
1:30 p.m. **HB 1331**, allowing recipients of the National Defense Service Medal to be eligible for the veterans’ property tax credit.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

1:15 p.m. **HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge.
1:45 p.m. **HB 1411-FN-A**, relative to funding state science laboratories and making an appropriation therefor.

2:15 p.m. **HB 1363**, establishing a policy for naming state highways, bridges, and buildings.

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

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

9:30 a.m. **HJR 22**, concerning foliage protection.

10:00 a.m. **HB 1205**, establishing a committee to study alternative waste disposal systems.

11:00 a.m. **HB 1136**, relative to homeowner exemptions from certain environmental permitting.

1:30 p.m. **HB 1209**, relative to substances added to public water supplies.

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

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Continued public hearing on **HB 1293**, relative to emission control equipment for certain vehicles.

1:00 p.m. **HB 1421-FN**, relative to solid waste incineration.

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

WATER RESOURCES STUDY COMMITTEE RSA (481:1-b), Room 103, State House

1:00 p.m. Regular meeting.

WAYS AND MEANS, Room 202, LOB

9:00 a.m. **CACR 25**, relating to prohibiting an income tax. Providing that no tax on personal income shall be levied by the state of New Hampshire.

10:45 a.m. **HB 1416-FN**, relative to a permanent property tax exemption for wooden poles and conduits.

1:00 p.m. Rescheduled public hearing on **CACR 22**, relating to taxation. Providing that a 2/3 vote is required to pass a new tax or to increase a tax after it is levied and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth.

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

FRIDAY, JANUARY 23

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

9:30 a.m. Regular meeting.

COMMISSION TO STUDY THE RIGHT-TO-KNOW LAW (HB 606, Chapter 287:3, Laws of 2003), Room 304, LOB

10:00 a.m. Regular meeting.

FINANCIAL EXPLOITATION OF THE ELDERLY AND PERSONS WITH DISABILITIES (HB 461, Chapter 227:2, Laws of 2003), Room 205, LOB

1:00 p.m. Regular meeting.

TASK FORCE ON DEAFNESS AND HEARING LOSS (HB 225, Chapter 117:2, Laws of 2003), Room 205, LOB

9:00 a.m. Regular meeting.

MONDAY, JANUARY 26

COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2), NH Higher Education Assistance Foundation, 4 Barrell Court, Concord

9:00 a.m. Investment meeting.

10:00 a.m. Regular meeting.

COMMISSION TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT (HB 1390, Chapter 114:2, Laws of 2000), Room 205, LOB

10:00 a.m. Regular meeting.

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

1:00 p.m. Regular meeting.

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE, (RSA 126-A:13), Room 205, LOB

1:00 p.m. Regular meeting.

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

9:00 a.m. Regular meeting and hearing.

WEDNESDAY, JANUARY 28

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1264**, relative to advertisement of prescription drugs.

11:00 a.m. **HB 1319**, relative to the percentage of ownership in physician hospital organizations.

1:15 p.m. **HB 1202**, relative to third-party payment of covered services ordered by the juvenile court.

2:00 p.m. **HCR 24**, urging the state to include individual development accounts in the Temporary Aid to Needy Families
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1257-FN**, relative to penalties for driving under the influence with a minor in the vehicle.

10:45 a.m. **HB 1391-FN**, relative to motor vehicle violations.

11:45 a.m. **HB 1368**, establishing a committee to study means of interdicting and preventing the distribution of controlled substances in New Hampshire.

1:00 p.m. **HJR 24**, concerning misdemeanors and probable cause.

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

EDUCATION, Room 207, LOB

10:00 a.m. **HB 1155**, establishing a committee to study the feasibility of implementing a training program for school board members.

10:30 a.m. Public hearing on a proposed amendment to **HB 1155**, establishing a committee to study the feasibility of implementing a training program for school board members. The proposed amendment clarifies alternative budget adoption procedures in school administrative units. (Copies of the amendment are available from the Sergeant-at-Arms counter.)

11:00 a.m. **HB 1162**, relative to school district policies on bullying.

1:00 p.m. **HB 1412**, relative to college and university recognition of student organizations and athletic teams.

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

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

11:00 a.m. Presentation by Northeast Resource Recovery Association.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

9:00 a.m. Subcommittee work session on **HB 1159**, relative to prohibited employment for state liquor commission employees.

9:30 a.m. **HB 1364-FN**, establishing a statutory joint committee to review and propose changes to state unclassified officers' salaries.

11:00 a.m. **HB 1324-FN**, authorizing the position of clerk of the board of manufactured housing.

1:00 p.m. Rescheduled public hearing on **HB 1306**, relative to collective bargaining by state employees.

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

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

10:00 a.m. Executive session on pending legislation, if needed.

JUDICIARY, Room 208, LOB

10:00 a.m. **HB 1201**, prohibiting the application of the doctrine of adverse possession or prescription when boundary lines can be proven by a preponderance of the evidence.

11:00 a.m. **HB 1286**, relative to oaths of office.

1:30 p.m. **HB 1218**, relative to criminal threatening by public servants.

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

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES, Room 306, LOB

- 10:00 a.m. Rescheduled public hearing on **HB 1263**, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program.
 - 11:00 a.m. Continued public hearing on **HB 1278-FN-LOCAL**, relative to the applicable minimum wage for hourly employees.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

LEGISLATIVE ADMINISTRATION, Room 307, LOB

- 2:00 p.m. **CACR 24**, relating to election of the attorney general. Providing that the attorney general shall be elected by the house of representatives and the senate.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1127**, relative to consideration of road improvements in property appraisals.
 - 11:00 a.m. **HB 1317-FN-LOCAL**, requiring cities and towns to complete valuations of property and relative to the implementation of property tax hardship relief provisions.
 - 1:30 p.m. **HB 1398-FN-LOCAL**, relative to relief and maintenance provided to certain non-residents.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WAYS AND MEANS, Room 202, LOB

- 10:00 a.m. Executive session on pending legislation, if needed.

THURSDAY, JANUARY 29

JUDICIARY, Rooms 206-208, LOB

- 9:30 a.m. **HB 1340-FN**, relative to the Informed Consent for Abortion Act.
- Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

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

FRIDAY, JANUARY 30

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

- 9:00 a.m. Rescheduled regular meeting.

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

- 10:00 a.m. Regular meeting.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

- 10:00 a.m. Ad hoc committee on co-occurring illnesses.

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62), Room 307, LOB

- 9:00 a.m. Regular meeting.

MONDAY, FEBRUARY 2

BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2), Room 105A, State House

- 2:00 p.m. Regular meeting.

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

- 10:00 a.m. Regular meeting.

ETHICS COMMITTEE (RSA 14-B:2), Room 105A, State House

- 9:00 a.m. Regular meeting.

TUESDAY, FEBRUARY 3

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1348-FN**, relative to registration of business organizations.

11:00 a.m. **HB 1282**, relative to exemptions from the consumer protection act.

1:15 p.m. **HB 1396**, relative to implementing a bottle deposit program.

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

EDUCATION, Room 207, LOB

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

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

10:00 a.m. **HB 1404**, prohibiting the release of information by university of New Hampshire officials in cases where students have contact with university of New Hampshire police.

11:00 a.m. **HB 1418-FN**, establishing a procedure for state employees to report suspected improper governmental activity.

11:30 a.m. Rescheduled public hearing on **HB 1355**, changing the name of the sweepstakes commission to the lottery commission.

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

JUDICIARY, Rooms 206-208, LOB

10:00 a.m. **HB 1253-FN-LOCAL**, prohibiting public funds, employees, and facilities to assist or perform abortions.

1:00 p.m. **HB 1177-FN**, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1175**, relative to the use of official ballot referenda as an optional form of town meeting.

11:00 a.m. **HB 1181**, relative to certain deliberative session amendment procedures in official ballot voting.

1:30 p.m. **HB 1185**, relative to the adoption of amendments to articles proposed in the first session in official ballot proceedings.

2:30 p.m. **HB 1214-FN**, relative to the penalty for filing an erroneous default budget.

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

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

10:00 a.m. **HB 1193**, establishing a committee to study the constitutionality of the federal income tax and constitutional abuses in the collection of the income tax and its effects on New Hampshire citizens.

11:30 a.m. **HCR 20**, affirming civil rights and liberties and opposing federal measures that infringe on such rights and liberties.

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

WAYS AND MEANS, Room 202, LOB

10:00 a.m. **HCR 25**, declaring that the directives of the judicial branch in the Claremont cases that the legislative and executive branches define an “adequate education,” adopt “standards of accountability,” and “guarantee adequate funding” of a public education are not binding on the legislative and executive branches.

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

WEDNESDAY, FEBRUARY 4

COMMERCE, Room 302, LOB

10:00 a.m. **HB 1409**, relative to the disclosure of protected health information by court ordered service providers.

11:00 a.m. Rescheduled public hearing on **HB 1267**, requiring fast food restaurants to provide nutritional information to consumers.

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

1:15 p.m. **HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

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

CRIMINAL JUSTICE AND PUBLIC SAFETY, Rooms 202-204, LOB

- 10:00 a.m. **HB 1173**, establishing a committee to study the discontinuation of the use of social security numbers in the criminal justice system.
- 10:30 a.m. **HB 1239**, relative to records access by private investigators.
- 11:00 a.m. **HB 1347-FN**, implementing a “good time” sentence reduction system for inmates in the state prison system.
- 11:30 a.m. **HB 1349-FN-LOCAL**, relative to medical parole.

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

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

- 10:00 a.m. **HB 1406**, relative to the regulation of physician assistants.
- 11:00 a.m. **HB 1419**, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services.

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

JUDICIARY, Room 208, LOB

- 10:00 a.m. **HB 1228**, requiring legislative approval of changes in the uniform fine schedule.
- 1:00 p.m. **HB 1191-FN**, relative to court proceedings.
- 2:00 p.m. **HB 1142**, relative to tort liability to third persons for oil spills.

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

LEGISLATIVE ADMINISTRATION, Room 307, LOB

- 2:00 p.m. **HB 1307-FN**, relative to review of final proposed rules under the administrative procedures act.
- 3:00 p.m. **HB 1308-FN**, relative to lobbying activities by state employees.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1304-LOCAL**, relative to notice for zoning rehearings.
- 11:00 a.m. **HB 1151**, relative to membership on the zoning board of adjustment.
- 11:30 a.m. **HB 1392**, relative to preapplication review of projects submitted to a local planning board.
- 1:30 p.m. **HB 1357**, relative to cluster zoning and the village plan alternative.
- 2:30 p.m. **HB 1359-FN-LOCAL**, relative to notice requirements for public hearings on certain zoning changes.

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

MONDAY, FEBRUARY 9

ETHICS COMMITTEE (RSA 14-B:2), Room 105A, State House

- 9:00 a.m. Formal hearing of complaint #2003-3.

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

- 1:00 p.m. Regular meeting.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

- 1:00 p.m. Ad hoc committee on co-occurring illnesses.

PUBLIC HIGHER EDUCATION STUDY COMMITTEE (RSA 187-A:28-a), UNH, Durham

- 10:00 a.m. Regular meeting.

TUESDAY, FEBRUARY 10

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HB 1351-FN**, relative to penalties for acts committed during a riot.
- 10:30 a.m. **HB 1361**, relative to sentences for certain offenses committed on or near a public college or university campus.
- 11:15 a.m. **HB 1407**, granting limited law enforcement authority to certain federal officers stationed in New Hampshire.

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

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

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

JUDICIARY, Room 208, LOB

11:00 a.m. Rescheduled public hearing on ***HB 1394***, relative to de novo appeals in certain criminal proceedings.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. ***HB 1291-LOCAL***, relative to elderly and handicapped priority low-income housing.

11:00 a.m. ***HB 1236-FN-LOCAL***, relative to municipal use of impact fees.

1:30 p.m. ***HB 1137***, relative to the use of impact fees.

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

SETBACK REQUIREMENTS FOR SEPTAGE, BIOSOLIDS AND SHORT PAPER FIBERS STUDY (SB 87, Chapter 302:1, Laws of 2003), Room 303, LOB

9:00 a.m. Regular meeting.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

10:00 a.m. ***HCR 22***, urging Congress to withdraw the United States from the United Nations.

11:30 a.m. ***HCR 21***, urging the reduction of the federal gasoline and diesel fuel excise tax.

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

WEDNESDAY, FEBRUARY 11

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. ***HB 1279***, establishing a committee to study the adoption and implementation of the multistate forensic DNA compact in New Hampshire.

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

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

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

JUDICIARY, Rooms 206-208, LOB

9:30 a.m. ***HB 1220-FN***, relative to banning partial birth abortion.

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

LEGISLATIVE ADMINISTRATION, Room 307, LOB

2:00 p.m. Executive session on pending legislation.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

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

FRIDAY, FEBRUARY 13

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

10:00 a.m. Subcommittee meeting.

TUESDAY, FEBRUARY 17

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. ***HB 1190***, relative to exceptions to the carrying or selling of certain weapons.

10:30 a.m. ***HB 1271-FN***, repealing the license to carry provisions of state law.

11:30 a.m. ***HB 1310***, relative to licenses to sell firearms.

1:00 p.m. ***HB 1371-FN***, prohibiting the sale or possession of pocket knives in safe school zones.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1172-LOCAL**, relative to compensation of county convention members for county business.
- 11:00 a.m. **HB 1328**, requiring the development of a plan for the elimination of county government by the year 2011.
- 1:30 p.m. **HB 1395**, relative to representation by the county attorney in county matters.
- 2:00 p.m. **HB 1143**, relative to legislators temporarily serving as county commissioners.

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

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 306, LOB

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

WEDNESDAY, FEBRUARY 18

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HR 21**, reaffirming the death penalty.
- 11:00 a.m. **HB 1380-FN**, establishing a criminal penalty for unauthorized video surveillance.
- 11:30 a.m. **HB 1341-FN**, relative to prohibited computer practices.
- 1:30 p.m. **HB 1219-FN**, establishing penalties for transmission or distribution of obscene electronic mail.

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

FRIDAY, FEBRUARY 20

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

- 9:00 a.m. Regular meeting.

COMMISSION ON THE EDUCATION OF THE DEAF (HB 1283, Chapter 43:2, Laws of 2000), Room 103, State House

- 10:00 a.m. Regular meeting.

TASK FORCE ON FAMILY LAW (HB 447, Chapter 250:1, Laws of 2002), Room 208, LOB

- 2:00 p.m. Regular meeting.

MONDAY, MARCH 1

BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2), Room 105A, State House

- 2:00 p.m. Regular meeting.

TUESDAY, MARCH 2

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HB 1147**, relative to the use of deadly force in defense of a fetus.
- 11:00 a.m. **HB 1343-FN**, making it a crime to cause the death of a fetus as a result of committing a violent act against a pregnant woman.
- 1:00 p.m. **HB 1360-FN**, including “unborn child” in the definition of “another” for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide.

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. Executive session on pending legislation, if needed.

WEDNESDAY, MARCH 3

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. Executive session on pending legislation, if needed.

FRIDAY, MARCH 5

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

9:00 a.m. Continued meeting.

COMMISSION TO IDENTIFY MEDICAL ERRORS AND THEIR CAUSES (HB 287, Chapter 255:6, Laws of 2003), Room 205, LOB

10:00 a.m. Regular meeting.

MONDAY, MARCH 8

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

1:00 p.m. Regular meeting.

SETBACK REQUIREMENTS FOR SEPTAGE, BIOSOLIDS AND SHORT PAPER FIBERS STUDY (SB 87, Chapter 302:1, Laws of 2003), Room 303, LOB

9:00 a.m. Regular meeting.

TUESDAY, MARCH 9

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

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

WEDNESDAY, MARCH 10

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 100, State House

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

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. Executive session on pending legislation, if needed.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Merrimack County Executive Committee will meet on the following days to review and approve the 2004 Merrimack County Departments Budgets. The meetings will be held at the McDonnell Building, Lower Level, 4 Court Street, Concord.

Friday, **February 13** at 9:00 a.m. Delegation, Treasurer, Administration, Complex Maintenance, Information Technology, Purchasing, Registry of Deeds, etc.

Friday, **February 20** at 9:00 a.m. Human Services, Juvenile Diversion, Grant Agencies, County Conservation District, Visitation Center, UNH Cooperative Extension and JAIBG Grant.

Monday, **March 1** at 11:00 a.m. Nursing Home.

Friday, **March 5** at 1:00 p.m. Corrections/Academy Program

Monday, **March 8** at 9:00 a.m. County Attorney, Medical Referee, Pre-Trial/Diversion, Sheriff and Dispatch,

Friday, **March 12** has been left open for any meetings that may have to be rescheduled due to weather conditions, etc.

Rep. Roy D. Maxfield, Chairman

Merrimack County Executive Committee

REVISED FISCAL NOTES

The following HBs have revised fiscal notes: HBs 656, 730, 712, 727, 1207, 1213, 1251, 1311, 1339, 1344, 1345, 1352, 1353, 1387, 1388 and 1399.

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.

Robert H. Milligan, 42 Patten Road, Merrimack, New Hampshire 03054-3064.

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 views espoused by the individual or organization sponsoring the event.

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 Department of Revenue Administration Annual Report 2003

Report and Budget on the Milfoil and Other Exotic Aquatic Plants Prevention Grant Fund for 2003

Division of Personnel Report to the General Court 2003

State of NH Comprehensive Annual Financial Report for FYE June 30, 2003

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 Main Street Republican Caucus will meet on Thursdays at 8:15 a.m. at the Upham Walker House, Park Street. Members are invited to attend.

Rep. Paul D. Spiess

A historical collection of the State of New Hampshire Liquor Commemorative Bottles issued between 1967-1985, on loan from state Representative Bob L'Heureux, will be on display in the State House Visitors' Center until March 1, 2004.

Rep. Robert J. L'Heureux

The Legislative Caucus for Young Children (LCYC) will be hosting a continental breakfast with Marian Wright Edelman, President of the Children's Defense Fund, on Tuesday, **January 20** at 9:00 a.m. at the Upham Walker House. All members of the House and Senate are invited.

Rep. Mary Jane Wallner

New Hampshire Land and Community Heritage Investment Program Authority (LCHIP) invites all legislators to an Open House on Wednesday, **January 21** from 4:00 to 6:00 p.m. at the LCHIP Office, 10 Dixon Avenue, Concord. LCHIP is located behind Siam Orchid on Main Street, in the Samuel Harris Dow building.

Rep. H. Charles Royce

The Greater Concord Chamber of Commerce cordially invites all legislators to a "Welcome Back" Breakfast, sponsored by Ransmeier and Spellman, at the Capital Grille, One Eagle Square on Thursday, **January 22** from 7:30 to 9:00 a.m.

Rep. Elizabeth S. Hager

Northeast Delta Dental cordially invites all members of the New Hampshire Legislature, and their staff, to its Fifth Annual Legislative Reception to be held Thursday, **January 22**, 2004 from 4:00 to 6:30 p.m. at its corporate offices at One Delta Drive

in Concord.

Rep. Sheila T. Francoeur

The Legislative Caucus for Young Children (LCYC) will meet on Monday, **January 26** at 1:30 p.m. in Room 206, LOB. The agenda will feature Eileen Mullen, Administrator, HHS, Children, Youth and Families, Family and Community Based Services, who will discuss the Incentive Funds, a program established by the State Legislature thirteen years ago to encourage cities, towns and counties to develop and maintain prevention programs, court diversion programs and alternative dispositions for juveniles (RSA 170-G:4,XVI). All members of the House and Senate are welcome.

Rep. Mary Stuart Gile

The members of the NH Chapter of the National Association of Insurance and Financial Advisors (NAIFA-NH) cordially invite all House members and staff to a legislative reception on Thursday, **January 29**, at the Barley House from 3:00 to 6:00 p.m.

Rep. Michael D. Whalley

All legislators are invited to the New Hampshire Community Health Centers' "Breakfast of Champions," at St. Paul's Church on Thursday, **February 5**. A session-day hot breakfast will be served from 7:30 to 9:00 a.m. There will be a brief program from 8:00-8:30 a.m. featuring Champions of Community Health Centers, including Mike Hickey (President and CEO of Verizon New Hampshire), providing an opportunity to learn about Health Centers and the role they play in the health and vitality of New Hampshire communities.

Reps. Sheila T. Francoeur and Edward D. Densmore

All members are invited to attend the Strafford County Republican Committee's Lincoln Day Dinner to be held on Friday, **February 20** at the Rochester Elks Lodge on 41 Columbus Avenue, Rochester. Social hour is from 5:30 to 6:30 p.m. with dinner and program to follow. Price for tickets is \$30. For tickets see Rep. Phyllis Woods or a member of the Strafford County Delegation.

Rep. Phyllis L. Woods

The Department of Transportation will hold the following meeting:

Jan 22 – Runnels Hall, Chocorua, 7:00 p.m. Advisory committee meeting, Route 16 Corridor Advisory Committee meeting.

Jan 28 – Lancaster Town Hall, 25 Main Street, Lancaster, 7:00 p.m. Public officials/public informational meeting, Lancaster, rehabilitating US Route 2, from the intersection of US Route 3 easterly 1.3 miles to the Cabot Motel.

Feb 11 – NHDOT, Rooms 112-113, 7 Hazen Drive, Concord, 2:00 p.m. Advisory Committee meeting. Congestion Mitigation and Air Quality (CMAQ) Advisory Committee meeting.

Feb 11 – NHDOT, Rooms 112-113, 7 Hazen Drive, Concord, 3:30 p.m. Advisory Committee meeting. Transportation Enhancement (TE) Advisory Committee meeting.

Mar 3 – Warren Town Hall, 19 Water Street, Warren, 7:00 p.m. Public officials/public informational meeting, Warren, pavement rehabilitation guardrail replacement and drainage improvements along NH Route 25 beginning at the intersection of 118 proceeding south 2.5 miles.

Mar 3 – Chichester Grange Hall, 54 Main Street, Chichester, 7:00 p.m. Public officials/public informational meeting, Chichester, widening and minor approach work at US Route 4/Main Street/Horse Corner Road intersection and sidewalk improvements.

Rep. Edwin O. Smith, Chairman

Public Works and Highways Committee

As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in **January 2004**. These listings will replace individual notifications in an effort to reduce paper usage and to ensure all members will be notified in a timely manner. Our schedule is tightly booked for the

remainder of the school year. Please contact the Visitors’ Center concerning school tour booking information. Thank you for your continued participation with your School Visitation Program.

Kenneth Leidner, Director

DATE	TIME	GROUP	CLASS/Size
1-20-04	10:45 to 1:00 SH/P	Belmont Elementary	4/48
1-21-04	10:45 to 1:00 SH/P	Belmont Elementary	4/70
1-22-04	10:30 to 12:30 SH/Lunch	Hills-Garrison School – Hudson	4/45
1-23-04	10:30 to 12:30 SH/Lunch	Hills-Garrison School – Hudson	4/65
1-26-04	10:00 to 12:30 SH/SC	Stratham Memorial School	4/54
1-27-04	9:45 to 12:00 SH/FG	Charlotte Ave. School – Nashua	4/75
1-28-04	9:45 to 12:00 SH/FG	Charlotte Ave. School - Nashua	4/50
1-28-04	12:30 to 2:00 SH/HM	North Hampton Elementary	5/56
1-29-04	9:45 to 12:00 SH/HM	Auburn Village School	4/73
1-30-04	9:45 to 12:00 SH/HM	Hooksett Village School	5/85
1-27-04	9:45 to 12:00 SH/FG	Charlotte Ave. School – Nashua	4/75
1-28-04	9:45 to 12:00 SH/FG	Charlotte Ave. School - Nashua	4/50
1-28-04	12:30 to 2:00 SH/HM	North Hampton Elementary	5/56
1-29-04	9:45 to 12:00 SH/HM	Auburn Village School	4/73
1-30-04	9:45 to 12:00 SH/HM	Hooksett Village School	5/85

THURSDAY, JANUARY 15

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2003-0528h

Amendment to CACR 2

Proposed by the Committee on Education - R

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

RELATING TO: the legislature’s authority concerning the content, extent, beneficiaries, level and source of funding of public education.

PROVIDING THAT: the legislature shall have exclusive authority to determine the content, extent, beneficiaries, level and source of funding of public education.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious

capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Amend the bill by replacing section IV with the following:

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

“Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education* and that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature exclusive authority to determine either directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education. 2004-0105h

Floor Amendment to CACR 2

Proposed by Reps. M. Carter, Alger, S. L'Heureux, Giuda and Carson

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

RELATING TO: the legislature's authority concerning the content, extent, beneficiaries, level and source of funding of public education.

PROVIDING THAT: the legislature shall have authority (subject to the supreme court's power to review for rational basis) to determine the content, extent, beneficiaries, level and source of funding of public education.

Amend the resolution by replacing all after the resolving clause with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have the authority under this article (subject to the supreme court's power to review for rational basis) to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education*

and that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2004.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:
“Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]
Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have the authority under this article (subject to the supreme court’s power to review for rational basis) to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education* **and** that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.”

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2004 General Court” shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature authority (subject to the supreme court’s power to review for rational basis) to determine either directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education.

2003-2368h

Amendment to CACR 9

Proposed by the Minority of the Committee on Judiciary - R

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

RELATING TO: 10-year terms for state judges.

PROVIDING THAT: all state judges appointed on or after January 1, 2005 be commissioned for 10-year terms, which

may be renewed.

Amend the bill by replacing paragraph II with the following:

II. That article 73 of the second part of the constitution be amended to read as follows:

[Art.] 73. [Tenure of Office to be Expressed in Commissions; Judges to Hold Office During Good Behavior~~[, etc.]~~ **for 10-year Terms**; Removal.] The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions, and all judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behavior except those for whom a different provision is made in this constitution. The governor with consent of the council may remove any commissioned officer for reasonable cause upon the address of both houses of the legislature, provided nevertheless that the cause for removal shall be stated fully and substantially in the address and shall not be a cause which is a sufficient ground for impeachment, and provided further that no officer shall be so removed unless he shall have had an opportunity to be heard in his defense by a joint committee of both houses of the legislature. **All judges appointed on or after January 1, 2005 shall be duly commissioned and sworn to 10-year terms and shall hold their offices during good behavior; except for those judicial officers for whom a different provision is made in this constitution. A judge appointed on or after January 1, 2005 may be reappointed, commissioned, and sworn to subsequent 10-year terms.**

Amend the bill by replacing paragraph IV - VI with the following:

IV. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

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

“To provide for 10-year, renewable judicial terms, are you in favor of amending article 35 of the first part of the Constitution and article 73 of the second part of the Constitution to read as follows:

[Art.] 35. [The Judiciary; Tenure of Office, etc.] It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well and for any term appointed; subject, however, to such limitations, on account of age, as may be provided by the constitution of the state; and that they should have honorable salaries, ascertained and established by standing laws.” and

[Art.] 73. [Tenure of Office to be Expressed in Commissions; Judges to Hold Office During Good Behavior for 10-year Terms; Removal.] The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions, and all judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behavior except those for whom a different provision is made in this constitution. The governor with consent of the council may remove any commissioned officer for reasonable cause upon the address of both houses of the legislature, provided nevertheless that the cause for removal shall be stated fully and substantially in the address and shall not be a cause which is a sufficient ground for impeachment, and provided further that no officer shall be so removed unless he shall have had an opportunity to be heard in his defense by a joint committee of both houses of the legislature. All judges appointed on or after January 1, 2005 shall be duly commissioned and sworn to 10-year terms and shall hold their offices during good behavior; except for those judicial officers for whom a different provision is made in this constitution. A judge appointed on or after January 1, 2005 may be reappointed, commissioned, and sworn to subsequent 10-year terms.”

VI. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2004 General Court” shall be printed in bold type at the top of the ballot.

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution provides that all state judges appointed on or after January 1, 2005 shall be commissioned for 10-year terms, which may be renewed.

2003-2478h

Amendment to HB 243

Proposed by the Majority of the Committee on Transportation - R

Amend the bill by replacing section 1 with the following:

□ Repeal. RSA 266:59, III, relative to modification of motor vehicle exhaust system, is repealed.

AMENDED ANALYSIS

This bill repeals a limitation on the modification of motor vehicle exhaust systems.

2003-2374h

Amendment to HB 266

Proposed by the Majority of the Committee on Transportation - R

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

AN ACT requiring youth bicyclists to wear protective headgear.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Riding on Bicycles; Headgear. Amend RSA 265:144 by inserting after paragraph IX the following new paragraph:

X. No person less than 16 years of age may operate or ride upon a bicycle unless he or she wears protective headgear of a type approved by the commissioner of health and human services.

Amend the bill by deleting sections 3-4 and renumbering the original section 5 to read as 3.

AMENDED ANALYSIS

This bill requires youth bicyclists to wear protective headgear.

2003-2480h

Amendment to HB 366

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

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

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or
- (2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

- (a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and
- (b) One of the following applies:

- (1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or
- (2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner

finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

③ Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and], use [it appropriately so that no person is exposed to the mercury],~~ **and otherwise handle and dispose of it in accordance with state and federal law;** and

④ Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.

2003-2551h

Floor Amendment to HB 366

Proposed by Reps. Phinizy and P. Allen - R

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

AN ACT relative to mercury reduction and the disposal of mercury-added products.

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

① New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

② New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or
- (2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

- (a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and
- (b) One of the following applies:

- (1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or
- (2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in

granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and], use [it appropriately so that no person is exposed to the mercury],~~ **and otherwise handle and dispose of it in accordance with state and federal law;** and

4 New Section; Disposal of Mercury-added Products. Amend RSA 149-M by inserting after section 57 the following new section:

149-M:58 Disposal Ban. Owners and operators of solid waste landfills, transfer stations, and incinerators may develop programs to sort, collect, and recycle or dispose of mercury-added products in accordance with applicable laws and regulations, and beginning January 1, 2006:

I. No person shall knowingly dispose of mercury-added products in solid waste landfills, transfer stations, or incinerators.

II. Except as otherwise provided by this section, every person who discards solid waste within the state shall separate mercury-added products from that solid waste for recycling or disposal as a hazardous waste. Any contractor who replaces or removes mercury-added products shall assure the proper separation and recycling or the disposal as a hazardous waste of any discarded mercury-added product.

III. After proper separation of mercury-added products, each person who discards that waste shall either:

(a) Set that waste in a designated area for collection by a hauler who shall deliver that waste to a facility that is legally authorized and permitted to accept that waste; or

(b) Deliver that waste to a facility that is legally authorized and permitted to accept that waste.

IV. Owners and operators of solid waste transfer, incineration, and landfill facilities shall not be found to have knowingly accepted or disposed of mercury-added products if, at a minimum, the facility has implemented all of the following mechanisms as required:

(a) Posting of signs at the facility providing notice of the prohibition against the disposal and incineration of mercury-added products.

(b) Written notification to, or agreements with, the facility's customers, providing notice of the prohibition against the disposal and incineration of mercury-added products.

(c) Implementation of a procedure, approved by the department, for periodically monitoring incoming wastes to detect the presence of mercury-added products at the facility and for separating out observed mercury-added products for return to the generator, recycling, or disposal as a hazardous waste.

(d) Provide customers with information about collection programs or facilities that are permitted to accept mercury-added products for recycling or disposal as a hazardous waste.

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

AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.

This bill also prohibits the disposal of mercury-added products after January 1, 2006.

2003-2508h

Amendment to HB 516-LOCAL

Proposed by the Majority of the Committee on Resources, Recreation and Development - R

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

AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

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

1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:

I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, the department of environmental services shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, the council shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** All findings of the department upon all questions of fact properly before it

shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, the court shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion	\$18,300,000
Total state appropriation section 5	\$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of ~~[\$1,000,000]~~ ***\$200,000*** shall be expended for the dredging of Hampton - Seabrook harbor~~[, provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects]~~ ***prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.)***

5 Effective Date.

- I. Section 4 of this act shall take effect upon its passage.
- II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.

This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

2004-0033h

Floor Amendment to HB 516-LOCAL
Proposed by Reps. Spang and Soltani

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

AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

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

1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:

I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** All findings of the department upon all questions of

fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion \$18,300,000

Total state appropriation section 5 \$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council.

\$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents.

\$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of ~~[\$1,000,000]~~ **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor~~[- provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects]~~ **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.)**

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.

This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

2003-2523h

Amendment to HB 760-FN-A

Proposed by the Minority of the Committee on Ways and Means - R

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

AN ACT increasing the cigarette tax for certain purposes.

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

1 Cigarette Tax Increased. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[52 cents]~~ **\$1.52** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

2 Distribution of Funds. Amend RSA 78:32 to read as follows:

78:32 Distribution of Funds.

I.(a) The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 37 cents **and less than 53 cents** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all ~~[tobacco products]~~ **cigarettes** sold at retail in this state imposed by RSA 78:7 and shall certify such amount to the state treasurer by October 1 of each year for deposit in the education trust fund established by RSA 198:39.

[H-](b) The commissioner shall make quarterly estimates of the amount of additional revenues that will be produced by such increase in tax rate for the next fiscal year and shall certify such amount to the state treasurer for deposit in the education trust fund established by RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1, and March 1 of each year.

II. The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state imposed by RSA 78:7 and shall certify such amount to the state treasurer by June 30 of each year for deposit as follows:

(a) **The sum of no less than \$7,800,000 shall be deposited in the tobacco use prevention fund established pursuant to RSA 126-K:15.**

(b) **A sum of no less than \$10,000,000 shall be deposited in the general fund.**

(c) **The remainder of the amount shall be deposited in the education trust fund, established by RSA 198:39.**

3 Applicability. Section 1 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable cigarettes in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 2003 shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

4 Tobacco Use Prevention Fund. Amend RSA 6:12, I(b)(67) to read as follows:

(67) Moneys received under RSA 126-K:15 **and RSA 78:32, II(a)**, which shall be credited to the tobacco use prevention fund.

5 Tobacco Use Prevention Fund. Amend the introductory paragraph of RSA 126-K:15 to read is follows:

126-K:15 Tobacco Use Prevention Fund. There is hereby established in the office of the state treasurer a fund to be known as the tobacco use prevention fund. Of tobacco settlement funds received by the state of New Hampshire, \$3,000,000 annually, commencing with fiscal year 2001, shall be deposited in the tobacco use prevention fund. **The sum of \$7,800,000 from tobacco tax revenues shall be deposited annually in the fund, pursuant to RSA 78:32, II(a).** Moneys in this fund shall be nonlapsing and continually appropriated, beginning with fiscal year 2001, for tobacco use prevention and cessation programs, which shall include but not be limited to:

6 Reference Change; Education Trust Fund. Amend RSA 198:39, I(d) to read as follows:

(d) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, **I and II(c)**, relative to tobacco taxes.

7 General Fund Appropriations Reductions for Department of Health and Human Services Repealed. 2003, 318:9, relative to general fund appropriations reductions for the department of health and human services, is hereby repealed.

8 Effective Date.

I. Section 7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 30 days after its passage.

AMENDED ANALYSIS

This bill increases the cigarette tax. Under this bill, the increased amount is to be used for the tobacco use prevention fund, to replace general fund appropriation reductions for the department of health and human services in fiscal years 2004 and 2005, and for property tax relief under the education trust fund.

2003-2550h

Floor Amendment to HB 803-FN-A-LOCAL

Proposed by Reps. Patten, Brundige, Lockwood and Kenison

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

AN ACT relative to the establishment of municipal economic development and revitalization districts by municipalities.

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

1 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed ~~[1-1/2]~~ 5 percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed ~~[3]~~ 10 percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed ~~[5]~~ 8 percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed ~~[10]~~ 16 percent of the most recent total assessed value of taxable real property in the municipality.

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

AMENDED ANALYSIS

This bill changes the limitations for municipalities that may create a municipal economic development and revitalization district under RSA 162-K.

2003-2571h

Floor Amendment to HB 803-FN-A-LOCAL

Proposed by Reps. Akins, Gillick, Theberge, Stohl and Schmidt

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

¶ Purpose and Findings. New Hampshire's urban, town, and village centers ("downtowns") are of critical importance to maintaining the long-term health and livability of our communities and our state. Our downtowns are an integral part of New Hampshire's social fabric. However, the trend toward low-density, automobile-dependent sprawl development that has taken root over the past decades has left many of our downtowns struggling to reach their full potential. The goal of this chapter is to address the public purpose and need to provide new tools for communities to encourage the development and revitalization of downtowns that are economically, culturally, and socially vibrant, pedestrian-friendly places in which to live, work, and recreate. This chapter is premised on the notion that communities that are committed to enhancing the viability and livability of their downtowns should be provided new tools to foster downtown development and revitalization through enhanced access to funding and through the authority to implement new funding and planning mechanisms.

¶ New Chapter; New Hampshire Downtown Development Program. Amend RSA by inserting after chapter 162-O the following new chapter:

CHAPTER 162-P

NEW HAMPSHIRE DOWNTOWN DEVELOPMENT PROGRAM

162-P:1 Definitions. In this chapter:

I. "Designated downtown" means all or a portion of an urban, town, or village center designated by the local legislative body of a municipality for purposes of encouraging compact, mixed-use, pedestrian-friendly development consistent with the purpose and goal of this chapter.

II. "Downtown development and revitalization" means development, infrastructure improvements, operations, and planning activities that foster the creation or maintenance of a designated downtown that contains a mix of residential, retail, and commercial uses laid out in a compact, pedestrian-friendly manner. Such development and revitalization includes, but is not limited to, public or private projects that:

- (a) Rehabilitate and reuse existing buildings within the designated downtown;
- (b) Develop vacant lots, including brownfields, within the designated downtown;
- (c) Increase the availability of housing within the designated downtown;
- (d) Improve transportation infrastructure and systems in a manner that fosters a pedestrian-friendly environment

within the designated downtown; or

(e) Increase the capacity of infrastructure, that may or may not be located in the designated downtown, to support higher density development within the designated downtown.

III. "Downtown development and revitalization fund" means a fund established by a city or town with a designated downtown, to be administered by the local downtown committee, as designated agent, for the sole purpose of fostering, supporting, and funding downtown development and revitalization within the designated downtown, consistent with goals of the downtown development and revitalization strategy adopted by the municipality. Such funds may be used as partial funding to support an application to the New Hampshire Main Street Center for designation as a Main Street Community, and as funding to support downtown development and revitalization projects under the Main Street program. Such funds also may be used to provide loans or other assistance for downtown development and revitalization projects on private property within the designated downtown, or on public property subsequently sold or leased to private interests, provided that the local downtown committee, following a public hearing, determines that the project will serve a public use and provide a public benefit, that it will not be primarily of benefit to private persons or uses even though such benefits may incidentally result, and that it will directly further the strategy adopted by the city or town for fostering downtown development and revitalization within the designated downtown and the public purpose of this chapter. A downtown development and revitalization fund within the meaning of this chapter shall be continuous and non-lapsing, such that any and all revenues placed in such a fund shall be allowed to accumulate without lapsing to a municipal general fund.

IV. "Downtown transportation projects" means any transportation infrastructure or operations designed to improve access to or within a designated downtown, such as through enhanced parking, public transit, and bicycle/pedestrian facilities, as well as streetscape improvements and measures designed to control or slow traffic to enhance pedestrian safety. Such projects shall not interfere with the character and pedestrian environment of the designated downtown.

V. "Local downtown committee" means a committee appointed by the governing body, or a subcommittee of a planning board, municipal agency, or governing body established for the purpose of recommending to the local legislative body the area to be delineated as a designated downtown, and a strategy for fostering downtown development and revitalization within the designated area.

162-P:2 Establishment of Designated Downtowns by Local Legislative Bodies.

I. A municipality may establish a designated downtown for purposes of this chapter by:

(a) Establishing a local downtown committee, which shall develop and submit to the local legislative body a recommendation of the area to be delineated as a designated downtown, as well as a strategy for fostering downtown development and revitalization within the designated downtown. Prior to submitting its recommendations to the local legislative body, the local downtown committee shall hold at least one public hearing to discuss the boundaries of the designated downtown and the strategy for fostering downtown development and revitalization within it.

(b) Designating an appropriate area as a designated downtown, and adopting a strategy for fostering downtown development and revitalization within the designated area. This shall be accomplished in the following manner:

(i) In a town, the questions whether to establish a particular designated downtown, and whether to adopt a strategy for fostering downtown development and revitalization therein, shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(ii) In a city or a town with a town council, the legislative body may consider and act upon the questions in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the questions on the official ballot for any regular municipal election.

II. No area of a city or town shall be deemed a designated downtown for purposes of this chapter unless and until:

(a) The boundaries of the area to be established as a designated downtown are delineated on a map adopted as part of the municipality's zoning ordinance.

(b) There is established a special downtown zoning district, local historic district, central business district or downtown overlay district that is co-extensive with the designated downtown, or of which the designated downtown is a part. Such district or districts shall contain provisions allowing or encouraging a mix of residential, retail, and commercial uses in a compact, pedestrian-friendly manner consistent with the goal of downtown development and revitalization within the meaning of this chapter. A designated downtown shall not include areas not contained within one or more of the above districts.

(c) There is a local downtown committee that is responsible for implementing the downtown development and revitalization strategy, including efforts to adopt and implement tools provided in this chapter, in the short and long-term.

III. Any municipality that has established a designated downtown shall notify the office of state planning and energy programs of such designation.

IV. Official designation of a downtown within the meaning of this chapter shall expire 5 years from the date of designation. Any municipality may renew designation of the downtown prior to a 5-year expiration, to continue the designation in full force and effect, by following the procedures set forth in paragraphs I-III of this section, and may do so unlimited times. Any legislation, planning tools, or programs adopted by a municipality by virtue of its designation of a downtown, including the establishment of a downtown development and revitalization fund and any moneys contained therein, shall continue from one 5-year period to subsequent, consecutive 5-year periods. If a municipality does not renew designation prior to the expiration of a 5-year period, any legislation, tools, or programs adopted by a municipality by virtue of its designation of a downtown, including any downtown development and revitalization fund and moneys contained therein, shall remain in effect for a period of one year following the 5-year expiration date, during which time a municipality's designation status may be renewed pursuant to the procedures set forth in paragraphs I-III of this section, except that a municipality may terminate its designation status at an earlier time, in the same manner in which such status was adopted. If a municipality does not renew designation status within one year of a 5-year expiration date, or terminates the designation, any funding mechanisms, planning tools, or programs established solely by virtue of this chapter shall terminate, except that any money in a downtown development and revitalization fund shall continue to be used for downtown revitalization and development purposes.

162-P:3 Priority Consideration for Grant and Loan Programs.

I. Consistent with the policy of RSA 9-B and the provisions of RSA 9-B:4, all state agencies may, when awarding grants or providing funding assistance, give priority consideration to projects that contribute to downtown development and revitalization in designated downtowns.

II. To obtain priority consideration in applications for grants or funding assistance, a municipality shall provide, with any such funding application, documentation of the establishment of a designated downtown. Such documentation shall consist of documentation of the official local legislative action establishing the designated downtown, a copy of a map delineating the designated downtown, a list of members of the local downtown development committee and a statement of their support for the funding request, and a copy of the municipality's downtown development and revitalization strategy.

III. For purposes of this section, "priority consideration" means that a project's contribution to downtown development and revitalization in a designated downtown shall be a factor weighing in favor of an application for funding or other financial assistance. Priority consideration shall not require an agency to grant a request in all circumstances; however, all other factors being equal, it may result in a successful funding application for a project contributing to downtown development and revitalization in a designated downtown, as compared to projects not located within or otherwise enhancing a designated downtown. When a project that contributes to downtown development and revitalization in a designated downtown is unsuccessful in an application for funding assistance, the agency rendering the unfavorable decision shall explain, in writing,

why the project was not funded.

162-P:4 Revenue Plan; Local Option.

I. The city or town in which a designated downtown is located may adopt a revenue plan, dedicated to downtown development and revitalization. Revenues shall be deposited in a continuous, non-lapsing downtown development and revitalization fund, to be administered by the local downtown committee, as designated agent. The annual report of any municipality adopting a revenue plan shall contain a financial report relative to the administration of the downtown development and revitalization fund. Such financial report shall include an accounting of the amount and source of revenues within the fund, and the amount and purpose of the expenditures, including the manner in which such expenditures further the goals of the downtown development and revitalization strategy adopted by the municipality. Revenue sources for the fund may include one or more of the following:

(a) Dedication of a portion of revenues collected pursuant to the land use change tax under RSA 79-A:25, II.

(b) A surcharge on motor vehicle registration fees of up to \$10 per vehicle to support downtown transportation projects, under RSA 261:153, VII.

(c) A surcharge of up to \$100 per 1,000 square feet on building permits issued by the municipality for commercial and/or residential structures located outside the designated downtown.

(d) General fund appropriations, donations, public or private grants, and other revenue funds, not specifically designated, including fines and forfeitures for violation of municipal ordinances.

II. Any town or city may adopt the provisions of paragraph I in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(b) In a city or a town with a town council, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the question on the official ballot for any regular municipal election.

III. The vote shall specify the provisions of the revenue plan provided in paragraph I. The revenue plan shall take effect in the tax year beginning April 1 following its adoption.

IV. A municipality may rescind all or a portion of any revenue plan established pursuant to this section in the manner described in paragraph II.

162-P:5 Enhanced Planning Tools; Local Option. A municipality that includes a designated downtown may, with the consent of the local governing body of the municipality:

I. Assess the property owners of historic buildings within the designated downtown that are substantially rehabilitated, at the pre-rehabilitation assessed value, for a period of up to 10 years. For purposes of this section, historic building means any building listed on, or eligible for listing on, the national or state historic register, or any building designated by a local historic district commission.

II. Establish speed limits of less than 25 miles-per-hour on state and local roads within the designated downtown.

162-P:6 Priority Consideration for the Siting of State Buildings and Programs.

I. State agencies seeking to lease, expand, or locate offices or other buildings appropriate for downtowns shall coordinate with the department of administrative services to give priority consideration to designated downtowns, with detailed consideration given to the leasing or use of existing structures as a first priority, and the construction of new structures within a designated downtown as a second priority. In constructing new buildings within a designated downtown, state agencies shall strive to adhere to applicable local regulations to ensure that new construction is consistent with the scale and character of the surrounding building environment and the city or town's goals for downtown development and revitalization.

II. In this section, "priority consideration" means that qualification status shall be a factor weighing heavily in favor of continuing the lease or use of existing offices and buildings, or siting new or expanded offices or buildings, within a designated downtown. Although priority consideration shall not mandate the retention or siting of offices or buildings within a designated downtown, the relevant state agency, in coordination with the department of administrative services, shall give detailed consideration to designated downtowns and, if electing to relocate or construct new offices or buildings in locations that are not designated downtowns, shall explain its decision in writing to the local downtown committee for the designated downtown, and to the council on resources and development.

3 State Economic Growth, Resource, Protection, and Planning Policy; Expenditure of Funds; Priority Consideration for Designated Downtowns. Amend RSA 9-B:4 to read as follows:

9-B:4 Expenditure of State or Federal Funds. All state agencies shall give due consideration to the state's policy on smart growth under RSA 9-B:2 when providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities. The intent of this action is that new investments and grants for existing sites and buildings in existing community centers will be given preference over investments in outlying areas where that is a practical solution for the use and community in question.

All state agencies may give priority consideration, as defined in RSA 162-P:3, III, to projects that contribute to downtown development and revitalization in designated downtowns, within the meaning of RSA 162-P.

4 New Paragraph; Land Use Change Tax; Local Option to Dedicate to Downtown Development and Revitalization. Amend RSA 79-A:25,II to read as follows:

II. The legislative body of the town or city may, by majority vote, elect to place the whole or a specified percentage, amount, or any combination of percentage and amount, of the revenues of all future payments collected pursuant to this chapter in a conservation fund in accordance with RSA 36-A:5, III, **and/or in a downtown development and revitalization fund pursuant to RSA 162-P:4**. The whole or specified percentage or amount, or percentage and amount, of such revenues shall be deposited in the conservation fund **and/or downtown development and revitalization fund** at the time of collection.

5 New Paragraph; Title and Registration; Fees for Registration Permits; Additional Fee for Downtown Development. Amend RSA 261:153 by inserting after paragraph VI the following new paragraph:

VII. Pursuant to RSA 162-P:4, I(b), a city or town that includes a qualified downtown may direct the city clerk or town clerk to collect, in addition to the fees imposed in RSA 261:153, an additional fee, not to exceed \$10 per vehicle, the revenues from which shall be deposited in a downtown development and revitalization fund and used to support downtown transportation projects under RSA 162-P.

6 Establishment of State Speed Zones; Exception for Designated Downtowns. Amend RSA 265:62, IV to read as follows:

IV.(a) The commissioner of transportation, upon the petition of the governing body of a municipality, shall determine if any prima facie speed limit hereinbefore set forth should be reduced to provide reasonable and safe conditions upon any part of the state highway system within the compact part of cities or towns; provided, however, the resulting speed limit **for parts of the state highway system not located within designated downtowns, as defined in RSA 162-P:1**, shall not be less than 25 miles per hour.

(b) The petition shall designate the area of the state highway system and the reasons for the reduction in the speed limit. The review of the petition shall include an engineering and traffic investigation and consultation with the petitioners. The commissioner shall provide the petitioners, in writing, the results of his findings. The commissioner may recommend a decrease in the posted prima facie speed limit, but, ~~[in no case shall the resulting speed limit be]~~ **with the exception of areas of the state highway system located within designated downtowns, as defined in RSA 162-P:1, the resulting speed limit shall not be** below 25 miles per hour.

7 New Subparagraph; Alteration of Limits; Local Authority to Set Speed Limit in Designated Downtown. Amend RSA 265:63, I by inserting after subparagraph (d) the following new subparagraph:

(d) Decreases the limit within any designated downtown, as defined in RSA 162-P:1.

8 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed ~~[1-1/2]~~ 5 percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed ~~[3]~~ 10 percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed ~~[5]~~ 8 percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed ~~[10]~~ 16 percent of the most recent total assessed value of taxable real property in the municipality.

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

AMENDED ANALYSIS

This bill establishes the New Hampshire downtown development program in which municipalities choosing to designate their downtown or town or village center for participation in the program may receive priority consideration for state grants and loans and siting of government facilities, and are provided local options to adopt planning tools and revenue raising measures dedicated to downtown development and revitalization.

The bill also changes the limitations for municipalities that may create a municipal economic and development district under RSA 162-K.

2003-2522h

Amendment to HCR 11

Proposed by the Minority of the Committee on State-Federal Relations and Veterans Affairs - R

Amend the resolution by replacing all after the title with the following:

Whereas, the original 13 States, including New Hampshire, ratified the Constitution of the United States of America upon the unanimous understanding and condition, later explicitly recognized in the Tenth Amendment to the Constitution, that the United States of America was delegated only such powers as were contained in the Constitution, and that powers not granted were withheld; and

Whereas, the original 13 States, including New Hampshire, ratified the Constitution of the United States of America upon the unanimous understanding and condition, later explicitly recognized in the Tenth Amendment to the Constitution, that each State reserved and retained all of its sovereignty not delegated to the United States of America in the Constitution; and

Whereas, all States subsequently admitted to the Union have entered upon the selfsame understanding and condition; and

Whereas, any purported act of the Government of the United States of America, or any Branch, Department, or officer

thereof, in violation of the Constitution of the United States of America is not a valid statute, executive order, judicial decision, or law in any sense; binds no one; confers no rights and imposes no duties; is, in legal contemplation, as inoperative as though it had never been issued; and can have no force of effect within the jurisdiction of any State, including New Hampshire; and

Whereas, the Constitution of the United States of America delegates or otherwise grants no power to the Government of the United States of America, or any Branch, Department, or officer thereof, to compel, force, on in any manner require, or to induce by the offer of or the threat of withholding benefits, any of the several States, including New Hampshire, to follow, agree or accede to, acquiesce in, or in any other way consider itself legally bound by or required to enforce or to allow or suffer to be enforced within its jurisdiction any purported statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, supposedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violates the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; and

Whereas, none of the several States, including New Hampshire, can forfeit, lose, or in any way compromise to any degree its reserved sovereignty, as explicitly recognized in the Tenth Amendment to the Constitution, because any other States, through their State Governments or their Representatives or Senators in the Congress of the United States, may from time to time have sought to have enacted or issued, followed, agreed or acceded to, acquiesced in, or in any other way considered themselves legally bound by or required to enforce or to allow or suffer to be enforced within their jurisdictions any purported statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, supposedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violated the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; and

Whereas, the people of New Hampshire cannot forfeit, lose, or in any way compromise to any degree the rights they retain, as explicitly recognized in the Declaration of Independence, the body of the Constitution of the United States of America, and the First through the Tenth, the Thirteenth, and other Amendments to the Constitution of the United States of America, as well as elsewhere, because the people of any other State, through their State Governments or their Representatives or Senators in the Congress of the United States, may from time to time have sought to have enacted or issued, followed, agreed or acceded to, acquiesced in, or in any other way considered themselves legally bound by or required to allow or suffer to be enforced within their States any purported statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, supposedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violated the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; now, therefore, be it

Resolved by the House of Representative's, the Senate concurring:

That, from this day forward, the State of New Hampshire's General Court as representative of the people thereof shall deem and treat as null, void, and in legal contemplation as inoperative as though it had never been issued any and every statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, purportedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, that violates the Constitution of the United States of America, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way; and

That, from this day forward, whenever any statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, purportedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, or any entity contracted to, shall violate the Constitution of the United States of America as determined by the New Hampshire General Court, by exceeding the powers or disregarding the disabilities set out explicitly or implicitly therein, or in any other way, and shall thereby infringe upon the sovereignty, powers, and rights reserved to and retained by the State of New Hampshire and the people thereof, as explicitly recognized in the Ninth and Tenth Amendments to the Constitution, New Hampshire may, as circumstances warrant, exercise its constitutional authority to nullify the aforesaid unconstitutional acts; and

That, should the Supreme Court of the United States uphold on grounds manifestly inconsistent with the Constitution of the United States of America the supposed validity of any statute, executive order, judicial decision, or other mandate of whatsoever title, description, or nature, purportedly emanating from the Government of United States of America, or any Branch, Department, or officer thereof, and challenged as to its unconstitutionality by the State of New Hampshire's General Court as aforesaid, then New Hampshire's General Court shall consider itself free to take whatever other action, in the exercise of its sovereign discretion, it determines shall comport with the Constitution of the United States of America, in order to interpose itself between the people of New Hampshire and the enforcement of such unconstitutional statute, executive order, judicial decision, or other mandate, or any judicial decision purportedly upholding the same.

2003-2426h

Amendment to SB 19-FN

Proposed by the Majority of the Committee on Resources, Recreation and Development - R

Amend RSA 485-C:14-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Notification shall be made in writing within 45 days after the department receives analytical data indicating the presence of the contamination. Each property owner or public water supplier shall be notified at least once upon the discovery of contamination in an area. The commissioner shall provide the notification and shall provide additional notification as the extent of contamination at a site is further determined and remediation occurs.

Amend the bill by replacing section 2 with the following:

2 Department of Environmental Services Report; MTBE. The commissioner of the department of environmental services shall report to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library by July 1, 2004 relative to the status of department's plan to opt out of the MTBE additive to gasoline program by January 1, 2004, pursuant to RSA 485:16-b.

Amend the bill by replacing section 4 with the following:

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

2003-2490h

Amendment to SB 74-FN-A-LOCAL

Proposed by the Majority of the Committee on Municipal and County Government - R

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

1 Motor Vehicles; Preparation of Documents. Amend RSA 261:152 to read as follows:

261:152 Preparation of Documents.

I. Permits shall be in the form prescribed by the director and shall be issued with such duplicates as ~~he~~ **the director** shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter **or in an electronic format**. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$1 for each application. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

II. This paragraph shall apply only to towns that have adopted a records management and records preservation fund under RSA 31:95-c, II (c). Permits shall be in the form prescribed by the director and shall be issued with such duplicates as the director shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter or in an electronic format. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$2 for each application. Fifty cents of this amount shall be used to support records management and records preservation programs in local government adopted pursuant to RSA 31:95-c and RSA 31:95-d, and \$.50 shall be deposited in the local government records management improvement fund established under RSA 5:48. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

2 New Subparagraph; Special Revenue Funds; Records Management and Records Preservation. Amend RSA 31:95-c, II by inserting after subparagraph (b) the following new subparagraph:

(c) Provide records management and records preservation plan from funds received by town clerk under RSA 261:152, II, provided that an up-to-date records management plan has been approved by the local legislative body at an annual meeting.

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

2003-2491h

Amendment to SB 95-FN-LOCAL

Proposed by the Majority of the Committee on Municipal and County Government - R

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

AN ACT relative to workforce housing within municipalities.

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

1 Innovative Land Use Controls; Inclusionary Zoning; Workforce Housing. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, **or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units**. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

2 New Subparagraph; Workforce Housing Defined. Amend RSA 674:21, IV by inserting after subparagraph (b) the following new subparagraph:

(c) "Workforce housing" means housing which is affordable to a household with income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the

household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission may compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674:21, IV(c), which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

4 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph:

V. Assist municipalities by:

(a) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment under RSA 36:47, II.

(b) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

5 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities for the development of workforce housing.

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

AMENDED ANALYSIS

This bill authorizes municipal land use ordinances to be used for the creation of workforce housing. This bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.
2003-2518h

Amendment to SB 95-FN-LOCAL

Proposed by the Minority of the Committee on Municipal and County Government - R

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

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing an acute shortage of housing that is affordable to a large number of working households.

II. The acute shortage of housing affordable to working households poses a grave threat to the state's continued economic growth. It presents a serious barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely impacts the ability of many communities to host new businesses.

III. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

IV. The New Hampshire supreme court, in *Britton v. Chester* (134 N.H. 439 (1991)) has established requirements for the exercise of municipal regulatory powers as they impact the development of workforce housing.

V. The purpose of this act is to codify and clarify the requirements established in *Britton v. Chester* and provide additional guidance regarding compliance with those requirements to local officials and the public.

2 New Chapter; Workforce Housing. Amend RSA by inserting after chapter 674 the following new chapter:

CHAPTER 674-A

WORKFORCE HOUSING

674-A:1 Definitions. In this chapter:

I. "Accessory apartment" means a separate dwelling unit designed for occupancy by no more than 2 people created largely within an existing single family home, which does not increase the overall size of the structure by more than 33 percent.

II. "Multi-family housing" means a building or structure containing 6 or more dwelling units, each designed for occupancy by an individual household.

III. "Municipal land use ordinances" means zoning, subdivision, site plan review, growth management, impact fee, and other such municipal ordinances and by-laws.

IV. "Realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of the municipality's land use ordinances. The collective impact of all such ordinances on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are realistic.

V. "Reasonable opportunities for the development of workforce housing" means a sufficient amount of vacant, developable land on which workforce housing is permitted; or in municipalities which are largely built up, a sufficient area that is reasonably available for lawful development or redevelopment as workforce housing.

VI. "Workforce housing" means housing which is affordable to a household with income of no more than 80 percent of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than 2 bedrooms, shall not constitute workforce housing for the purposes of this chapter. For the purpose of this chapter, the following types of housing shall be considered workforce housing:

(a) Owner-occupied housing (including condominium units) in which at least 25 percent of the units:

(1) Are initially purchased by a family earning no more than 80 percent of the median income for a family of 4 for the county or metropolitan area, as published by the U.S. Department of Housing and Urban Development from time-to-time, where the total cost of mortgage principal and interest, property taxes, association fees, and homeowner's insurance does not exceed 33 percent of the maximum allowed income of the purchaser. Calculation of housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the area; and

(2) For which there are deed restrictions or some other legally binding commitment requiring that the home be sold to a family earning no more than 80 percent of median income as set forth in subparagraph (1) for a period of not less than 15 years; or for which there is an equity-sharing arrangement by which a homeowner who sells the premises less than 15 years after purchasing it, contributes a share of the equity in said home to a non-profit workforce housing development organization, in accordance with written standards promulgated by the New Hampshire housing finance authority.

(b) Any housing subsidized by the state or federal government under any program to assist the creation of rental units in which all of the units are affordable to families earning 80 percent or less of median family income, as defined in the state or federal subsidy program. In order to qualify as workforce housing under this subparagraph, the developer must make a binding commitment that such units will remain affordable for not fewer than 30 years.

(c) Any subsidized or non-subsidized rental housing project in which the owner makes a legally-binding commitment for at least 20 years to maintain the rent in at least 25 percent of the dwelling units at no more than 30 percent of the income of a family earning 60 percent or less of the median income adjusted for family size for the county or metropolitan area in which the dwelling unit is located, as determined annually by the U.S. Department of Housing and Urban Development and to rent the rent-restricted units to such families.

(d) Manufactured housing, as defined in RSA 674:31, which is placed in a manufactured housing park, as defined in RSA 205-A:1, in which the park owner makes a legally binding commitment for at least 20 years, that for at least 25 percent of the dwelling units that the lot rent plus the mortgage principal and interest will not exceed 30 percent of the income of a family of 4 earning 80 percent of median family income for the county or metropolitan area in which the housing is located, as determined annually by the U.S. Department of Housing and Urban Development and to rent the rent-restricted units to such families. Calculation of housing costs shall be based on a 20-year fixed rate mortgage, 20 percent down payment, and prevailing mortgage rates for manufactured housing within the area.

(e) Accessory apartments.

(f) Apartments created by the conversion of single family houses into dwellings with 3 or more separate dwelling units.

674-A:2 Municipal Workforce Housing Opportunities.

I. Municipal land use ordinances shall afford reasonable and realistic opportunities for the siting of workforce housing including multi-family workforce housing.

II. When the provisions of RSA 674:1, VI require a legally binding commitment from the developer or owner, the municipality may require that during the entire period of the rent/cost restrictions, the developer or owner shall contract with the developer's choice of the following in order to monitor compliance and report to the municipality on an annual basis:

(a) The New Hampshire Housing Finance Authority.

(b) A professional property management firm in which no ownership interest is held by the owner of the workforce housing being monitored or any officer, director, or partner in such workforce housing.

(c) A certified public accounting firm.

(d) Local public housing authority.

674-A:3 Appeal of Local Decisions.

I. Any person whose application to develop workforce housing, as defined in RSA 674-A:1, VI, is denied or is approved with conditions or restrictions which have a substantial adverse impact on the viability of the proposed workforce housing development may bring an action in the superior court to obtain permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the municipal workforce housing requirements of RSA 674-A:2 or how the conditions or restrictions of approval have a substantial adverse impact on the viability of the proposal.

II. Except as provided in this section, the provisions of RSA 677 shall apply to appeals filed under this chapter.

III. A hearing on the merits shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause.

IV.(a) The court shall grant judgment for the plaintiff and the municipality shall be ordered to issue the necessary permits to enable the plaintiff's project to proceed, notwithstanding the non-compliance of the proposed project with any municipal land use ordinance, if the plaintiff establishes by a preponderance of the evidence that:

(1) He or she has applied in good faith for approval of a proposal to create workforce housing, and that such application has been denied, or approved with conditions or restrictions that have a substantial adverse impact on the viability of the proposal;

(2) The land use regulations of the municipality fail to comply with the requirements of RSA 674-A:2;

(3) The proposed housing complies with the statewide building code, set forth in RSA 155-A:1, IV and RSA 155-A:2, II; and

(4) The proposed development would not increase the number of year-round dwelling units in the municipality by more than 40 in a municipality with fewer than 2,000 year-round dwelling units at the time the proposal is submitted to the planning board, or more than 2 percent in all other municipalities;

(5) The proposed development would be located in an area that permits residential uses; and

(6) The proposed development is not located on property that has been designated by the state or federal government or the municipality for historic preservation or environmental protection,

(b) Unless the municipality establishes that:

(1) The proposed project fails to comply with standards that are necessary to adequately provide for:

(A) water supply;

(B) sewage disposal and ground water protection;

(C) wetlands protection;

(D) roads and traffic safety;

(E) fire and life safety protection; and

(F) buffering of architecturally inconsistent development.

(2) The municipality's decision rejecting or modifying plaintiff's proposal is necessary to protect other substantial public interests in health or safety and that the public interests clearly outweigh the need for the workforce housing project;

674-A:4 Appeals. An appeal of superior court orders issued under RSA 674-A:3 shall be to the supreme court under the rules of said court.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674-A:1, VI, which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

II-a. Subject to available state funding, each regional planning commission shall review the local land use regulations of any municipality in its region within 6 months of receiving a written request from the planning board, selectmen, or city council and make suggestions concerning the exclusionary effects of the ordinances and the ordinances' compliance with the municipality's obligation under RSA 674-A:2. As part of such review the regional planning commissioner shall make recommendations concerning ways in which the ordinances could be changed to bring the municipality into compliance.

4 Innovative Land Use Controls; Inclusionary Zoning; Workforce Units Required. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, ***or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units.*** Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

5 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph.

V. Assist municipalities by:

(a) Making available, upon request from a municipality, data produced or collected by state, local, or federal government agencies in determining its need for workforce housing.

(b) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment required by RSA 36:47, II.

(c) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

6 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities in meeting their legal obligations to provide realistic and reasonable opportunities for the development of workforce housing.

7 Effective Date.

I. Section 2 of this act shall take effect June 1, 2005.

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

AMENDED ANALYSIS

This bill requires municipal land use ordinances to provide for the creation of workforce housing and provides an expedited appeal for projects that are denied. It also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.

2004-0106h

Floor Amendment to SB 95-FN-LOCAL
Proposed by Rep. Patten

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

AN ACT relative to workforce housing within municipalities.

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

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing an acute shortage of housing that is affordable to a large number of working households.

II. The acute shortage of housing affordable to working households poses a grave threat to the state's continued economic growth. It presents a serious barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely impacts the ability of many communities to host new businesses.

III. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

IV. The purpose of this act is to clarify the requirements established in *Britton v. Chester* (134 N.H. 439 (1991)) and provide additional guidance regarding compliance with those requirements to local officials and the public.

V. This act is intended to provide the maximum feasible flexibility to municipalities in exercising the zoning powers delegated to them by RSA 674 consistent with their obligation to provide reasonable opportunities for the development of workforce housing, and is not intended to create a system of statewide land use regulation or a statewide zoning process.

2 New Subdivision; Municipal Workforce Housing. Amend RSA 674 by inserting after section 54 the following new subdivision:

Municipal Workforce Housing

674:55 Municipal Workforce Housing Opportunity.

I. Consistent with RSA 672:1, III-e, in every municipality that exercises the power to adopt land use ordinances and regulations pursuant to authority granted in RSA 674, such ordinances and regulations shall not prohibit or discourage the reasonable and realistic opportunities for the siting of workforce housing, including multifamily workforce housing. In order to provide such realistic opportunities, lot size and overall density requirements for workforce housing shall be reasonable. Municipalities shall not use unreasonable requirements for inclusionary zoning to prevent the development of projects that include workforce housing supported by higher income housing.

II. Definitions. In this section:

(a) "Multi-family housing" means a building or structure containing 6 or more dwelling units, each designed for occupancy by an individual household.

(b) "Reasonable and realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of the municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic.

(c) "Workforce housing" means housing which is affordable to a household with income of no more than 80 percent of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than 2 bedrooms, shall not constitute workforce housing for the purposes of this chapter.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for

persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, pursuant to RSA 674:55, which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

II-a. Subject to available state funding, each regional planning commission shall review the local land use regulations of any municipality in its region within 6 months of receiving a written request from the planning board, selectmen, or city council and make suggestions concerning the exclusionary effects of the ordinances and the ordinances' compliance with the municipality's obligation under RSA 674:55. As part of such review the regional planning commission shall make recommendations concerning ways in which the ordinances could be changed to bring the municipality into compliance.

4 Innovative Land Use Controls; Inclusionary Zoning; Workforce Units Required. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control ~~[regulations which]~~ **ordinances that** provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, **or which require that workforce housing units as provided in RSA 674:55 be included in any housing development that contains more than a specified number of total dwelling units; provide, however, that such requirements shall not mandate that more than 20 percent of the units in any such housing development be workforce housing.** Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

5 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph.

V. Assist municipalities by:

(a) Making available, upon request from a municipality, data produced or collected by state, local, or federal government agencies in determining its need for workforce housing.

(b) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment required by RSA 36:47, II.

(c) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

6 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities in meeting their legal obligations to provide realistic and reasonable opportunities for the development of workforce housing.

7 Office of State Planning and Energy Programs; Study of Impacts of Types of Development.

I. Subject to the availability of funding, the office of state planning and energy programs shall study the following issues:

(a) The relationship between various types of development (e.g., residential, commercial, and industrial) and demands for municipal services and the added costs thereof;

(b) The relationship between affordable housing development and population changes within and among municipalities;

(c) Consumer preferences for housing types, including smart growth/low impact development alternatives;

(d) Identification of ordinances, regulations, and practices used by municipalities that have the effect of excluding the development of workforce and affordable housing;

(e) Identification of model local land use ordinances and regulations that could be used by municipalities to provide reasonable and realistic opportunities for the development of workforce housing; and

(f) Identification of strategies that can be used to address negative perceptions of the impact of workforce and affordable housing upon communities.

II. The office of state planning and energy programs shall report its findings to the general court on or before June 1, 2005.

8 Effective Date.

I. RSA 674:55, II as inserted by section 2 of this act shall take effect June 1, 2006.

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

AMENDED ANALYSIS

This bill provides for municipal land use ordinances to provide for the creation of workforce housing. The bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.