

HOUSE RECORD

Second Year of the 162nd General Court Calendar and Journal of the 2012 Session

Vol. 34 Concord, N.H.

Friday, December 30, 2011

No. 1

Contains: Recessed Session from November 30, 2011 and Convening of the 2012 Session, Reports and Additional Amendments for January 4 and January 5, Hearings, Meetings and Notices.

HOUSE CALENDAR

MEMBERS OF THE HOUSE:

The House will be in Session on **Wednesday, January 4, 2012 at 9:00 a.m.** to finish our 2011 Session work. When it is completed, we will officially begin the 2012 Session pursuant to Part II, Article 3 of the New Hampshire Constitution. It is expected that we will deal with retained bill reports on Wednesday, January 4th and Thursday, January 5th. We can anticipate a busy schedule so we will begin the **Thursday, January 5, 2012 session at 9:00 a.m.**, as well.

To aid you in your personal planning, please note that the House will take a winter break from business the week of February 27 – March 2, 2012.

In an attempt to keep spending down, **House Calendars are no longer being mailed.** Printed copies will continue to be available at the State House. If you cannot access the Calendar via the website or do not have an email account, please notify the Clerk's office. All members who have internet access are requested to hold down costs by accessing the Calendar online. We are trying to limit exceptions to instances of hardship.

For the remainder of calendar year 2011, the limitation on mileage reimbursement for travel to Concord for legislative business will remain the same: Tuesdays through Thursdays. Mileage will not be paid on Mondays and Fridays except for statutory committees. Chairmen of legislative committees and subcommittees are required to limit their work to Tuesdays, Wednesdays and Thursdays of each week. When we return to session in January and while we are in session, we will return to the normal rules for reimbursement of travel mileage. Travel to Concord from Monday through Friday will be covered if the travel is required for legislative business.

You are reminded that material is not to be placed in members' mailboxes in the anteroom behind the Chamber unless and until it has been approved for such distribution by the House Chief of Staff.

Chairmen and Vice-Chairmen will meet Tuesday, **January 3, 2012 at 8:30 a.m.** in LOB 305-307.

I wish a Happy New Year to all of you.

William L. O'Brien, Speaker

NOTICE

There will be a Republican Caucus on Wednesday, **January 4th** at 8:30 a.m. and Thursday, **January 5** at 8:30 a.m., both in Representatives Hall.

D.J. Bettencourt, Majority Leader

NOTICE

There will be a Republican Caucus on Tuesday, **January 17th** at noon in Representatives Hall.

William L. O'Brien, Speaker

D.J. Bettencourt, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, **January 3 at 1:00 p.m.** and Thursday, **January 5 at 8:30 a.m.** Both caucuses will meet in LOB 305-307.

Terie Norelli, Democratic Leader

NOTICE

LEGISLATIVE ETHICS COMMITTEE

Required Disclosure Filing

Copies of the "**2012 Financial Disclosure Form**," have recently been mailed to each member of the House. All legislators and legislative officers are required to complete and file the form with the Legislative Ethics Committee. Please return your completed form to Rich Lambert in **Room 112 of the State House** **no later than January 20, 2012.**

Richard M. Lambert, Executive Administrator
Legislative Ethics Committee

UNFINISHED BUSINESS FROM NOVEMBER 30, 2011

NOTICE OF RECONSIDERATION

This day, November 30, 2011, at 1:35 p.m. Rep. Neal Kurk, having voted on the prevailing side, served notice of reconsideration on the vote whereby the House sustained the Governor's veto on ***HB 542-FN, relative to exceptions for objectionable material in public school courses.*** The roll call was 244-130 and lacked the necessary 2/3 vote required to override the veto.

Karen O. Wadsworth
Clerk of the House

LAIED ON TABLE

CACR 5, relating to the governor's power to reduce appropriations. Providing that the governor shall have line item reduction power of items in any bill making appropriations of money. (Pending question: OTP.)

HB 37-FN-A, reestablishing the initial monthly gross charge exemption to the communications services tax. (Pending question: OTP – third reading.)

HB 154-FN-A, increasing a threshold amount for taxation under the business enterprise tax. (Pending question: OTP/A – third reading.)

HB 166-FN-A-L, reducing the rate of the meals and rooms tax. (Pending question: OTP – third reading.)

HB 213-FN-A, reducing the rate of the business profits tax. (Pending question: OTP/A - third reading.)

HB 292-FN, relative to securities regulation. (Pending question: adoption of majority committee amendment.)

HB 343-FN, establishing a permanent state defense force. (Pending question: adoption of majority committee report of inexpedient to legislate.)

HB 421, relative to candidates for United States senator. (Pending question: adoption of committee report of inexpedient to legislate.)

HB 484-FN, requiring random drug testing of food stamp program participants. (Pending question: adoption of committee report of inexpedient to legislate.)

HB 485-FN, relative to requiring photo identification for food stamp program participants. (Pending question: adoption of committee report of inexpedient to legislate.)

HB 573, relative to the administration of certain pain relief medications by a school nurse. (Pending question: adoption of committee report of inexpedient to legislate.)

HB 577, relative to the use of foreign languages by retail establishments. (Pending question: adoption of committee report of inexpedient to legislate.)

HCR 13, urging the New Hampshire delegation to support HR 459 and S. 202 requiring a comprehensive audit of the Federal Reserve.

HCR 15, urging our federal senators to vote against the Law of the Sea Convention. (Pending question: adoption of committee report of ought to pass with amendment.)

SB 3-FN-A-L, making comprehensive changes to the state retirement system. (Notwithstanding the Governor’s veto shall SB 3 become law.)

SB 55-FN, requiring certain engine coolants and antifreeze to include an aversive agent so that they are rendered unpalatable. (Pending question: adoption of the committee report of inexpedient to legislate.)

SB 88, relative to physical force in defense of a person and relative to the brandishing of a firearm or other means of self-defense. (Floor Amendment 2011-2235h)

SB 133-FN, relative to reestablishing the exemption from property taxation for telecommunications poles and conduits. (Pending question: ought to pass.)

GOVERNOR’S VETO MESSAGE REGARDING HB 218

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 15, 2011, I vetoed HB 218, relative to the New Hampshire rail transit authority.

I am vetoing this legislation because business leaders, particularly in Nashua and Manchester, has clearly said that this bill will hurt their efforts to grow their businesses, to create jobs and to attract new companies to New Hampshire.

The New Hampshire business community has made a clear statement that it sees rail, in the words of the Greater Manchester Chamber of Commerce, as “a proven economic catalyst that will spur economic development and create jobs.” Several major companies have made clear that they believe rail will improve their ability to attract workers, access their markets, attract additional customers and grow their businesses in New Hampshire. In addition, the Manchester and Nashua chambers of commerce both believe that developing the state’s rail infrastructure will assist their efforts to attract new businesses and jobs to the state. That is one reason both chambers have asked me to veto this legislation. The Merrimack Town Council, the Bedford Town Council, and the Nashua Board of Aldermen have also passed resolutions expressing support for expanded rail service and the benefits it would bring to their communities.

The support of the business community is validated by an independent study that concluded that the development of rail in the capital corridor could result in more than \$2.4 billion in new business sales and nearly 1,000 new jobs created and sustained in New

Hampshire in the first twenty years of operation.

HB 218 makes substantial changes to New Hampshire Rail Transit Authority that will reduce its ability to fully consider all transit options for the state. New Hampshire businesses banded together to raise \$120,000 to fund the Rail Authority's grant application without any state funds because they believe a full consideration of rail is important to New Hampshire's economic future. Going back on our commitment to the businesses who contributed funds to pay for grant applications sends the wrong signal to the private sector about state government's willingness to stand by its commitments. We should see the study through to its conclusion with a fully functioning Rail Authority so that we can make informed policy choices about the best way forward for our state.

Concerns about specific provisions in the Rail Authority statute could have been addressed through much more narrowly drafted language that would leave intact important functions of the rail authority. As currently written, this legislation takes away the rail authority's ability to enter into contracts with partner organizations, to accept gifts and to work with the private sector on economic development projects adjacent to potential rail sites.

Given the strong concerns among New Hampshire business leaders that this legislation will jeopardize their efforts to grow their businesses and create new jobs, I am vetoing House Bill 218.

Respectfully submitted,
John H. Lynch
Governor

Date: June 15, 2011

GOVERNOR'S VETO MESSAGE REGARDING HB 380

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 13, 2011, I vetoed HB 380, which would have exempted the Commission on the Status of Men from repeal on June 30, 2011.

The Commission on the Status of Men was established by the New Hampshire Legislature in 2002, with a mission to examine cultural biases and stereotyping affecting men, men's physical and mental health problems, and promote policies, initiatives and programs to improve the ability of men to be productive and responsible citizens and fathers.

The New Hampshire Legislature established the Commission on the Status of Women in 1969 with a mission to identify and seek to remedy historical and institutional discrimination against women; to enhance women's opportunities in education and training, business and employment; and to honor women for their contributions to the state and the nation.

The impetus to create a Commission on the Status of Men was driven at least in part by a perception by some that issues impacting men were deserving of commission level status and review that had been afforded to women.

To help make state government more efficient, reduce cost, and eliminate waste and duplication, the Legislature in 2009 established a process to review and sunset certain non-regulatory boards and commissions. As a result of that process, dozens of boards and commissions were recommended for repeal, including both the Commission on the Status of Women and the Commission on the Status of Men.

With the enactment of HB 390, the Commission on the Status of Women has ceased its existence as a state entity. Its work and mission will be merged with and carried on by a private non-profit organization.

At the same time the Legislature repealed the existence of the Commission on the Status of Women, it also passed HB 380, which extended the life of the Commission on the Status of Men by two years, added two new members appointed by the Legislature, and expanded the mission of the Commission to include studying the economic and social costs of the absence of fathers from the home.

People may in good conscience disagree and debate the relative merits of the two commissions. But there can be little disagreement that eliminating the Commission on the Status of Women while extending the Commission on the Status of Men makes little sense. If the Commission on the Status of Men wishes to continue its work and mission, it should do so in the same way as the Commission on the Status of Women, as part of private or non-profit organization.

For these reasons, I am vetoing HB 380.

Respectfully submitted,
John H. Lynch
Governor

Date: July 13, 2011

NOTICE

The House Calendar closes at **3:00 p.m.** on **Wednesdays** for scheduling and notices. It closes at **NOON** on **Thursdays** for Committee Reports. Please be sure to do your scheduling in order to meet that deadline.

CLOSES NOON THURSDAY:

January 5
January 12
January 19

AVAILABLE FRIDAY:

January 6
January 13
January 20
Karen O. Wadsworth, Clerk of the House

HOUSE DEADLINES FOR 2012 SESSION

Wednesday, January 11, 2012

Last day to introduce HBs for 2012 session.

2012 SESSION RETAINED BILL REPORTS
WEDNESDAY, JANUARY 4, 2012
CONSENT CALENDAR

CHILDREN AND FAMILY LAW

HB 415, relative to access to abuse and neglect investigation records pending a child custody dispute. **INEXPEDIENT TO LEGISLATE.**

Rep. Marjorie A Porter for Children and Family Law: This bill would allow a non-accused parent access to third party records (police reports, counseling records) in the possession of DCYF within the context of a parental rights and responsibilities proceeding; under current law, a non-accused parent may petition the court for such records. The committee worked with DCYF to develop language to allow the non-accused parent automatic access to third party records; however, the committee is concerned with the unintended consequences of such a provision, particularly in the area of medical or psychiatric records. The committee notes that the non-accused parent is not without remedy under current law; rather, that he or she must petition the court to do so. The committee further notes that the person involved in the underlying abuse and neglect case which gave rise to this bill would not be remedied by the proposed solution, as he was an accused parent who would have access to the third party records under current law. For these reasons, the committee recommends ITL for this bill. **Vote 12-1.**

HB 506-FN, relative to false allegations of child abuse. **REFER FOR INTERIM STUDY.**

Rep. Marjorie A Porter for Children and Family Law: This bill directs the court to deny parental rights and responsibilities to a parent who has knowingly made a false statement of child abuse and inserts a misdemeanor criminal penalty in RSA 169-C for knowingly making a false statement of child abuse. Current law (RSA Chapter 641 falsification in official matters) provides for criminal penalties (felony and misdemeanor) for perjury, false swearing, unsworn falsification, false reports to law enforcement, witness tampering, and falsification of evidence. The committee examined and received information regarding the Citrus County, Florida, program relating to false allegations of child abuse. While the program appears successful, the committee, as well as DCYF, believes that the program raises many unanswered questions, particularly regarding the use of law enforcement in such matters. The committee also notes that Citrus County is the only county utilizing such a program and that its program did not require statutory changes to implement. The committee also considered the inclusion of a statement regarding false allegations of child abuse when a person makes a report to DCYF. Because everyone in New Hampshire is required by law to report suspected abuse and/or neglect, the committee is concerned that such a statement might have a chilling effect on people making good faith reports. However, the committee feels that such false allegations should not be made with impunity, and the committee felt that interim study would allow for review of possible practical remedies.

Vote 16-0.

HB 587, relative to grounds for divorce for persons with minor children. **INEXPEDIENT TO LEGISLATE.**

Rep. Patricia T Lovejoy for Children and Family Law: This bill permits no fault divorce based on irreconcilable differences only if the parties do not have minor children. The number of divorces in NH to parties with minor children has been steadily declining over the last 10 years from 3,218 in 2001 to 2,335 in 2010, a drop of 27.4%. The vast majority of all divorces are based on irreconcilable differences – the average for the last 10 years is 98.7%. This bill would force parents to “blame” one another in order to obtain a divorce or to force couples with minor children to remain married even though the marriage may be irretrievably broken. The committee was concerned about the negative consequences that could arise from the implementation of this bill, most notably being the effect on children of

forcing one parent to be labeled “the bad parent”, or conversely, the effects of trauma on the child of continuing to live in a household with two parents who do not want to be together. The committee believes that the bill creates a formula for conflict which might serve as a disincentive to marriage; the committee notes recent studies which employ a number of metrics that confirm that children of unwed parents do not fare as well as those of married parents, thus the bill would encourage poorer outcomes for children. The committee was also concerned about the effect a divorce for fault would have on the awarding of alimony – evidence of fault can affect alimony according to RSA 458:19, IV (b). This bill did not have a fiscal note but information from the courts suggests that there would be a fiscal impact. The average divorce trial in a divorce for cause lasted 364 minutes and incurred \$661 in judge costs. Extrapolating only the cost of the judge time for the average number of cases would amount to \$160,900 per year. The committee supports the goal of strengthening marriages for the sake of all involved especially the minor children but we believe the unintended consequences of this bill are not in the best interest of children. **Vote 16-0.**

COMMERCE AND CONSUMER AFFAIRS

HB 96, relative to issuance of individual health insurance policies by health carriers. **INEXPEDIENT TO LEGISLATE.**

Rep. Donald H Flanders for Commerce and Consumer Affairs: The intention of this bill was to address a problem that the one health insurance company that sells into the individual and the group market has discovered-that younger and healthier employees who were originally signed up for group insurance were suddenly canceling their participation in the group market and were showing up in the individual market. Although the committee is very concerned about this scheming by employers, attempting to regulate this caused more problems and was just not fixable. **Vote 15-0.**

HB 125-FN, relative to lawful commerce in firearms, including manufacture and sale, in New Hampshire. **REFER FOR INTERIM STUDY.**

Rep. Frederick C Rice for Commerce and Consumer Affairs: The committee recommends interim study to enable an expanded analysis of the issue, to include additional testimony from industry witnesses and to ensure compliance with New Hampshire law. **Vote 12-0.**

HB 126-FN, prohibiting interference with access to medical services and health insurance of New Hampshire citizens. **INEXPEDIENT TO LEGISLATE.**

Rep. Chris F Nevins for Commerce and Consumer Affairs: Due to continued federal court activity with the affordable care act and the uncertainty of future federal legislation the committee felt this bill was not ready for prime time. Redundancy with other filed and open New Hampshire legislation was also a factor in this decision. **Vote 12-0.**

HB 171, relative to restrictions on liquor licenses. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Donna C Mauro for Commerce and Consumer Affairs: This bill prohibits the liquor commission from imposing restrictions on on-premises licenses relating to clothing or appearance of patrons or employees. This bill allows revocation of on-premises license for violations of law and/or imposition of a fine. **Vote 12-0.**

HB 234-FN-A, relative to food service licensure. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jennifer R Coffey for Commerce and Consumer Affairs: The final version of this bill clarifies the suspension of food service licensure, and removes over burdensome regulations. The bill goes further to establish a committee to study the regulation of food service establishments and licensure requirements. The committee amended the bill to remove the establishment of a dedicated fund thereby negating the fiscal note on the original bill. **Vote 16-0.**

HB 241, relative to insurance coverage. **REFER FOR INTERIM STUDY.**

Rep. Matt J Quandt for Commerce and Consumer Affairs: The bill allows consumers and insurance carriers to create a free market option in health insurance. The committee

believes that this bill needs more study in how it affects the states consumer protection negotiations and insurance business practices. **Vote 13-0.**

HB 244, restricting the collection of biometric data by state agencies and private entities. **REFER FOR INTERIM STUDY.**

Rep. Frederick C Rice for Commerce and Consumer Affairs: The intent of this bill is laudable, but it presents numerous potential problems in terms of definitions, specific exemptions, and applicability. Additional work is needed to clarify these issues so that they will stand up to intense scrutiny when implemented. **Vote 15-1.**

HB 247, relative to seller financing of mortgages and making changes to the laws regulating mortgage bankers and brokers and debt adjustment services. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Donald H Flanders for Commerce and Consumer Affairs: The bill adds exemption to licensure law regarding mortgage bankers and brokers for persons who negotiate no more than three mortgages in a calendar year. It also removes duplicate requirements for licensure for those licensed under various other RSA's. The bill also eliminates conditional language included in SB 28, Chapter 212, 2011 passed earlier in this session, that has been resolved by HUD issued interpretative language of the SAFE act. **Vote 16-0.**

HB 263-FN, relative to the lifetime Medicaid limit. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Donald H Flanders for Commerce and Consumer Affairs: This bill as amended changes the current law of 60 months limiting payments for the family assistance program by decreasing the number of months to a consecutive 36 month period, and a lifetime limit of 36 months. This will bring New Hampshire in line with other states. The amendment also includes a grandfathering clause of 60 months for persons currently receiving assistance from this program prior to the effective date of this act. **Vote 14-1.**

HB 324, relative to lawful commerce in goods and services sold, made, and retained in the state of New Hampshire. **REFER FOR INTERIM STUDY.**

Rep. Donna C Mauro for Commerce and Consumer Affairs: This bill exempts goods and services sold, made, and retained in New Hampshire from federal law and regulation. The committee is interested in finding a manufacturer who is interested in implementing this law so the committee decided to keep this bill. **Vote 13-0.**

HB 351-FN, relative to insurance reimbursement for doctors of naturopathic medicine. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Andrew J Manuse for Commerce and Consumer Affairs: This bill expands choices for New Hampshire citizens who have an individual insurance plan, while creating a framework for small group insurance plans to also choose to expand choices for their customers.

Insurance companies recognize only medical doctors, nurse practitioners and doctors of osteopathy for reimbursement as "primary care providers," and so naturopathic doctors are not included in these groups. This bill won't change that, but it will encourage insurance companies to add naturopathic doctors to their groups. This bill will include coverage for naturopathic doctors in individual plans, so individuals will be able to choose a naturopathic doctor as their primary care physician. Naturopathic doctors are licensed physician-level doctors, hold pre-med bachelor's degrees, attend four year medical schools, and receive the same primary care education and training as medical doctors and osteopathic doctors.

Importantly, this bill only establishes that insurers shall recognize naturopathic doctors as primary care providers and reimburse for those primary care services that are already covered when an individual sees his or her primary care physician, nurse practitioner or doctor of osteopathy. The majority thinks that consumers in the individual market should have this choice and that insurance companies should consider adding naturopaths to their groups to extend consumer choice and potentially reduce the cost of services. **Vote 16-0.**

HB 394-FN, relative to the regulation of oil heating technicians. **INEXPEDIENT TO LEGISLATE.**

Rep. Frederick C Rice for Commerce and Consumer Affairs: ITL is recommended by the primary sponsor since a similar bill is being processed by the Executive Departments and Administration Committee. **Vote 14-0.**

HB 408, relative to residential mortgage loan transactions. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jennifer R Coffey for Commerce and Consumer Affairs: This bill clarifies the exemption for attorneys from licensing requirements for mortgage brokers or bankers. It allows attorneys to provide advice to their clients so long as they are not the mortgage originator. **Vote 14-1.**

HB 440-FN, requiring that New Hampshire join the lawsuit challenging federal health care reform legislation, and repealing the authority for state implementation of federal health care reform. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Chris F Nevins for Commerce and Consumer Affairs: After much deliberation, the committee is convinced that the House position is the correct one. While the list of problems with the affordable care act are lengthy it is not the committee's intention to argue these issues, but only to confirm the house position to join the lawsuit challenging federal health care. **Vote 13-2.**

HB 445-FN, relative to the regulation of electronic tracking devices. **REFER FOR INTERIM STUDY.**

Rep. Jennifer R Coffey for Commerce and Consumer Affairs: Per the request of the prime sponsor and with the support of the full committee present to vote the bill is recommended for Interim Study for further review due to many issues raised in multiple meetings throughout the year. **Vote 14-0.**

HB 578, relative to payment at time of medical services. **INEXPEDIENT TO LEGISLATE.**

Rep. Kenneth N Gidge for Commerce and Consumer Affairs: While the committee felt the intention of the bill was rational, as a practical matter it would not work. Simple medical procedures may possibly be accommodated but more complicated procedures would not. Costing of many procedures can be found on websites of the insurance department, health and human services department and the sites of several insurance companies. This should adequately serve the health consumer in New Hampshire. **Vote 16-0.**

HB 619-FN, requiring the state of New Hampshire to opt out of the requirement that individuals purchase health insurance contained in the Patient Protection and Affordable Care Act. **INEXPEDIENT TO LEGISLATE.**

Rep. Donna C Mauro for Commerce and Consumer Affairs: This bill would require the commissioner of the department of health and human services to develop a plan to allow the state of New Hampshire to opt out of the Patient Protection and Affordable Care Act which would require a plan comparable, the only difference being that the state would administer it, not the federal government. **Vote 12-0.**

HB 633, preventing prescribing practitioners from owning pharmacies in-state and out-of-state. **INEXPEDIENT TO LEGISLATE.**

Rep. Chris F Nevins for Commerce and Consumer Affairs: This bill was brought forward with the good intent of correcting some conflicting RSA's regarding ownership of pharmacies. The committee felt that some areas of ownership, such as the status of veterinarians, was not adequately covered and it was felt this bill was not ready to pass at this time. **Vote 12-0.**

HJR 2, prohibiting the implementation of the insurance department rules regarding the New Hampshire Medical Malpractice Joint Underwriting Association. **REFER FOR INTERIM STUDY.**

Rep. James F Headd for Commerce and Consumer Affairs: Although the rules request has been withdrawn, the committee believes that there are several unresolved issues that have not been addressed and wishes to retain the bill for further review. **Vote 13-0.**

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 127-FN, relative to the definition of oral communication. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Mark Warden for Criminal Justice and Public Safety: This bill as amended simply clarifies the definition of “oral communication” in the wiretapping and eavesdropping statute, specifying that any expectation of privacy must be reasonable. This had bi-partisan support in response to testimony on incidents of abuse of the wiretapping law in public areas. **Vote 17-0.**

HB 138-FN, relative to the cold case homicide unit. **OUGHT TO PASS.**

Rep. Larry G Gagne for Criminal Justice and Public Safety: This bill repeals the session law inserted by HB 690-FN, Chapter 269, of the 2009 legislative session establishing the cold case homicide unit with a prospective repeal date of July 1, 2013, and establishes the cold case homicide unit and a non-lapsing cold case homicide unit fund within the department of justice. This bill repeals the sunset provision in the original bill and allows the cold case unit to continue for as long as funding allows. **Vote 16-1.**

HB 283-FN, relative to impaired drivers. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David A Welch for Criminal Justice and Public Safety: This bill is the result of a three year study which included HHS, Judicial Branch, law enforcement, treatment providers, victim’s advocates and other interested parties. The Multiple Offender Program (MOP) was eliminated in 2010; offenders currently are referred to programs contracted by HHS. HB 283 establishes Impaired Driver Care Management Programs (IDCMP) in which offenders will complete substance use disorder evaluation, comply with a service plan developed by evaluation and complete an impaired driver education program. The offender will be responsible for paying for IDCMP, but indigent offenders may avail themselves of publicly-available programs. Successful completion will allow the offender to seek license restoration. It is important to note that HB 283 requires HHS to approve and monitor all IDCMP’s. HB 283 does NOT change underlying DWI penalties. HB 283 also includes the current ignition interlock installation requirement within the aggravated DWI penalty statute to explicitly direct courts to utilize the interlock program. HB 283 will likely save money: The department of health and human services indicates that IDCMP can be implemented with current resources and courts will benefit by receiving and disposing of DWI cases more expeditiously. County corrections facilities will benefit by offenders serving shorter sentences and offenders may receive a suspended sentence in exchange for participation in IDCMP. **Vote 17-0.**

HB 553, relative to the law on wiretapping and eavesdropping. **REFER FOR INTERIM STUDY.**

Rep. Mark Warden for Criminal Justice and Public Safety: The committee felt that the intent of the bill, which is to update language in the wiretapping and eavesdropping statute to reflect modern technology, is good. However, we felt that other bills still in play referencing the statute should be decided first. **Vote 17-0.**

EDUCATION

HB 34-FN-L, relative to the distribution of total education grants to municipalities in the 2012 and 2013 fiscal years. **INEXPEDIENT TO LEGISLATE.**

Rep. Joseph W Fleck for Education: The intent of this bill was satisfied with passage of the education funding legislation during the 2011 session. **Vote 13-0.**

HB 179, establishing a task force to study the formula for determining adequate education grants to school districts. **INEXPEDIENT TO LEGISLATE.**

Rep. Joseph W Fleck for Education: The house and senate considered the formula as part of the process leading to the education funding legislation passed by both houses in the 2011 session. The committee received considerable input urging stability and predictability for school district budgeting and believes that further changes are not necessary. **Vote 13-0.**

HB 296, relative to procedures for juvenile delinquency petitions filed by a school district or school official. **REFER FOR INTERIM STUDY.**

Rep. Kathleen A Lauer-Rago for Education: The committee believes that this subject needs further study. **Vote 12-0.**

HB 301-FN, amending the home education statutes. **INEXPEDIENT TO LEGISLATE.**

Rep. Ralph G Boehm for Education: There were three bills dealing with home education, even though it was felt that this bill had some good points, the committee decided that HB 545 was the vehicle to use for changing the home education statute. **Vote 14-0.**

HB 318-FN-L, reducing a school district's liability for special education costs.

INEXPEDIENT TO LEGISLATE.

Rep. Michael A Balboni for Education: This bill sought to change the catastrophic aid minimum threshold for reimbursement of school district special education costs from 3 ½ times to 2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. It was hoped that by decreasing this threshold, more school districts would receive catastrophic aid. However, the committee determined this would not appreciably increase aid to school districts without a significant increase in the catastrophic aid pool. Distributing a fixed total amount to more special education students would result in even lower reimbursement percentages than we have now. **Vote 14-0.**

HB 545, repealing the department of education's rulemaking authority for home education programs. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Ralph G Boehm for Education: This bill as amended gives the home education advisory council the final say for all rules for home education and allows for one time notification if you are going to home school. It prevents school districts from making policies that are inconsistent or more restrictive than the home education statute and makes the two state representatives and senator non-voting members of the council in order to keep the council fairly balanced. **Vote 13-1.**

ELECTION LAW

HB 152, relative to the definition of "party" for election purposes other than primary elections. **INEXPEDIENT TO LEGISLATE.**

Rep. Regina M Birdsell for Election Law: This bill modified the definition of "party" for election purposes other than primary elections. This modification would have lowered the requirement from 4% of the vote to 2% of the vote in an election for governor or U.S. senator for a party to retain ballot access. Alternatively, a party would be defined as such by submitting nomination papers. The secretary of state's concern with this bill was that it would increase the costs of printing ballots because of a necessity to add party columns and create the potential for multiple page ballots. The committee will be reviewing a comprehensive ballot reform bill that would help to answer some of the concerns expressed by members of the committee and the secretary of state. **Vote 19-0.**

HB 153, relative to political organizations. **INEXPEDIENT TO LEGISLATE.**

Rep. Regina M Birdsell for Election Law: This bill establishes alternative methods for political organizations to be recognized as parties for election purposes other than primary elections while reducing the number of names required to nominate a candidate by nomination papers. A concern expressed by the committee was that only 3,000 voters (or 4% of registered voters) registering as affiliates of a political organization would be needed to qualify as a party. A concern by the secretary of state's office was the potential of multiple organizations attempting to register as the same name (i.e., tea party) and causing voter confusion. The committee will be reviewing a comprehensive ballot reform bill that would help to answer some of the concerns expressed by members of the committee and the secretary of state. **Vote 17-0.**

HB 515-FN, relative to voter registration and relative to procedures for absentee voting. **INEXPEDIENT TO LEGISLATE.**

Rep. Kathleen M Hoelzel for Election Law: There are many issues in this bill that need further consideration. Information needing attention was not brought forth. The matter of

affidavits during voter registration needs further investigation because there have to be alternatives for voters who do not have picture identification. **Vote 19-0.**

SB 190, relative to the duties and membership of the executive branch ethics committee. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Shaun S Doherty for Election Law: This bill changes the number of members present needed to dismiss a complaint brought to the executive branch ethics committee from 5 to 4. This change will help eliminate potential for backlogs of complaints and help the committee better address complaints that are found to have merit. The amendment strikes language that would have removed notification to the accused that an ethics complaint was filed against them. They would only find out in the event the complaint is not dismissed. This language also would have shielded the identity of the complainant from the accused until after the committee's initial review. **Vote 19-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 193, relative to the Mount Washington commission. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter T Hansen for Executive Departments and Administration: The bill, as amended, amends the composition of the Mount Washington commission and requires the commission to submit the master plan to the governor and council every ten years on January 1. It also requires the Mount Washington commission members and the commissioner of the department of resources and economic development to reevaluate the structure and duties of the commission. There is no financial impact to this bill. **Vote 17-0.**

HB 222-FN, relative to administrative rules which contain a fee increase, allowing political subdivisions to object to a proposed rule, and eliminating certain statutory provisions granting general rulemaking authority. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol M McGuire for Executive Departments and Administration: This bill was retained because its repeal of broad rule-making authority could have widespread unintended consequences, and without further analysis no-one was certain what they would be. With the help of the affected agencies and members from Constitutional Review and Statutory Recodification, 19 instances of overly broad rulemaking authority were repealed completely and 21 more replaced by specific, narrowly focused authority, including specifying fees or the parameters for allowable fees. The committee amendment also ensures that existing rules remain valid and that the programs operating under them – including Medicaid – are not affected by the change in rule-making authority. **Vote 16-0.**

HB 260, relative to the state fire code and the appeal process for decisions of the state fire marshal. **INEXPEDIENT TO LEGISLATE.**

Rep. Calvin D Pratt for Executive Departments and Administration: The contents of this bill have been incorporated into HB 137 making HB 260 unnecessary. **Vote 12-0.**

HB 310-FN, relative to the use of open data formats and the adoption of a statewide policy regarding open government data standards. **INEXPEDIENT TO LEGISLATE.**

Rep. Randall A Whitehead for Executive Departments and Administration: This bill is not needed held because its content is included in HB 418 which is going through and is presently active in the Senate ED&A Committee. Thus, HB 310 should be killed. **Vote 15-0.**

HB 332-FN, relative to an electronic controlled drug prescription monitoring program. **REFER FOR INTERIM STUDY.**

Rep. John Sytek for Executive Departments and Administration: This sponsors of this bill testified that there is a growing problem of prescription drug abuse. Persons are known to travel from doctor to doctor or to hospitals seeking prescription painkillers. This bill would set up a monitoring program which would set up and keep a database (as exists in neighboring states) gathering information from pharmacies whenever prescription painkillers are dispensed. However, there are issues of privacy, determining the extent of the problem, which drugs would be monitored and paying for the program. So regardless of

the merits of the bill the committee felt that further study was needed to craft a bill that both accomplishes the goals and meets the concerns. **Vote 16-0.**

HB 350-FN, updating laws relative to the fiscal committee of the general court. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Maurice L Pilotte for Executive Departments and Administration: This bill was introduced at the request of the fiscal committee of the general court to streamline the responsibilities of that committee. The amendment (1) reflects changes made in HB 2 in re the dissolution of the postsecondary education commission, (2) reflects changes made in SB 65 transferring the involvement of the fiscal committee in negotiations for court facilities to the department of administrative services, (3) deletes reference to the aid for veterans programs to reflect the fact that any changes made to this program always involve proposed legislation, (4) adds language to ensure that when the supreme court recommends changing part-time status to full-time status for either district court justices or probate judges, "Prior to making its request, there shall be funds in the court's budget specifically appropriated for the salary and benefits of an additional.....judge." The amendment also removes fiscal committee oversight of the Pease development authority rule-making authority relative to the setting and collecting of fees because current statutes already specify the parameters for setting the fees. **Vote 12-0.**

HB 449-FN, expanding the information available on the state transparency website. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter T Hansen for Executive Departments and Administration: This bill insures transparency within the departments and clearly allows the public access to many matters within the state government. The initial intent of this bill was to expand the information available on the state's transparency website. The committee determined that the bill contained elements that were not applicable to NH and that the sheer volume of information proposed to be included in the transparency site was prohibitive. The amendment charges the existing legislative oversight committee to monitor compliance with the requirements of RSA 9-F:1, the state transparency website. The committee will report annually its findings and recommendations for additional needed legislation. In addition, it will expand content, insure usefulness of the information, protect privacy and control the costs. **Vote 12-0.**

HB 458-FN-A, establishing a sunset review process for executive agency and judicial programs and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Calvin D Pratt for Executive Departments and Administration: This bill establishes a "sunset law" for state of New Hampshire executive agency and judicial programs that are not exempt. It creates a joint legislative committee to review those programs, oversee the "sunset" process, and conduct an ongoing review of legislative oversight procedures. The sunset committee is required to submit a termination schedule for all executive agency and judicial programs by January 1, 2013. Every program is scheduled for review every 8 years. **Vote 15-1.**

HB 480-FN, establishing a state renovation, repair, and painting (RRP) rule program relative to lead-safe practices. **INEXPEDIENT TO LEGISLATE.**

Rep. Spec Bowers for Executive Departments and Administration: This bill would create a lead paint program run by the state but effectively under the control of the EPA. The committee recommended ITL because 1) it duplicated the federal program with a state level program; 2) it cost money with no apparent benefit; 3) the industry opposed the bill because most players had already obtained EPA licenses; 4) even the agency seemed less than enthusiastic about the program. **Vote 12-0.**

HB 517-FN, repealing provisions concerning licensure of fuel gas fitters. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John Sytek for Executive Departments and Administration: This bill merges the plumbers and the gas fitters boards and updates the administrative procedures of both boards. Licenses will be granted by sub-specialty; rule making, definitions, inspections, and

fee structure will be made consistent. This bill was crafted with the cooperation of the fire marshal, the department of safety and industry representatives. **Vote 14-0.**

HB 624, relative to the rulemaking authority of state agencies to establish or increase fees and costs. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol M McGuire for Executive Departments and Administration: This bill changes the administrative rules process to prohibit accepting any fee that does not have specific authorization in statute. Since at this time there is no database of fees set in rules, the committee was unwilling to implement it without knowing which fees would be disallowed. A preliminary search found almost 400 statutes that authorize setting fees in rules, and Dartmouth Public Policy Research has accepted the challenge of researching all the rules that set fees. The committee amendment creates a study committee to use this research, analyze the statutes and rules that set fees, consider the process of setting fees in statutes, and develop legislative recommendations for next session, specifying in statute the necessary fees now set in rules. The effective date of the process change is moved to July, 2013 to allow the study committee's recommendations to become law. **Vote 16-0.**

SB 153-FN, relative to the regulation of real estate appraisers by the New Hampshire real estate appraiser board. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John Sytek for Executive Departments and Administration: This bill is necessary to bring state statutes into conformity with the requirements of the federal Dodd-Frank Reform Act. Without this bill, New Hampshire residents would not be able to get mortgages from federally insured institutions after January 1, 2014. The major change accomplished by this bill is the registration of real estate companies. There are several other minor changes such as license terms, reciprocity and updating the organization whose industry standards are to be used. The committee also amended the bill to make the complaint procedures parallel to those of similar professions. **Vote 16-0.**

FISH AND GAME AND MARINE RESOURCES

HB 294, relative to the distance from highways for the taking of moose. **INEXPEDIENT TO LEGISLATE.**

Rep. Elisabeth N Sanders for Fish and Game and Marine Resources: The committee felt that the issue of a few hunters who mistakenly shot a moose less than the lawful 300 feet from the roadway does not warrant any change to existing law. All moose hunters chosen in the lottery system are required to take a special moose hunter course and then they have the opportunity to ask any questions that they may have, including the 300 foot distance requirement. The existing distance should not be reduced as it allows for a balance between the hunting of moose and the observation of moose in the wild. The moose season is only 9 days long in mid-October. **Vote 10-0.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 493-FN, relative to the certification of integrated residential communities. **REFER FOR INTERIM STUDY.**

Rep. James R MacKay for Health, Human Services and Elderly Affairs: Integrated residential communities offer a residential choice for individuals with developmental disabilities, mental illness or traumatic brain injury that is certified and recognized by the department of health and human services as a service delivery alternative to community living facilities and day programs certified under RSA 126-A and residential care facilities licensed under RSA 151. The law and rules as currently constructed do not quite fit this residential classification. It was felt, by the committee, that there is merit in continuing to work on the proposal to be sure there are adequate protections for both the communities and the residents. **Vote 17-0.**

JUDICIARY

HB 151, relative to appointments and reappointments of marital masters. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Brian JX Murphy for Judiciary: Last session the House passed HB 609 (Chapter 88, Laws of 2011) establishing a NH circuit court. This became law on July 1st. The family court division is now a part of the circuit court. In light of this reorganization, HB 151 clarifies the roles and responsibilities of judicial officers presiding over family law matters. The bill specifically provides that no new marital master contracts shall be entered into by the state and no existing marital contracts shall be renewed by the state on or after the date this bill becomes law. **Vote 15-1.**

HB 315, relative to appointment of attorneys by judges, marital masters, and judicial officers. **INEXPEDIENT TO LEGISLATE.**

Rep. Brian JX Murphy for Judiciary: This bill purported to address abuses in the manner in which judicial officers appoint attorneys to represent indigent parties or otherwise unrepresented interests. While the committee appreciated the general concept of the bill it was unable to conclude that there were abuses in the area of appointments such that passing additional legislation was necessary. **Vote 16-0.**

HB 344-FN, establishing a judicial performance review commission. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert H Rowe for Judiciary: This bill was filed to establish an independent commission to evaluate the performance of judges. However, as filed, it would result in an additional and costly independent commission. The committee believed that a more prudent approach would be to improve the current judicial performance evaluation program, making it more effective. As such, the bill has been amended to expand and change the current judicial branch evaluation program by adding non-judicial branch members to the current system, and expanding and enhancing the scope of the performance review survey methods so that a greater citizen response will be obtained. Further, the amendment authorizes the naming of judges who perform poorly. **Vote 16-0.**

HB 527, relative to tort reform. **INEXPEDIENT TO LEGISLATE.**

Rep. Gregory M Sorg for Judiciary: This bill would impose limits in awards of non-economic damages, contingent attorney's fees, liability for civil damages of providers of emergency care, and damages for wrongful death. It is a well-meaning tort reform proposal crafted after the successful Texas tort reform. It must be stated that our state has never been noted as awarding excessive jury verdicts, just the opposite. The committee has had numerous occasions over recent years to note that New Hampshire does not have the problems noted in other states of frivolous personal injury litigation and excessive verdicts. Moreover, the reforms sought by this bill, which take the form of limitations on plaintiff recoveries, appear to the committee to conflict with Part I, Article 14 of the New Hampshire Constitution, which entitles every person to "a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character...completely, and without any denial..."

Vote 16-0.

HB 574, relative to the taking of private property during a state of emergency. **OUGHT TO PASS.**

Rep. J. Brandon Giuda for Judiciary: The bill repeals the law enacted after September 11, 2001 that allows the government to take private property from citizens during a state of emergency, including such things as food, fuel, vehicles, bedding, medicines, medical supplies, etc. This law represents a tremendous over-reach of government power that contravenes the natural right of citizens to acquire, possess and protect property as guaranteed in Article 2 of the New Hampshire Constitution. This law was passed over the objection of the past-director of the office of emergency management who properly testified that this law represented a major improper transfer of power away from elected leadership to appointed officials. The committee believes that the constitution encourages personal responsibility and as such, believes that citizens who properly prepare for emergencies should not be placed in an inferior position because others, including government officials, have failed to properly anticipate a need. **Vote 16-0.**

HB 599, relative to appointments and reappointments of marital masters. **INEXPEDIENT TO LEGISLATE.**

Rep. Brian JX Murphy for Judiciary: This bill sought to create renewable terms for marital masters. Based on the creation of the New Hampshire circuit court, and pursuant to the clarifications regarding marital masters in HB 151A, there is no longer a need to legislate on the appointments and re-appointments of marital masters. **Vote 16-0.**

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 236, relative to workers' compensation for illegal aliens. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William J Infantine for Labor, Industrial and Rehabilitative Services: The title of the bill sounds simple. However, a standing New Hampshire Supreme Court decision combined with a myriad of other issues makes this bill too difficult to write in the time frame given. It was the request of the sponsor to amend the bill to establish a study committee on the issue. The report of the committee is due on 11/1/12. **Vote 13-0.**

HB 420-FN, relative to voluntary registration for independent contractors under workers' compensation law. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William J Infantine for Labor, Industrial and Rehabilitative Services: This bill consolidates the original 12 item criteria established five years ago to a seven item criteria. The change combines some criteria and removes others in an effort to more clearly define which individuals may be clarified as employees and which individuals may be clarified as independent contractors. **Vote 15-0.**

SB 49, relative to tip pooling arrangements. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William J Infantine for Labor, Industrial and Rehabilitative Services: The bill revises the current tip pooling law, creates a new section on tip sharing and defines employer coercion. The original legislative intent that tips are wages and the property of the employees, was left intact. In addition, business owners can now offer advice and mediate disputes at the employees' request regarding tip pooling or tip sharing. **Vote 13-0.**

LEGISLATIVE ADMINISTRATION

HB 357-FN, suspending the payment of travel expenses for legislators and staff. **INEXPEDIENT TO LEGISLATE.**

Rep. David H Kidder for Legislative Administration: At a pay rate of \$100/year less taxes and other costs, legislators essentially volunteer their time and energy to serve in the New Hampshire General Court. They are only reimbursed for mileage to and from Concord and to and from statutory committees that they might serve on. A legislator's constituent needs aren't constrained by day, month or season. The capacity, interest and ability of any legislator to act on behalf of their constituents therefore, should never be arbitrarily limited or constrained by process and especially where constituent interests may require more travel and expense than provided pursuant to RSA 14:15-a for attendance on session days in Concord or for attendance at scheduled meetings of committees on which the member sits or before which the member is appearing for legislative business. Suspending payment of travel expenses for legislators and staff therefore would only serve to further to limit the capacity of members to serve their constituents and for staff to serve the needs of the members of the General Court. The capacity of the General Court as a whole to serve the interests of the residents of New Hampshire would be diminished should the policy change desired by this proposal be implemented. This bill should therefore be deemed Inexpedient to Legislate. **Vote 11-1.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 108, authorizing the town of Hampton to appoint a tree warden. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Betsey L Patten for Municipal and County Government: The original bill was specifically for the town of Hampton and the committee voted to put HB 108 into retained

status to create a generic bill for appointing tree wardens by local municipalities. Currently any tree warden is nominated by the governing body and the director of the division of forests and lands within the department of resources and economic development then appoints the tree warden. The division also has oversight authority now to control, acquire, record, and remove trees within any municipality. The amendment allows any municipality to appoint a tree warden and removes the oversight from the division of forests and lands. The full committee agreed to the amendment to give local control regarding tree wardens to the local governing bodies. **Vote 16-0.**

HB 121, establishing a committee to study eligibility for property tax exemptions for the permanently and totally disabled. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James P Belanger for Municipal and County Government: Current statute provides for a municipally approved tax exemption on property taxes based on financial status and disability as determined by the social security system. It is moot on disabled who are not on the social security system. This bill, as amended, uses the social security criteria to determine disability for those who are not on social security. Municipal approval is still required and the financial criteria remain the same. This simply corrects an injustice to those who were not on the social security system during their employment, and allows them to apply for the tax exemption with proof of disability using the social security system criteria. **Vote 16-0.**

HB 232-FN, relative to abandoned homes in manufactured housing parks. **INEXPEDIENT TO LEGISLATE.**

Rep. James E Coffey for Municipal and County Government: This bill was an attempt to fix a problem that mobile home parks have had with several towns when they attempted to remove abandoned mobile homes that have little value, when the town will not allow their removal with the payment of all past due taxes and fees. After many suggestions by the proponents of the bill, the committee voted unanimously to recommend inexpedient to legislate because all the solutions proposed would have created new problems. **Vote 16-0.**

HB 250, establishing a committee to study the duties and responsibilities of fire wardens. **INEXPEDIENT TO LEGISLATE.**

Rep. Robert W Moore for Municipal and County Government: This bill was to establish a committee to study duties of fire wardens. The statutes cover those areas very well and there is no need at this time for a study committee. **Vote 16-0.**

HB 352, relative to merger of lots or parcels. **INEXPEDIENT TO LEGISLATE.**

Rep. Priscilla P Lockwood for Municipal and County Government: The subject matter of this bill was added to SB 316 and was passed during the last session. Therefore, this bill is unnecessary. **Vote 16-0.**

PUBLIC WORKS AND HIGHWAYS

HB 268-FN, relative to the Merrimack tolls. **INEXPEDIENT TO LEGISLATE.**

Rep. Carl W Seidel for Public Works and Highways: The committee decided it was not the time to change the toll situation at Exit 12 but to review the overall toll situation at a later date when the state's financial status improves. It may be covered as the ten year highway construction plan is reviewed. **Vote 12-0.**

HB 287-FN-A, making an appropriation for funding disaster relief and hazard mitigation in response to the May 2006 Suncook River avulsion. **INEXPEDIENT TO LEGISLATE.**

Rep. John A Graham for Public Works and Highways: HB 25 (the capital budget) provides money for mitigation and disaster relief in the affected area. This money will also be used to leverage federal funds for the same purpose. The committee retained HB 287 to ensure that there was a vehicle available to fund the required actions in the event that the monies were deleted from the capital budget. Since HB 25 has become law, with the monies intact, this bill is no longer required. **Vote 12-0.**

HB 371-FN-A, relative to capital appropriations to the liquor commission for facilities on Interstate Route 93 in Hooksett and improvements to existing stores. **INEXPEDIENT TO LEGISLATE.**

Rep. Gene G Chandler for Public Works and Highways: This bill, relative to a capital appropriation to the liquor commission for facilities on Route 93 north and southbound in Hooksett, is not needed as the committee agreed with the concept and put the project and a capital expenditure in the capital budget which took effect July 1st. **Vote 12-0.**

HB 638-FN, relative to access to public buildings by brick or stone walkways. **INEXPEDIENT TO LEGISLATE.**

Rep. Carl W Seidel for Public Works and Highways: Now is not the time to add new requirements to the construction of public walkways although we are always concerned with the safety and convenience that a smooth sidewalk surface brings to the ability of handicapped individuals to use the walkways. **Vote 14-0.**

RESOURCES, RECREATION AND DEVELOPMENT

HB 256-FN, relative to the administrative appeals process of the department of environmental services. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Christopher J Ahlgren for Resources, Recreation and Development: This amended bill makes 2 important changes to enhance the fairness and cost effectiveness of the administrative appeals process at the department of environmental services. At present, appeals are heard by volunteer councils. Further appeal is to the New Hampshire supreme court. The first change, which is the most dynamic, allows aggrieved parties of a DES permitting decision the ability to appeal with an option to mediate. Mediation has proven effective in superior court and the committee heard testimony that nearly half of the DES appeals were being resolved before councils had rendered a finding. Mediation will be a cost saving for the state as well, as the appellants must now bear the cost of preparing and adjudicating the appeal hearing even though it is ultimately settled outside of the hearing process. The second change requires the attorney general to appoint the hearings officer from an independent list maintained by an outside authority such as the office of mediation and arbitration in the judicial branch. This will be very helpful in assuring the perception that the individual appointed acts as an independent and neutral magistrate during the proceeding. Lastly, the bill forms a committee to study the system of administrative appeals for DES. Among the committees charges is to compare our rather unique system to other states systems for cost effectiveness and fairness. **Vote 15-0.**

HB 321-FN, relative to the classification of wetlands as contributing or noncontributing. **INEXPEDIENT TO LEGISLATE.**

Rep. Peter S Bolster for Resources, Recreation and Development: While the issue of determining whether “contributing” and “non-contributing” should receive different regulatory attention is an important subject to consider, the committee found that the science to make this determination was not fully enough available to create careful legislation at this time. NHDES offered that the new NH method for wetland delineation and upcoming discussions with the US Corps of Engineers should provide a basis for addressing this issue in the next legislative session. **Vote 15-0.**

HB 470-FN, repealing the comprehensive shoreland protection act. **INEXPEDIENT TO LEGISLATE.**

Rep. Lawrence M Kappler for Resources, Recreation and Development: This bill dealt with the same subject matter as a Senate bill, which was passed, making substantial changes to the comprehensive shoreland protection act. This bill was retained should there be a need to make additional changes to the act. No need has presently surfaced. With the agreement of the prime sponsor, the bill is ITL'ed. **Vote 15-0.**

HB 568, relative to smoking within certain areas of New Hampshire state parks and historic sites. **INEXPEDIENT TO LEGISLATE.**

Rep. Peter S Bolster for Resources, Recreation and Development: The intent of this bill was to encourage the NH parks department to address the issue of conflict between smokers and non-smokers and smoking related litter at our state parks. The committee became satisfied that the state parks department could address this issue in a sensitive and non-coercive manner through education and more convenient disposal availability and that legislation was not necessary in this matter. **Vote 13-2.**

SB 19, relative to the definition of "prime wetlands." **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter S Bolster for Resources, Recreation and Development: This bill seeks to correct agreed upon flaws in the prime wetlands statutes, which have both stalled its utilization and unfairly restricted the rights of land owners to use their own land. The bill provides for greater notification and input from landowners, before important local wetlands are enrolled in the program. It also addresses a more accurate delineation of the poorly drained and very poorly drained soil, which comprises the prime wetland, while leaving the issue of upland buffer to the local voters. The bill received widespread support from property owners, wetlands scientists, local government officials, developers, loggers, farmers, the NH department of environmental services and the environmental community. With the changes in this bill any future prime wetland designations by local communities will be fairer, more accurate and more in keeping with the wishes of the people of local communities. **Vote 14-1.**

SB 106, naming the visitor center at Jericho Mountain state park for Robert Danderson. **OUGHT TO PASS.**

Rep. Yvonne D Thomas for Resources, Recreation and Development: This bill names the newly built visitor center at Jericho Mountain State Park "the Robert Danderson visitor center." Former Berlin Mayor Robert Danderson was the catalyst behind the acquisition and formation of the Jericho Mountain A.T.V. Park. He worked tirelessly to promote this new attraction in northern New Hampshire as a destination for recreation. The park will be the engine of change and an opportunity to promote the area. **Vote 14-1.**

SPECIAL COMMITTEE ON EDUCATION FUNDING REFORM

CACR 7, relating to education funding. Providing that the general court shall distribute funds in the manner that it determines will best promote an equal opportunity for an adequate education. **REFER FOR INTERIM STUDY.**

Rep. David W Hess for the Special Committee on Education Funding Reform: This proposed constitutional amendment, like CACR 12, seeks to reverse the New Hampshire Supreme Court Claremont decisions concerning state aid to education. Unlike CACR 12, which addresses all aspects of the Claremont decisions, this Resolution would specifically overturn that part of the supreme court's rulings requiring the state to fund an adequate education for all public school students in all local school districts, rich and poor alike. Instead, this Resolution would allow the state to target state aid from dollar one only to those students and school districts which the General Court determines need aid in order to provide an equal opportunity for an "adequate education." Last spring, in a clear and unequivocal voice, this House voted overwhelmingly to pass CACR 12 as amended to the Senate. At the same time, this committee unanimously recommended retaining this resolution in committee in the event CACR 12 did not proceed expeditiously through the legislative process. As of this writing, CACR 12 remains stalled in the Senate. Consequently, the committee once again recommends that this Resolution be held by this House. A vote for Interim Study would allow this House to take up this issue again at any time after the Motion is adopted, i.e. from January 2012 on. Many on this committee, as in the full House and Senate, believe that this session of the General Court is our best hope since the Claremont decisions were first announced 14 years ago to pass a constitutional amendment that correctly construes Part 2 Article 83 of the Constitution and restores the proper balance and separation of powers between the judicial, executive and legislative branches of government on this critical issue. Indeed, this may be our last best chance to bring such a constitutional amendment before the citizens of New Hampshire. By voting this resolution to Interim Study, we retain it as a

potential vehicle for further legislative action should CACR 12 falter. The history of the last seven months strongly suggests that we need this additional “arrow in our quiver.” **Vote 15-0.**

HB 233, restricting judicial review of state education trust fund distributions.

INEXPEDIENT TO LEGISLATE.

Rep. Gary L Daniels for the Special Committee on Education Funding Reform: While this bill seeks to support the House position that the legislature should make education funding decisions, the constitutionality of restricting judicial review of state education trust fund payments as dictated by the bill is at best dubious. The courts have constitutional authority to review statutes, and a law to restrict that would not supersede the Judiciary’s right to review future education funding formulae. Furthermore, the House has taken a clear position to resolve the court’s involvement in education funding by passing CACR 12 in 2011. That constitutional amendment would clearly set the boundaries for judicial review in a manner that cannot be abrogated by the courts. **Vote 15-0.**

HB 533-FN-L, establishing a cap on the amount of school building aid grants distributed in each fiscal year. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert A Foose for the Special Committee on Education Funding Reform: After a lengthy process of conferring with experts from other states, review of the reports filed from earlier study committees, and discussion with the department of education, the committee unanimously recommends HB 533. The legislation establishes a cap of \$50 million per year and continues the moratorium on new school building aid through the biennium. The funding for the current biennium will be used to service prior commitments to districts for projects that have already been undertaken. The act directs the department of education to develop a comprehensive prioritization system that can be used to rank proposed projects in the future and present a progress report on its effort to the legislature in November, 2012. The final report is due in November 2013. Since existing projects will consume almost all of the funds allocated, the committee specifically directs any remaining funds to be used for repairs that address life safety concerns. As new funding becomes available, it will be allocated on a “first dollar” basis rather than used to pay debt service on new borrowing. **Vote 13-0.**

HCR 26, declaring that the Claremont case's mandates that the legislative and executive branches define an adequate education, determine its cost, fund its entire cost with state taxes, and ensure its delivery through accountability, are not binding on the legislative and executive branches. **REFER FOR INTERIM STUDY.**

Rep. Laura J Gandia for the Special Committee on Education Funding Reform: While the majority of the committee echoes the sentiments contained in HCR 26 such as the constitutionality of the Claremont decision, the doctrine of separation of powers, the importance of local control, etc., the committee believes that there other pieces of pending legislation that address the issues raised in HCR 26. Therefore, the committee recommends that this bill be referred for interim study. **Vote 14-1.**

SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

HB 227-FN, relative to the membership of the retirement system board of trustees.

INEXPEDIENT TO LEGISLATE.

Rep. Stephen J Shurtleff for the Special Committee on Public Employee Pensions Reform: This bill would reduce the membership on the New Hampshire Retirement System Board of Trustees by Group I and Group II Members. Since the same language of this bill was already passed in HB 2 and SB 3, this bill became redundant and unnecessary. **Vote 11-0.**

HB 265-FN, redefining earnable compensation in the retirement system for new and non-vested members in service. **INEXPEDIENT TO LEGISLATE.**

Rep. Stephen J Shurtleff for the Special Committee on Public Employee Pensions Reform: The language in this bill was already passed by the legislature in HB 2 and SB 3, making this bill redundant and unnecessary. **Vote 11-0.**

HB 460-FN, relative to the retirement age for group II members. **INEXPEDIENT TO LEGISLATE.**

Rep. Kenneth Hawkins for the Special Committee on Public Employee Pensions Reform: The intent of this bill was accomplished with the passage of HB 2 so it is no longer needed. **Vote 11-0.**

HB 463-FN, relative to the retirement system maximum initial benefit limitation. **INEXPEDIENT TO LEGISLATE.**

Rep. John B Sedensky for the Special Committee on Public Employee Pensions Reform: This bill is addressed in SB 3 and HB 2 which are now law. **Vote 11-0.**

HB 465-FN, relative to the number of years for calculating average final compensation for retirement system benefits. **INEXPEDIENT TO LEGISLATE.**

Rep. John B Sedensky for the Special Committee on Public Employee Pensions Reform: This bill is addressed as part of SB 3 and HB 2 which are now law. **Vote 11-0.**

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

CACR 4, relating to oaths of civil officers. Providing that persons elected to the United States Senate and House of Representatives shall take the oath of civil officers prescribed by the constitution. **INEXPEDIENT TO LEGISLATE.**

Rep. Lucien A Vita for State-Federal Relations and Veterans Affairs: The resolution, originally introduced to clarify the necessity for U.S. Senators and/or Representatives to take an oath to uphold the Constitution of the State of New Hampshire, ranked issues regarding redundancy and extent (time). Further, the necessity of such a change was questioned by both the state Senator and Representative contacted as well as the bill's sponsor, in that additional oath would serve no real purpose. **Vote 9-1.**

HCR 2, in support of the Arizona immigration law. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucien A Vita for State-Federal Relations and Veterans Affairs: This resolution expresses New Hampshire's support of the legislation enacted by the State of Arizona in its efforts to reduce the number of illegal aliens in Arizona and to relieve the financial burden of incarceration, education and medical treatment being born by the citizens of Arizona. In so doing, the security and safety of the citizens of Arizona will be increased. **Vote 10-0.**

TRANSPORTATION

HB 354, relative to licensure requirements for retail vehicle dealers. **INEXPEDIENT TO LEGISLATE.**

Rep. Richard W Hinch for Transportation: This bill provides that certain established place of business requirements shall not apply to retail vehicle dealers who do not have a general distinguishing number. The committee was unanimous in its belief that the changes that this bill seeks to reverse came about after a long study commission; therefore HB 354 is unnecessary. The changes made by HB 354 would allow individuals to be dealers with no normal business hours, no physical structure and no signage. This makes it very difficult for consumers to resolve vehicle issues and complaints. This bill would reverse the ability of smaller dealers to obtain a dealer plate, thus hurting small business in New Hampshire. **Vote 10-0.**

WAYS AND MEANS

HB 447-FN, relative to collection of the education property tax and establishing a program to rebate certain excessive property tax payments of eligible taxpayers. **REFER FOR INTERIM STUDY.**

Rep. Mary R Cooney for Ways and Means: The committee felt the objectives of the bill are laudable: to give tax relief to lower income property taxpayers and give the state more flexibility in distributing the statewide property tax. This bill reflects the original intent of the SWPT which was to be a uniform tax collected across the state which would be collected by the state and then distributed back to the municipalities on an as needed basis. It also

based the need on both the state and the local portions of an individual's education tax in relation to an individual's income. However, the cost and complexity of implementing the bill to both the state and the towns outweigh the benefits at a time when municipalities are stretched as it is. The department of revenue estimated the cost of implementing at about 16 million dollars to transition from municipal billing and collection to state billing and collection. Individual taxpayers would be required to send in their SWPT to the state and local property taxes to the municipality further confusing the taxpayers. Consequently, the committee recommended Interim Study to further analyze the mechanics of the bill. **Vote 19-2.**

HB 454-FN-A, establishing a job creation credit against the business profits tax and the business enterprise tax for small businesses increasing employment in New Hampshire. **INEXPEDIENT TO LEGISLATE.**

Rep. Frank V Sapareto for Ways and Means: This bill creates a credit for job creation which is a goal that the committee supports. There is a similar program in effect for Coos County and its results are questionable at best. The committee feels that this would have an adverse effect on that program with no identified benefit. **Vote 21-0.**

HB 518-FN-A, increasing the research and development tax credit and establishing a commission to assess the effectiveness of the credit. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank V Sapareto for Ways and Means: This bill increases the tax credit for research and development. It also creates a commission to study the effectiveness of such a credit. Some of this work is being done by other committees and reports from them are due out in the coming months. For this reason, the committee has extended the Sunset date to July of 2015 so that a more informed decision can be made. **Vote 21-0.**

HB 611-FN-A, relative to determination of the reasonable compensation deduction under the business profits tax. **REFER FOR INTERIM STUDY.**

Rep. David W Hess for Ways and Means: Last spring, we thought we had addressed the issue of reasonable compensation as a deduction from business income for sole proprietorships, partnerships, limited liability corporations and other small businesses by passing SB 125, Chapter 207, Laws of 2011. Unfortunately, tax preparers and others have reported that DRA may be interpreting SB 125 contrary to the legislative intent of this committee, the full House and the Senate. By sending this bill to Interim Study, we can fully and thoroughly investigate these reports and, if accurate, use HB 611 to unequivocally and unambiguously remedy any misunderstanding of the legislative intent on this article taxation issue for small businesses. **Vote 20-0.**

WEDNESDAY, JANUARY 4, 2012

REGULAR CALENDAR

CHILDREN AND FAMILY LAW

HB 591, relative to the determination of parental rights based on the best interest of the child; relative to grounds for modification of an order regarding parental rights and responsibilities, and relative to grandparent and stepparent visitation rights. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Marie N Sapienza for the **Majority** of Children and Family Law: The committee and the subcommittee held several meetings on this bill. Everyone with interest had ample opportunity to speak and provide written testimony. The full committee considered the bill and two possible amendments before deciding that the proposed changes, while having possible merit for a small group, were not a net improvement to the current statute. Existing law contains criteria for determining the "best interest of the child" in parenting

disputes that is extensive, encourages co-parenting, and, in the vast majority of cases, is working very well. The bill would change the focus from what is in the best interest of the child to a standard that the majority respectfully felt was, “in the best interest of certain parents.” The majority felt that a small minority of parents, both male and female, believed themselves genuinely, sorely abused by various actions within the family court system. While the committee had empathy for these individuals and does not dispute the validity of their allegations, we believed the revisions they supported were not in the best interests of the majority of children and parents appearing in family court. The committee received what the majority believed was statistically reliable information refuting the allegations made by this group. Specifically, the overwhelming majority of divorces involving children are not contested and the parents agree on a parenting plan. The committee majority believes, supported by the presented testimony, that no statute would fully prevent all contested, acrimonious parenting disputes. The committee majority believes that before making significant changes to the statute we need to develop a matrix and gather hard data on contested parenting plans. The committee informally agreed to make this initiative a part of their work during the current session.” **Vote 11-5.**

Rep. Jeffrey D Oligny for the **Minority** of Children and Family Law: The majority of the committee refused to support a presumption of equal parenting time for divorcing parents despite considerable efforts to amend the bill and reach consensus. The state has no right to and does not interfere with parents of intact New Hampshire families unless a parent is found guilty of abuse or neglect or a crime. However, divorcing parents are treated differently for current law requires a judge to make subjective judgments to determine which parent is a better parent and allows the judge to divide parenting time based on the judge’s subjective judgments, including “any other additional factors the court deems relevant.” (RSA 461-A:6(1). It is those subjective judgments that lead to consternation among good parents who are discriminated against despite having done nothing wrong. This bill seeks to level the playing field and provide the same rights to divorced parents that are enjoyed by married parents. The entire committee agrees that reducing acrimony among parents in divorcing families is best for children. The majority however, fails to acknowledge that removing the goal of “winning” the custody battle will reduce acrimony and be best for children and families. Passing this bill will not only reestablish divorcing parents’ rights, but will also reduce prolonged litigation and the accompanying acrimony, while at the same time, reducing litigation and judicial branch expenses (over half of the superior court’s docket is family matters). Children will be the clear winners here as they maintain their equal relationship with both fit parents. The minority believes that this bill with amendment 2011-2728h is the New Hampshire way, and is a step forward for New Hampshire’s ability to promote strong children and families and economic prosperity.

COMMERCE AND CONSUMER AFFAIRS

HB 165, establishing a committee to study contract negotiations between health insurance companies and health care providers. **INEXPEDIENT TO LEGISLATE.**

Rep. Chris F Nevins for Commerce and Consumer Affairs: After further consideration, the sponsor of this bill requested the committee to pull this bill and the committee so obliged.

Vote 11-3.

HB 309-FN, repealing certain insurance mandates. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.**

Rep. Donald H Flanders for the **Majority** of Commerce and Consumer Affairs: The bill as introduced repealed seven health insurance mandates that were enacted in the last four years. The amendment is the product of a lot of hard work and negotiating by the committee to lessen the impact these mandates have on the small group and individual markets by implementing utilization review by insurance companies to insure the mandate is not abused. In some mandates the amendment changes a “shall” to a “may” so that the insurance companies may continue the mandate if their customers want them. The

amendment also includes a study committee to review all mandates that may need to be revised. **Vote 13-2.**

Rep. Andrew J Manuse for the **Minority** of Commerce and Consumer Affairs: This bill, as originally drafted, repeals health insurance mandates for certified midwives, for the cost of testing for bone marrow donation, for continuation of group health insurance in the event of divorce or legal separation, for children's early intervention therapy services, for obesity and morbid obesity, for diagnosis and treatment of pervasive developmental disorder of autism, and for persons having deafness and hearing loss. While the minority certainly thinks that insurance companies should consider developing insurance products that give people the option to purchase coverage for these situations, the minority does not believe insurance companies should be forced by government to provide this coverage for everyone. More importantly, these mandates as written in current law only force coverage on individuals and small employers with 50 or fewer employees. These mandates do not in any way affect the state insurance plan, most county insurance plans or plans defined under the federal ERISA law; specifically, plans for employers of more than 50 employees. To be clear: These mandates drive up the cost of health insurance ONLY for small businesses of small groups of 50 or fewer. These businesses are overburdened with costs and struggling to stay afloat, and government mandates on health insurance are one burden that we can remove to help these businesses, which very well could result in private sector job creation. Hiring new employees often gives small employers pause when they consider the costs of providing health insurance; eliminating these mandates on small businesses will help remove one barrier to hiring. The committee amendment went too far in watering down the intended mandate repeals; so far in fact that the minority could no longer support it. Consensus can sometimes provide for a better bill that benefits everyone involved, but in this case, the majority of the committee supported an amendment that really no one really wants. The minority urges the House to do the right thing for small businesses and job creation and vote down the committee amendment and then support the bill in its original form.

HB 430, establishing a committee to study the feasibility of establishing a state development bank in New Hampshire. **INEXPEDIENT TO LEGISLATE.**

Rep. Sean M McGuinness for Commerce and Consumer Affairs: This bill proposes to establish a committee to study the concept of a New Hampshire state owned bank.

Proponents argue that a model does exist in North Dakota. The Bank of North Dakota was established in 1919 to promote agriculture, commerce and industry and the BND is the only state owned bank in the United States. Although a primary purpose for creating such a bank in New Hampshire was never immediately clear, the committee found the concept interesting and retained the bill in order to consider all the possibilities. The committee did learn among other facts that the Bank of North Dakota was established 92 years ago under very unique circumstances to meet needs specific to that state. The committee considered the reality of a New Hampshire state bank and determined that such an institution would not solve any particular problem or provide any significant benefit. It would take years to develop and the start up cost could be significant. Further, a state bank would require a huge investment to properly capitalize and its business model, its viability and its very purpose fell into question. Consequently, a bipartisan majority of the committee overwhelmingly determined that establishing a statutory study committee to take on a substantial effort of this kind, for which a positive outcome is suspect or unlikely, was not considered to be a practical or advisable undertaking. **Vote 11-3.**

HB 581, regulating guaranteed price plans and prepaid contracts for petroleum.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Jennifer R Coffey for the **Majority** of Commerce and Consumer Affairs: This bill addresses pre-buy oil contracts. Although the lobbyist for the oil dealers had agreed with the bill and an amendment as proposed by the consumer protection division of the attorney generals office that contained the requirement that only oil dealers (not propane dealers)

would have to maintain escrow accounts, the committee turned down the escrow accounts proposal as it would provide a false sense of protection for consumers and would potentially hurt competition from small independent dealers. Commerce is keenly aware that no amount of legislation can stop a business from closing and possibly harming its clients. The committee decided that the most appropriate legislation provides consumer awareness. Therefore the committee amendment repeals current requirements that the AG's office said were ineffective and were enacted just a couple of years ago and replaces them with consumer notification and a buyer beware disclosure statement that must be signed by both the consumer and the business. **Vote 11-3.**

Rep. Donna L Schlachman for the **Minority** of Commerce and Consumer Affairs: This bill was brought to the legislature at the request of the New Hampshire department of justice because the current law is confusing and inadequate in protecting consumers who enter into the pre-pay contracts. While the minority agrees that no law can stop those intent on committing fraud, the oil council of New Hampshire supported this bill with amendment. It offered clarity to pre-pay contracts and provided 3 ways to secure prepay deposits when companies offer such contracts to their customers, including "escrow accounts." Escrow accounts are a mechanism to protect consumers, and this was strongly supported by oil businesses in testimony before the committee. The minority believes that New Hampshire citizens deserve more than "buyer beware" legislation, and the consumer protection division of department of justice should have better laws under which to work on our behalf.

HB 602-FN-A, relative to funding the law requiring reporting of health care acquired infections. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Donald H Flanders for the **Majority** of Commerce and Consumer Affairs: This bill creates fairness in reporting of health care acquired infections. The majority of the committee agreed this important information gathered for the benefit of the public health welfare and should not be dependent upon the federal government but remained controlled by the state. The committee recognizes there are 99,000 deaths nationwide per year from health care acquired infections. The New Hampshire hospital association supports this legislation and specifically requested not only the support of the legislature but the continuation of the requirement of fees on them as they stated without the state they would have an increased reporting burden and would be concerned about inconsistency in those reports. **Vote 12-2.**

Rep. Andrew J Manuse for the **Minority** of Commerce and Consumer Affairs: The minority agrees with the majority that hospital and ambulatory surgical center borne infections are a serious problem that have touched many of us personally, including this writer, but the solution presented by the committee in its amendment only provides the public with a false sense of security and does not even begin to solve the problem. High among its list of problems, the bill as amended raises a new fee on ambulatory surgical centers, most of which are already owned by the hospitals, which already pay the fee. Since this fee is currently paid by hospitals, the new fee payer will likely pass on the cost to its customers which will likely raise medical costs on insurance premiums. To be fair to hospitals, who will probably will not reduce their charges due to this bill, the better and more cost effective solution would be to eliminate the fee on hospitals and allow HHS to rely on federal funds already collected for the reporting of infections. In the long term, perhaps a private market reporting system can replace the current bureaucratic version, which could be administered by the hospitals or a hospital group itself. Importantly, fairness does not mean raising fees for everyone else who doesn't currently pay them. It could also mean repealing fees for the folks who currently pay them. Also importantly, the bill as amended creates a new dedicated fund called the "health care associated infections fund" to be managed by the Health and Human Services Department. This is a department of our state government that already has too much power to spend the people's money without restraint. A new dedicated fund that takes control away from the legislature and evades the budget process is not what the doctor ordered. While the

minority understands the concerns of those who supported this bill, surely another solution that doesn't include a new fee for the ASC, a new dedicated fund and more government bureaucracy would be better than the amendment the committee offered.

SB 160-FN, relative to the definition and regulation of installment loans. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Jennifer R Coffey for the Majority of Commerce and Consumer Affairs: This legislation gives consumers a free market choice with regard to their own finances, while ensuring contract law is upheld and consumers enter these contracts with their eyes wide open.

Currently companies are offering these loans to New Hampshire residents legally over the internet. Even Wells Fargo has them. However, no New Hampshire company can offer them. With this legislation comes fairness in the marketplace. **Vote 14-2.**

Rep. Donna L Schlachman for the **Minority** of Commerce and Consumer Affairs: The minority believes that the current 36% cap on payday loans is good public policy. While this bill identifies this product as "installment loans," the only company that expressed an interest in offering these in New Hampshire is the largest payday lender in the country. This same company has paid out \$18 million to settle a lawsuit in one state and has suits pending against it in at least 11 others. This bill allows such companies to reap up to 400% APR on loans with no requirement to determine the ability of the borrower to repay the loan. In addition, a loophole in the bill would allow what is advertised as a short term loan to become long-term debt. The minority rejects the argument that since people can get illegal loans on the internet New Hampshire should legalize payday loans. The committee learned of one bank that offers a credit builder program for small low interest loans. Rather than invite back predatory lending, New Hampshire should let market competition bring new products to the public. By making these high interest loans legal, consumers will no longer have any legal remedy to assist them if they become trapped in a cycle of bad debt.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 29, permitting a person to petition the superior court for any action pertaining to a pistol or revolver license. **INEXPEDIENT TO LEGISLATE.**

Rep. David A Welch for Criminal Justice and Public Safety: This bill would allow a person to bypass the district court if appealing a decision by the licensing authority who has denied the issuance of a concealed weapons license. Currently RSA 159:6-c states a person so denied can petition the district court to determine if such person is qualified. The court shall conduct a hearing within 14 days after receipt of the petition. During this hearing, the burden of proof is on the issuing authority to demonstrate by clear and convincing proof why such person is not qualified. Further, the court must issue its decision no later than 14 days after the hearing. The superior court which is the subject of this bill may not be in session and unless the person is pro-se, a lawyer would be required and the costs to the person and the town or city will increase with no certainty of a quick solution. **Vote 11-6.**

HB 162-FN, relative to capital murder for purposely causing the death of another. **OUGHT TO PASS.**

Rep. Phil J Greazzo for Criminal Justice and Public Safety: The majority of the committee believes the lives of ordinary citizens are just as important as any public official. The majority further believes in equality under the law to include the murder of any citizen without exception. The cost associated with a lengthy sentence of life in prison is not comparable to the expense of imposing a death sentence on an individual who chose to take the life another however, the cost of receiving justice in this circumstance is priceless! This bill only gives the option of seeking a death penalty and is not mandatory. **Vote 11-6.**

HB 217-FN, including "unborn child" in the definition of "another" for the purpose of first and second degree murder, manslaughter, and negligent homicide. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Kreis for Criminal Justice and Public Safety: This bill would include "fetus" in the definition of "another" for the purpose of first and second degree murder, manslaughter and negligent homicide. There are 36 states in this country that recognize the unlawful

killing of a fetus as homicide in at least some circumstances. Of these 36 states that currently recognize the “fetus” as a homicide victim, 25 of those apply this principle throughout prenatal development. These laws do not apply to legally individual abortions. In 2004, Congress passed and President Bush signed the Urban Victims of Violence Act, which recognized the child in utero as a legal victim if he or she is injured or killed during the commission of 68 crimes of violence. It is time New Hampshire joined those 36 states that recognize how important it is to protect every citizen, including the unborn. **Vote 12-4. HB 334**, relative to the state's authority to prohibit or regulate firearms, firearms components, ammunition, or firearms supplies. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Mark Warden for the **Majority** of Criminal Justice and Public Safety: The bill as amended adds knives to RSA 159:26 which currently prohibits restrictions on firearms. Further, it codifies that the general court shall have exclusive authority and jurisdiction over the sale, ownership, transportation and use of firearms and knives. It prohibits any political subdivision or agency or committee from prohibiting or regulating firearms or knives in the state. **Vote 11-6.**

Rep. Stephen J Shurtleff for the **Minority** of Criminal Justice and Public Safety: This bill mandates that cities and towns cannot ban weapons on property they own. However, there is a provision of the bill as amended that allows a town to have authority to ban weapons on its property. The minority feels that this provision violates the equal protection clause of the New Hampshire Constitution, in so far as it denies our state's thirteen cities this same right. Furthermore, the bill denies entities that lease space from the state the right to ban weapons from their leased space. Having a day care facility in the city of Concord that leases space from the state, this provision is of grave concern to the minority. The provisions of this bill also apply to state property, thereby, allowing guns at the places where they would not be appropriate such as UNH, community colleges, the Soldiers Home, etc.

HB 448-FN, relative to spice incense products. **INEXPEDIENT TO LEGISLATE.**

Rep. Kyle J Tasker for Criminal Justice and Public Safety: The committee feels any attempt to stay ahead of manufacturers of herbal incense products would create an arms race of chemical compounds. To circumvent any regulations we put in place manufacturers will slightly modify their compounds and the unintended consequence could be more potent or dangerous compounds that are untested and not fully understood. **Vote 14-3.**

HB 475-FN, relative to penalties under the consumer protection act. **OUGHT TO PASS.**

Rep. Robbie L Parsons for Criminal Justice and Public Safety: The attorney general's office wanted this brought forward. The law currently allows only misdemeanor charges under the consumer protection act against an individual, regardless of the value of the goods or services involved in the crime. The committee believes it is appropriate to let the punishment better fit the crime by allowing a charge of class B felony for values between \$1,000 and \$1,500 and a class A felony for a value of more than \$1,500. **Vote 14-3.**

HB 486-FN, relative to penalties for alcohol ignition interlock circumvention. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. David A Welch for the **Majority** of Criminal Justice and Public Safety: This bill creates an enhanced penalty for those who violate the alcohol ignition interlock device installed by court order. If convicted of violating the device, the court may fine not less than 500 dollars and order an enhanced technology ignition interlock device be installed and for an extended two years. **Vote 15-2.**

Rep. Mark Warden for the **Minority** of Criminal Justice and Public Safety: The minority has concerns about the loss of privacy inherent in the “enhanced technology” ignition devices mandated by this bill. These devices track the location of a vehicle 24/7, regardless of who is driving. The enhanced interlock devices include GPS locators, video cameras, and cellular communication components, and are monitored by people outside New Hampshire.

HB 536-FN, relative to the natural right to carry a firearm, openly or concealed, without a license. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kyle J Tasker for Criminal Justice and Public Safety: This bill will increase the length of time between license renewals to five years. This bill will also make the pistol / revolver license optional and allow anyone present in the state to carry a concealed firearm without a pistol/revolver license. **Vote 12-5.**

HB 628-FN, making the touching or viewing with a technological device of a person's breasts or genitals by a government security agent without probable cause a sexual assault.

OUGHT TO PASS WITH AMENDMENT.

Rep. Moe Villeneuve for Criminal Justice and Public Safety: Many people have heard of reported abuses by TSA agents at our nation's airports and train stations. While security is of utmost importance, the maintenance of that security must be conducted in a way that respects citizens' rights and decency. To shine a light on TSA searches and prevent potential abuses during such transportation related searches, this bill as amended would allow citizens to report to a police officer on the scene or the county sheriff about their search and that report will be sent to a designated directory for public viewing with the state police. This bill also allows citizens to video and audio tape their own search to verify their report, and it requires police officers to be of assistance in the taking of the citizen's report. The record shall be used to determine patterns of abuse and whether further action is needed by a future legislature. **Vote 10-6.**

EDUCATION

CACR 8, relating to education. Providing that the legislature shall have the power to authorize schools. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Michael A Balboni for the **Majority** of Education: CACR 8 restores the people's right to local control of education and the authority of the legislature in education and education funding. In 1968, NH ballots included Question No. 3, a proposed Constitutional amendment which read: "Are you in favor of amending Article 6 of Part I of the Constitution so as to strike out certain specific sectarian references" The ballot question included this summary of the original Article 6: "Article 6 authorizes local public taxation for the support of 'Protestant' clergymen only, and promises equal protection of the law solely to 'every denomination of Christians'." The ballot question provided voters with the following explanation of the effect of the proposed amendment: "If the amendment is adopted, ... the above-described sectarian references will be stricken from the state constitution, putting all religious denominations on a basis of equality and removing the present conflict with the U.S. Constitution." Though the voters were told that only the sectarian references were to be removed, the actual amendment language went far beyond this. The amendment also removed and altered several non-religious phrases in the Article, and these changes were not explained to the voters. CACR 8 would give the people the opportunity to restore to their Constitution the non-religious aspects that were removed in 1968. These restorations include the following: the purpose of education as being to teach the fundamental principles of the Constitution so that the people are better able to control their government; empowering the legislature to authorized schools, to create and regulate public schools; providing school districts the exclusive control over the selection of their teachers and their compensation; the school districts control over curriculum which is inherent in the original Article's exclusive control over the selection of teachers; and each school district's responsibility as the first payers of education expense consistent with the exclusive control over teacher selection and compensation and curriculum selection. CACR 8 then proposes two further changes: it ratifies judicial opinions which enable the state to pay for non-religious education at religious schools; and it clarifies the legislature's power to supplement local funding of public education. The first change makes clearly and permanently constitutional the state's current practices such as funding the non-religious education component for special needs students as required, for example, under federal special ed

regulations, and the giving of scholarships to nursing students for the non-religious part of their education at religious schools. The second part ensures that the state funding of education will be consistent with the coordinating Articles of the Constitution of New Hampshire, specifically Part I, Articles 12, 28 and 29 and Part II, Articles 2 and 5 which make the legislature the supreme policy body of the state, and the only body capable of determining state spending. CACR 8 can be summed up as restoring the local control of education and the authority of the legislature in regard to education and education funding; thereby returning the people firmly in control of public education. **Vote 10-5.**

Rep. June M Frazer for the **Minority** of Education: Objection 1. State funding of Education. Article 6 states that the parishes, et al, “have the right of . . . contracting with them [their teachers] for their support or maintenance, or both.” It does not say that the parishes, et al, have the sole obligation for support or maintenance of their teachers. The amendment to this passage – adding the word “exclusive” before “the right” – takes the state completely out of funding for support and maintenance of teachers. A further amendment statement nails this down and expands “support and maintenance” of teachers to support and maintenance of “schools”: “The several political subdivisions for public education, charter schools, parishes, bodies corporate, shall make adequate provision at their own expense, for their schools, provided that the legislature may supplement that provision in the manner and degree that the Legislature finds most beneficial to the general good. This amendment takes away all obligation for the state to fund public education. Objection 2. State support of religious schools. The second-to-last sentence of Article 6 states that “no person shall ever be compelled to pay toward the schools of any sect or denomination.” In deleting the word “schools” and substituting the words “religious education,” the amendment opens the door to public funding of religious schools, which the constitution emphatically states that no person (i.e., taxpayer) should ever have to do. This amendment allows for state funding of religious schools.

HB 219, establishing a committee to study the abolishment of the department of education. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Gregory Hill for Education: The majority of the committee, after a subcommittee met five times over the summer and two days of the full committee discussion, culminating in an amendment created with much committee input, passed the amendment that principally does two things. First, it creates an oversight committee that will be charged to study and review all rules adopted by the state board of education to determine if the rules have an appropriate basis in statutory authority and whether the rules put in effect are in need of revision. Another key provision of the amendment restricts the state board of education to adopt only those rules necessary to comply with federal minimum standards. To exceed those minimum federal requirements, it would be necessary for the state board to receive prior approval by a majority vote of both houses of the legislature. **Vote 12-4.**

HB 595, amending the compulsory school attendance statutes to permit parent-directed instruction programs and repealing the home education statutes. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Ralph G Boehm for the **Majority** of Education: There were three bills dealing with home education, even though it was felt that this bill had some good points, the committee decided that HB 545 was the vehicle to use for changing the home education statute. **Vote 12-2.**

Rep. JR Hoell for the **Minority** of Education: We oppose the ITL recommendation. HB 595 is similar to HB 1580 which almost passed through the house under a democratic majority in 2010. HB 595 provides for equitable treatment for home schools. Under current law, a child’s home education program can be terminated in certain cases whereas the child’s public or non-public school program would not be terminated. HB 595 respects a parent’s right to direct the education of his/her child.

ELECTION LAW

HB 212, relative to the definition of conflict of interest for executive branch officials and employees. **REFER FOR INTERIM STUDY.**

Rep. Shaun S Doherty for Election Law: The committee feels it is best to take a further look at the issue of conflicts of interest among employees of the executive branch. During subcommittee meetings, we saw merit in studying a potential conflict arising from an employee of the executive branch accepting compensation from a campaign committee that directly supports the employees. **Vote 15-4.**

HB 356-FN, requiring valid photo identification to vote in person. **REFER FOR INTERIM STUDY.**

Rep. David Bates for Election Law: This bill is a bill that would require voters to show photo identification in order to vote in person. Earlier this year the committee retained this bill at the request of the prime sponsor. After the legislature failed to override the Governor's veto of SB 129, we turned to HB 356 as a vehicle to develop another approach for voter ID legislation. A subcommittee worked diligently to produce a solution that does not rely upon provisional ballots. Members of the subcommittee created and considered five different amendments including the one the subcommittee adopted the morning of the executive session. The majority of the committee strongly supports the goal of creating and passing legislation that requires proof of ID when voting. However, the majority did not believe we had arrived at language that was ready to pass. **Vote 10-9.**

ENVIRONMENT AND AGRICULTURE

HB 325-FN, relative to the purchase of ill animals from licensed animal vendors and inspections of animal vendor premises by the state veterinarian. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Tara A Sad for the **Majority** of Environment and Agriculture: This bill as amended makes two changes to RSA 437, sale of pets and disposition of unclaimed animals. Currently, in order to satisfy the demand for dogs and cats in the state, thousands of pets are being transported into New Hampshire each year from other states and even other countries (Last year approximately 6,000 dogs were imported into NH). Currently the department of agriculture and the state veterinarian have no way to prevent sick and infected dogs and cats from being introduced into our state upon crossing state lines, and as a result new infectious diseases have been introduced into our existing animal population that were never present in the past. This bill will require a two-day quarantine of any imported dog, cat or ferret in a facility licensed by the department. This quarantine period will bring us into line with requirements in other New England states. In addition, the bill will allow a sick pet to be sold or adopted by a person who is informed of the animal's condition and is willing to accept the responsibility and cost involved in taking the animal. Currently, no sale or transfer is allowed, even to a willing adopter. **Vote 10-2.**

Rep. John T O'Connor for the **Minority** of Environment and Agriculture: We are concerned that the waiver would allow for the transfer of animal with infectious diseases. Our further concern is with the 48 hour holding period in that the location of the licensed facility is too broadly undefined, when as the transferring of the animals could be exposed to the elements.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 137-FN-L, relative to the state fire code and the state building code. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Calvin D Pratt for Executive Departments and Administration: This bill updates references to the most recent version of the codes in the state building code and defines the state fire code. In addition, it authorizes the fire marshal to adopt and enforce a state fire prevention code and clarifies the authority of the fire marshal to inspect and issue permits for state buildings, including those of the university system. This bill revises the membership and duties of the building code review board. Finally, it ratifies amendments to the state building code made by the building code review board from 2010 up to July 1, 2011. **Vote 11-5.**

HB 383, prohibiting the collection of certain agency fees from state employees who are not members of the state employees' association. **OUGHT TO PASS WITH AMENDMENT.** Rep. Calvin D Pratt for Executive Departments and Administration: This bill prohibits the state employees' union from collecting "agency fees" from non-members. It goes into the effect only with the next approved contract, and applies only to state employees. **Vote 11-2.** **HB 446-FN**, repealing the authority for regulation of certain professional occupations. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Spec Bowers for the **Majority** of Executive Departments and Administration: This bill is a small step toward reducing excessive regulation. New Hampshire requires licensing for 148 occupations, more than almost every other state. New York, for example, licenses only 77 occupations. The ostensible purpose of licensing is to protect the public, but all too often the real purpose is to protect a trade from competition. Economists estimate that the reduced competition increases prices 10-15%, and also contributes as much as 1/2% to unemployment. These costs might be justified if licensing actually protected the public but the evidence is that it does little or nothing - and may even harm - public health and safety. Numerous economists, think tanks, academics, and the Canadian and U.S. governments have found that compulsory licensing reduces competition and increases costs with little, if any, quality enhancement compared to certification. HB 446 replaces compulsory licensing with voluntary licensing (aka certification) for a small number of occupations. It leaves in place the licensing boards. Those practitioners who want or need a license will get it just as today. They will then be able to label themselves "licensed". Other people will be able to practice without a license but must prominently disclose that fact to potential customers. If a willing provider and a willing, informed consumer decide to do business, the state should not interfere with their voluntary agreement. For customers who prefer the (unwarranted) sense of security from dealing only with licensed practitioners, that option will still be available.

Vote 9-8.

Rep. Peter B Schmidt for the **Minority** of Executive Departments and Administration: This bill has numerous negatives which make it unacceptable to a strong minority of the committee. Chief among these is the clear threat to the public safety and health posed by the practice of the deregulated professions by persons who may have no appropriate training and no demonstrated competence. How some monetary advantage for such practitioners and their risk-friendly customers outweighs the proven benefits of the current regulatory structure not only escapes those of us in the committee minority; it also was contradicted by the overwhelming public testimony of knowledgeable professionals. That is to say: there was no support, much less demand, for this bill. In addition, it would do great harm to existing businesses and their employees, as well as students preparing for a future in these sectors. Insurance requirements for reimbursement for these services would also be violated, leading to further complications for the public and the trades. Not insignificantly, the arbitrariness of the selection of these few professions for deregulation calls completely into question the validity of the alleged benefit of this step for NH and its citizens. In short, this is an ideologically driven bill, a solution in search of a problem, which should be rejected by those who recognize that the legislature's first obligation is to protect the health and safety of our citizens, and, when the issue of a good result is in question, as it is with this bill, to do no harm.

HB 476-FN, establishing an independent board of psychologists. **REFER FOR INTERIM STUDY.**

Rep. John Sytek for Executive Departments and Administration: This bill would establish an independent board of psychologists. It would remove them from the board of mental health practice (BMHP) where they are now along with four other mental health practitioner guilds. The BMHP has had an uneven record of handling complaints against psychologists as was detailed in 2004 LBA performance audit. In recent times, governor and council have recognized these difficulties and are in the process of reconstituting the BMHP by filling

multiple vacancies. The situation is improving. While the psychologists feel there is a fundamental misfit between them and the BMHP, the committee felt the bill was premature in view of the progress already in evidence. The committee wishes to monitor whether the progress is sustained, to consider working on the bill, and to explore other possible avenues for meeting the concerns of the psychologists. **Vote 14-1.**

HB 625-FN-A, relative to New Hampshire correctional industries. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Randall A Whitehead for Executive Departments and Administration: This bill extends GraniteCor, a business enterprise within the state department of corrections for the purpose of reducing inmate recidivism by teaching inmates marketable skills through their involvement in the manufacturing of goods to be sold to the public and private sectors.

GraniteCor will not be competing with the private sector, as it will charge market prices for its services and products. This bill exempts GraniteCor from certain competitive selling, bidding and purchasing requirements, thus providing a positive and flexible environment for potential success of the program. By cooperating with the department of safety, GraniteCor will be allocated existing monies from the plate fund and the general fund, with the possibility of being self-funded in the future. This bill does not require any new taxes, and provides GraniteCor with a line of credit from the state. This bill will allow inmates to return to society as rehabilitated citizens, more able to find meaningful work, armed with marketable job skills and a sense of pride and dignity, lowering the crime rate and saving the taxpayers significant money in the long run. **Vote 8-2.**

SB 152-FN, relative to participation in state employees' group insurance by members of the general court. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Maurice L Pilote for Executive Departments and Administration: The bill as amended by the senate enables the department of administrative services to invoice current and retired members of the General Court who participate in the state employee's group insurance. The amendment provides for adequate notice of potential permanent termination of participation if payment is not made within 60 days of invoice. **Vote 9-0.**

FINANCE

HB 269-FN, establishing a priority based budget system focused on measurable results. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lynne M Ober for Finance: This amends RSA 9:16a to allow agencies to transfer funds within or among all accounting units (AU) within said department. The prior legislation only allowed a transfer of \$2,499 before six levels of approval were required. When transfers reached the level of \$2,500, five signatures, including the fiscal committee chairman and the governor, after the approval of the transfer by the executive council, were required.

Transfers above \$25,000 went to the fiscal committee. This legislation provides that transfers of \$75,000 or more shall require prior approval of the fiscal committee of the general court, and the governor and council, and provided that no funds may be transferred in violation of other provisions of RSA 9 or in violation of any restrictions otherwise provided by law or to or from any account, except accounts in the department of health and human services, which is not comprised of the same funding mix. Transfers under \$75,000 may be made as long as they conform to established state statutes and meet the approval of the department of administrative services. Under these established legal statutes, departments may not transfer any monies into or out of personnel, benefits, or out of state travel budget lines. The committee fully examined all transfers that had gone through the six stage process for the prior 39 months to determine the appropriate level of transfer. The committee also examined rules surrounding the signing of contracts, which requires executive council approval, and the purchase of vehicles, which has an elaborate approval process that remains in place. We did that to ensure that unbudgeted vehicles could not be purchased and to ensure that contracts would still go through the required approval process. Since the department of administrative services still must manage all transfer requests and ensure that all state laws are followed, the committee felt that a transfer amount of \$75,000

was appropriate. Not only will this help ensure more government efficiency, but it will remove some of the bureaucratic hurdles facing department heads who must manage both their departments and their budgets. This bill also cleans up state statute to remove the obsolete term PAU and replace with the new budgeting term AU which the LBA testified was merely housekeeping. This bill as amended had bi-partisan support. **Vote 17-4.**

HB 618-FN, requiring state agencies to submit an efficiency level expenditure estimate to the commissioner of administrative services as part of the biennial budget process. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lynne M Ober for Finance: This bill repeals the requirement for a maintenance budget while requiring the governor and all departments of the state to develop a budget that will continue to use forms furnished by the commissioner of administrative services. In a number of previous budget cycles, the maintenance budget, which was required by law, was prepared and then a second, and sometimes a third budget was also prepared. This duplicative work wastes times and resources. Having department heads concentrate on the better development of budgets that will be presented to the legislature and used to manage departments in the subsequent biennium will help ensure that more relevant details are available during budget reviews done by the governor, the house and the senate. The budget process will continue to be directed by the commissioner of administrative services who will continue to provide blank budget forms for use by all departments, ensuring that budgets are developed in a uniform manner across all state departments. Organization charts that identify employers by position number, and indicate whether the position is vacant or filled will be included with budgets. Expenditure estimates for the biennium will also be included. This bill establishes a performance measure system with an oversight commission to assist with development of such measures. Departments will work to develop performance measures that include resources needed and identify core government functions. The committee called other states that currently do performance based budgeting and found that if this effort is to succeed, several development years are needed prior to the establishment of the performance based budgeting requirements. During deliberations on this bill, commissioners testified that they needed three to five years to develop these measures, gather data, improve the measures and then begin to use them as the basis of performance based budgeting. Data gathered from other states and from our department heads was used in developing the performance measurement system. This bill supports and establishes the work to be done to develop these performance measures and allows those departments who used the LEAN process to continue with that development. Departments that did not participate in LEAN will begin to develop performance measures and needed resources. Annual reporting will report findings and any recommendations for proposed legislation. It is expected that during this oversight that legislation that would establish performance based budgeting can be developed. HB 618, as modified, begins this process, provides needed oversight and ensures that New Hampshire can move forward into a better budgeting process. After 5 years the commission is repealed and it is expected that the state will be using performance based budgeting with the performance measures developed in the preceding years. There was bi-partisan support for this bill as amended. **Vote 16-3.**

FISH AND GAME AND MARINE RESOURCES

HB 194, repealing the prohibition on having or carrying certain crossbow, rifles, or shotguns in vehicles. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Michael J McCarthy for the **Majority** of Fish and Game and Marine Resources: In an effort to make the prosecution of poaching easier, a law was enacted over three quarters of a century ago which made it illegal to have a loaded long gun in one's vehicle. The unintended consequence of this law was to deny people's property rights. For example: it is illegal for a farmer to have a loaded rifle or shot gun on a tractor to shoot pests. The law also denied people's Second Amendment Rights in that it became a crime to have a rifle or shot gun in one's vehicle to defend one's family. To compromise between people's rights and the public

safety, HB194, as amended, redefines a loaded weapon as a rifle or shotgun with a round in the chamber. If there isn't a round in the chamber, it can't discharge but could still be used for defense. It also allows people to do what they please on their own land. **Vote 7-3.**

Rep. Lyle E Bulis for the **Minority** of Fish and Game and Marine Resources: The minority feels that this amended bill increases the risk for an accidental discharge of a firearm. This bill changes the definition of a firearm that is considered to be loaded or unloaded. If passed, it would become legal to have a magazine or clip inside a weapon as long as there is no bullet in the chamber ready to be fired. All recognized firearm safety and instructional organizations teach that a firearm contains no bullets, no magazine or no clip until it is ready to be used. Existing law has been in place for 74 years. It keeps bullets completely outside of a firearm. The passage of this bill means that the bullet may be inside the gun but not in the chamber, thus one step away from ready to fire. This can become a dangerous situation that should not be casually accepted.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HB 228-FN, prohibiting the department of health and human services from entering into a contract with Planned Parenthood Federation of America, Inc. or any organization that provides abortion services and prohibiting the use of public funds or insurance for abortion services. **INEXPEDIENT TO LEGISLATE.**

Rep. James R MacKay for Health, Human Services and Elderly Affairs: The majority of the committee recognized the extensive health care services provided by Planned Parenthood for many years to a significant number of New Hampshire residents. No state or federal funds are used to perform abortions based on the Hyde amendment. Planned Parenthood utilizes accepted accounting practices to ensure that funds are not misused. The majority of the committee supported the continuing role of Planned Parenthood health services in New Hampshire. **Vote 12-5.**

HB 554, relative to mental health records. **REFER FOR INTERIM STUDY.**

Rep. James R MacKay for Health, Human Services and Elderly Affairs: The committee felt that considerable work was invested in HB 554 relative to mental health records. At this point, there are significant differences among the various constituencies that will require considerable time to resolve. The issues involved around confidentiality and public protection are important to resolve and deserve further study. **Vote 15-2.**

JUDICIARY

CACR 11, relating to terms for state judges. Providing that all state judges be commissioned for renewable 5-year terms. **INEXPEDIENT TO LEGISLATE.**

Rep. Brian JX Murphy for Judiciary: This bill sought to ask New Hampshire voters to amend certain articles of the state Constitution dealing with the tenure of judges and commissioned judicial officers. The intended purpose of this bill was to increase performance and accountability within the judicial branch. The committee acknowledges that while the initial appointment of a judge may have a political element to it, the judiciary must remain free and independent of politics. The committee concluded that amending our Constitution and requiring judges to go through a continual re-appointment process would expose them to political influence and thereby jeopardize their ability to administer justice in an independent fashion. Further, the committee recognized that HB 344, which was unanimously supported by the committee, will require judicial performance reviews without disrupting the careful balance of power the framers of our Constitution strove to establish. **Vote 10-6.**

HB 199, relative to proceedings of medical injury claims screening panels. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Joseph M Hagan for the **Majority** of Judiciary: This bill would change the panel hearings evidentiary method by allowing parties involved in a medical malpractice hearing to provide evidence by offers of proof rather than by actual testimony. By using offers of

proof, the contesting parties before the panel could present records and reports without having the preparing doctor present to introduce documents and be cross examined. While allowing offers of proof rather than actual testimony would save time and cost, the committee felt that a hearing evidentiary method change, in midstream, so to speak, prior to the final evaluation of the panel process by the Joint Legislative Oversight Committee would not allow for an effective evaluation. This joint oversight committee is charged to evaluate the process and make a final report in a little over a year. A change in the hearing process at this late stage was believed to be counter productive. **Vote 10-6.**

Rep. Lucy M Weber for the **Minority** of Judiciary: This bill was voted out of committee with a recommendation of Ought to Pass as Amended by amendment 2011-0086h at a full committee executive session held on 1 February 2011. The committee vote was 14-3. The bill as amended simplified proceedings in front of medical screening panels. Currently, the panels, which consist of a physician, an attorney, and a retired judge, hear testimony from live witnesses, making the proceedings into a mini-trial. Both sides incur significant expense in producing these experts. The bill requires the panels to make their decisions on offers of proof, which are written statements, accompanied by appropriate documentation, as to what the expert testimony will be. Adopting this procedure would significantly lower the cost of litigation for both parties, while still allowing the strengths and weaknesses of each party's case to be fully explored. As amended, the bill would also expedite the process by making it clear that most panel hearings must take place within nine months of the filing of the action. Subsequent to that vote, at a later committee meeting, a motion for reconsideration was made, and the bill was retained. A subcommittee hearing was held this fall at which no further work was done on the bill; it was simply stated that more study of the screening panels was needed. Medical screening panels have been studied continuously and inconclusively since their institution in 2005. No further study is needed to know that screening panels ensure that more innocent victims of real and life-altering malpractice will be unable to access the remedies guaranteed to them by the New Hampshire Constitution.

HB 261-FN, eliminating screening panels for medical injury claims. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Joseph M Hagan for the **Majority** of Judiciary: With the deepest respect to the sponsors of HB 261, the majority of the judiciary committee recommend ITL for the following reasons: (1) Data collection continues by the NH Insurance Department and the courts with no firm conclusion on how the process is succeeding. Procedural problems are being addressed by rule refinement; (2) The legislative oversight committee did not recommend significant statutory change nor even consider elimination; indeed, the final report is due December 1, 2013; (3) The present reform may be working, as medical liability rates have leveled and physician specialist shortages are diminishing; (4) Predictions that the panel system would deter claimants and discriminate against smaller monetary cases are not supported by the facts; (5) Concluding this experiment in problem solving prematurely is an antithesis to continuous quality improvement. **Vote 11-5.**

Rep. Lucy M Weber for the **Minority** of Judiciary: This bill would have eliminated the medical injury screening panels. The screening panels were instituted in 2005, following the example of the State of Maine, in an effort to lower the cost of medical malpractice insurance. The panels have proved to be a failure in the State of Maine, and the panels have been studied continuously and inconclusively in New Hampshire. The minority is persuaded that the panels have not served either to contain the cost of malpractice insurance or to speed settlement of cases, which can be done more efficiently with required mediation. Instead, the high cost of obtaining experts to testify twice serves to deny some with real and severe injuries their constitutionally guaranteed right to a remedy for the wrong done to them and to a jury trial.

HB 514, relative to entry on private land. **OUGHT TO PASS WITH AMENDMENT.**

Rep. J. Brandon Giuda for Judiciary: This bill addresses a growing problem in New Hampshire, namely officials and others trespassing on private property to gather

information about the property without landowner permission. The bill clarifies and upholds the natural right guaranteed by Article 2 of the New Hampshire Constitution to exclude others from one's property, while also addressing the realities of our modern society by allowing a small number of exemptions to avoid conflicts with existing laws. Specifically, the bill prohibits any person from entering private property to gather information without written permission from the property owner or a lawfully issued warrant. The bill also prohibits the use of any information gathered in violation of the requirements set forth in this bill. Finally, the bill provides remedies to landowners whose rights have been violated by allowing them to recover their legal expenses, and also allows courts to fine individuals who knowingly violate this law. **Vote 12-4.**

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 494-FN, relative to tipped employees who deal card and table games at games of chance venues. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William J Infantine for the **Majority** of Labor, Industrial and Rehabilitative Services: This bill will include tipped employees who deal cards and table games at games of chance venues under RSA 279:21. This RSA currently allows tipped employees of a restaurant, hotel, motel, inn, or cabin who receive more than \$30 a month in tips directly from the customer to receive a base rate from the employer of not less than 45% of the applicable minimum wage. This bill simply adds these dealers to what is currently in law for the employees who work in the industry listed above. **Vote 8-7.**

Rep. Jack B Flanagan for the **Minority** of Labor, Industrial and Rehabilitative Services: This bill allows card and game room dealers to be converted from minimum wage employees to tipped wage employees, a \$4.00 per hour reduction in pay. The minority feels that since tips are not guaranteed in games of chance, the employees are not the same as traditional tip waged employees. Additionally, with the number of workers in the state of New Hampshire that may receive tips of some sort, we are setting a dangerous precedent on reducing the wages of other employees in other industries.

HB 582, relative to communication between employers and employees during bargaining negotiations. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Gary L Daniels for Labor, Industrial and Rehabilitative Services: This bill as amended, injects into the collective bargaining process an opportunity for the negotiator for each party to talk directly to the board of the public employer or to the employees, respectively. The benefit to the negotiating parties is that legal costs may be reduced if this direct communication breaks impasse and enables the parties to reach agreement without having to go through mediation and fact finding. **Vote 11-4.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 293-FN, relative to phasing out and repealing the exemption for water and air pollution control facilities from local property taxation. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John A Burt for the **Majority** of Municipal and County Government: This bill would be a new tax on businesses in NH. State of New Hampshire Department of Resources and Economic Development (DRED) said it best and they also oppose this bill, "nearly every state in the U.S. exempts pollution control facilities from local property taxation-to implement this measure in NH will put our state at a competitive disadvantage as we seek to recruit new companies to the state." Virginia just expanded their laws a year ago on water and air pollution controls to draw business to the state. DRED also said, "in short, the moderate financial gains to be achieved through this legislation would be more than offset by the potential loss of business and the perception that NH offers a less than optimal business atmosphere." **Vote 9-7.**

Rep. Betsey L Patten for the **Minority** of Municipal and County Government: The original bill proposed to phase out the exemption from local property taxes for the appraised value of

water and air pollution control facilities as determined by Department of Environmental Services over a five-year period, and repeals the exemption on March 31, 2016. The amendment changes the baseline of “wholly or partly” for the purpose of pollution control to “solely” for the purpose for pollution control. The amendment then goes on to grandfather all existing exemptions and includes water-to-energy facilities into the exemption. In addition, the amendment allows for a public hearing at the request of a municipality to be held by the department of environmental services. The minority of the committee feels that the amendment is a fairer way to address the issue of one municipality’s taxpayers paying for the exemption of the pollution control facilities that benefits the whole state.

RESOURCES, RECREATION AND DEVELOPMENT

HB 221, establishing a procedure for leasing state parks. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. David H Russell for the **Majority** of Resources, Recreation and Development: This bill simply provides a “road map” for the commissioner of the department of resources and economic development to use in the consideration of any lease proposal. It makes the state park system advisory council (RSA 216-A:3-k) the “lease evaluation committee” to assist the commission in working out the details of a lease. This committee shall prepare a report to the commissioner, who will still have final authority to recommend a proposed lease to the governor and council. The committee has been working on this issue for three years. **Vote 8-7.**

Rep. Thomas J Howard for the **Minority** of Resources, Recreation and Development: This bill was opposed by the newly appointed director of parks. He appeared before the committee and asked that he be allowed time to evaluate the needs of his department and the ramifications of the bill. In addition, the leadership of the state parks advisory council, which is given additional responsibility in the bill, has expressed opposition to the bill. They are presently working on their own version of a leasing procedure.

SCIENCE, TECHNOLOGY AND ENERGY

HB 123, prohibiting an electric utility from disconnecting service from a residence or building in which a person is using life-sustaining medical equipment. **INEXPEDIENT TO LEGISLATE.**

Rep. James Garrity on behalf of former Rep. Sean C Cox for Science, Technology and Energy: This bill was filed in response to a tragic incident which happened in Salem, NH last year. The committee held on to this bill while waiting for the public utilities commission (PUC) to finish writing more strict rules regarding utility disconnection. In September, the committee received a report and briefing from the PUC detailing PUC Rule 1200, medical emergency protections. We were satisfied that the new, approved rules greatly strengthen protections for consumers and clarify policies and procedures which must be followed by utilities and the PUC. As a result of the PUC actions, this bill is longer needed. **Vote 9-2.**

HB 311-FN, relative to solar renewable energy. **REFER FOR INTERIM STUDY.**

Rep. Frank R Holden for Science, Technology and Energy: The purpose of this bill is to refine certain portions of the renewable portfolio standard (RPS) law. The changes are to make it easier for small renewable generators to qualify for renewable energy credits (RECs). Under the current law, it is difficult for smaller renewable generators to qualify for RECs and much of this currently installed renewable generation is not being counted towards the RPS goals. This results in the suppliers having to pay for non-compliance with the RPS law. Additionally, this bill transfers the obligation of compliance with RPS from the suppliers to the distribution utilities. It also makes changes that will keep more REC payments in state. The majority of the committee believes that, while these changes may be improvements, the bill only addresses a small portion of the RPS law and the concepts should be considered as part of a major re-write of the RPS in 2012. **Vote 6-4.**

HB 388-FN, requiring providers of prepaid wireless services and voice over internet protocol services to pay surcharges for deposit in the enhanced 911 system fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank R Holden for Science, Technology and Energy: Presently land line and post pay cellular telephone customers pay \$0.57 per month fee for enhanced 911 service. Other types of phone service such as voice over internet protocol (VoIP) or pre-pay cellular, while being able to benefit from 911 service, do not pay the fee. It is estimated that 20% of phone lines in New Hampshire fall into the latter category and do not pay the fee for 911 service. This bill as amended will require providers of pre-pay cellular and VoIP telephone service to contribute to the 911 system. It also changes the fee to \$0.47 per month for all categories of telephone service. The majority of the committee believes that reducing the fee for the 80% of customers that are paying for 911 and requiring the providers of other types of phone service to pay their fair share will result in level funding for the New Hampshire enhanced 911 system. **Vote 7-3.**

HB 543-FN, relative to biomass combined heat and electricity facilities. **REFER FOR INTERIM STUDY.**

Rep. Laurence M Rappaport for Science, Technology and Energy: This bill amends the current renewable portfolio standard (RPS) (RSA 362-F) to add biomass combined heat and electricity facilities as eligible for renewable energy credits (RECs). It also defines “useful thermal energy”, and establishes a thermal to electric conversion factor which would be used to establish total megawatt hours of output. The majority feels that this is an interesting concept, but because it is a significant addition to the current RPS, it needs to be considered in the context of a major re-write of the RPS statute in 2012. We prefer to keep this bill alive as a backstop measure in case the RPS re-write becomes stalled. **Vote 6-4.**

HB 649, relative to the Northern Pass Project to construct and operate transmission lines from the Canadian border to a proposed terminal in Franklin, New Hampshire. **REFER FOR INTERIM STUDY.**

Rep. Laurence M Rappaport for Science, Technology and Energy: The committee feels that it's important to keep alive the spirit of HB-648 should that bill be defeated by the Senate. HB-649 reflects much of that bill. We want to keep this bill in our possession in order to keep the concept alive in summer of 2012. The committee feels that protecting individual property rights is more important than promoting corporate development rights. **Vote 8-2.**

TRANSPORTATION

HB 342, relative to boat operation rules. **OUGHT TO PASS.**

Rep. John A Hikel for Transportation: This bill will clarify who gets certified mail notification relative to changes on water restrictions. **Vote 10-1.**

HB 455-FN, authorizing optional enhanced drivers' licenses and optional enhanced non-drivers' picture identification cards. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Kyle D Jones for the **Majority** of Transportation: This bill would create an optional REAL ID like license that would have a digital photo, a magnetic strip and a RFID chip attached to it. There were some privacy concerns addressed where the State of New Hampshire would have to share people's personal information with DHS (department of homeland security) if they got this license. While the sponsor did a very fine job trying to address our concerns the majority of committee felt that this bill is unnecessary because people can already get a passport if they wanted to go out of the country, and not needed because this would be opening Pandora's Box with the Federal Government. **Vote 6-5.**

Rep. Raymond G Gagnon for the **Minority** of Transportation: The enhanced driver's license has been developed between the department of homeland security and individual states to provide a lower cost and convenient alternative travel document for U.S. citizen residents of state that choose to issue such a document. This document is accepted as proper identification for surface travel between the U.S. and Canada, Mexico, the Caribbean and

Bermuda. HB 455 will allow New Hampshire citizens to choose this type of travel document instead of a full passport or passport card if appropriate for their out of country travel needs. The enhancement option for a New Hampshire driver's license will cost an additional \$30.00 and is projected to bring over 400 thousand dollars in revenue to New Hampshire. The RFID chip within the enhanced driver's license acts as a pointer. It is randomly assigned an encrypted number that is read by the U.S. Customs and Border Protection computer sensors at the border entry station. The computer will receive only the following personal data: Name, DOB, gender, citizenship and a photo image. This is no different than what had been required in the past. HB 455 provides a cost saving option for New Hampshire residents who travel, especially between New Hampshire and Canada.

WAYS AND MEANS

CACR 13, relating to prohibiting any new tax on personal income. Providing that no new tax on personal income shall be levied by the state of New Hampshire. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Keith Murphy for the **Majority** of Ways and Means: It is rare that this body considers any bill, resolution, or amendment so clear and concise that it may be reprinted in full here, but CACR 13 makes that possible. It simply says, "No new tax shall be levied, directly or indirectly, upon a person's income, from whatever source it is derived." The language is very carefully chosen to forbid only new taxes on individual income. Existing taxes on income, such as the interest and dividends tax, will be unaffected unless first repealed. The goal of the amendment is to acknowledge that the income earned by the citizens of our state is theirs and theirs alone, through their hard work and risk and savings. Granite Staters of every profession and income level work hard to feed their families, to save for their children's education, to keep their businesses afloat, to donate to their favored charities, to pay for their rents, their mortgages, their utilities, their medicines, and a multitude of other expenses, and it would be an incredible injustice for the state to demand some portion of that money. As a group, New Hampshire legislators have always known it was wrong to confiscate earnings, and the labor it represents, from our constituents. That's why to date we've remained one of nine states without a general income tax, but we must provide the people the opportunity to safeguard their paychecks from future legislators who may fall for the same temptations that have overcome the legislators of the other 41. Opponents claim that we must not tie the hands of future legislatures, but in reality that is exactly why constitutions and their incorporated amendments exist: to restrict governments from infringing upon the rights of the people. The majority of the committee believes that passing CACR 13 onto the voters for consideration is not only morally just, it would go far to cement the New Hampshire Advantage by sending a strong message to entrepreneurs, small business owners, and working people of all classes that our state will respect your right to keep your earnings. **Vote 15-5.**

Rep. Mary R Cooney for the **Minority** of Ways and Means: This bill may look like it prohibits only a personal income tax, but its actual language freezes our entire tax system in time, with devastating consequences to the state's economy and government. Businesses invent new forms over time, and consumers change their habits. In the past, we have adapted our taxes to this changing world, to avoid taxing any one form of business more than others. In 1970, the BPT was created to replace myriad smaller taxes and sparked an economic miracle in our state. In 1993, the BET was added after a lawsuit by larger businesses, which successfully claimed that it was unfair that they alone bore the cost of supporting the state while partnership groups and smaller businesses were exempt. In this very voting session, the Ways and Means Committee is recommending a measure, SB 168, which would probably be deemed a new tax on some people's personal income by the justices if the affected parties sued using this amendment. If this passes, any future adaptation to changing economic reality will be unconstitutional, because the actual wording of the amendment prohibits any change levying any new tax on any person's income, from whatever source derived, directly or indirectly levied. All taxes are levied at least indirectly

on people's income. This would leave us with a dwindling set of state-level taxes that would be highly unfair in their application across different businesses and individuals. History tells us that the overall revenues would decline relative to the cost of essential services: infrastructure, public safety, education and the general welfare. The only options left to pay for these will be increasing existing business taxes, the interest and dividends tax, the real estate transfer tax, and most especially, the property tax. Because this amendment is worded so vaguely, it would generate numerous expensive legal challenges. This amendment guarantees ever-increasing property taxes, vanishing businesses, and fleeing citizens. It will return us to the time 50 years ago when New Hampshire had the worst economy in New England.

HB 242-FN-A, increasing the net operating loss carryover under the business profits tax. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank V Sapareto for Ways and Means: This bill allows a net operating loss carry over for ten years with a \$10 million cap on loss. This law has already been passed in HB 2. This law has no fiscal impact on the current budget. The committee amendment changes the effective date to January 1, 2013. The committee feels this bill is necessary to help New Hampshire business in a difficult economy. **Vote 16-5.**

HB 564, relative to the adoption of forms by the department of revenue administration for the filing of taxes. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Norman L Major for the **Majority** of Ways and Means: This bill requires that tax forms developed or approved by the department of revenue administration shall be adopted pursuant to RSA 541-A, the administrative procedure act, and repeals the exemption from RSA 541-A for such forms. The bill was amended to apply only to business tax forms developed or approved by the department which relates to the business profits tax under RSA 77-A, the business enterprise tax under RSA 77-E, and the taxation of incomes under RSA 77 (Interest and Dividends tax). The amendment also removes the requirement mandating taxes to be remitted by electronic funds transfer, if prior year taxes were over \$100,000 dollars, and also removes the up to \$5,000 dollars penalty for not remitting the taxes by electronic funds transfer. The cost to the department for processing taxes by checks is less than ten dollars a check. There are less than 150 business taxpayers required to utilize electronic funds transfers still remitting there taxes by checks. The business taxes and the interest and dividends taxes affect the vast majority of our taxpayers and should be subjected to the highest level of transparency and accountability whenever changes to their structure or associated tax forms are contemplated. Therefore, the committee recommends changes be established through the joint legislative committee on administrative rules (JLCAR). Also, the committee felt the mandate relative to electronic funds transfer and the up-to 5,000 dollar fine for not transferring funds electronically are not necessary. **Vote 16-5.**

Rep. Susan W Almy for the **Minority** of Ways and Means: This bill would require all business tax and interest and dividends tax forms to go to JLCAR for approval. This was done until 1996 when the legislature ended the practice; we were and are the only state that requires outside approval for tax agency forms. The reason it is not done is that the process often takes so much time that changes in state or federal law or rules affecting the forms can only be implemented a tax year later. This not only delays the will of the legislature; whenever it involves a federal change, businesses require two sets of books and calculations to pay their taxes. The more closely we are tied to a federal tax, the more likely there will be a permanent time lag – more work for accountants and more expense for business. For the last two years, the department of revenue administration has been working closely with accountants and businesses to simplify forms and evaluate changes. Many other forms are being made more transparent and easier to complete. While JLCAR has several new emergency procedures that will make it quicker to process the department forms, they all require reaffirmation by going through the full process within six months. The first time that JLCAR refuses to agree with a final form six months after the forms had been sent out

and the commercial tax software changed to conform, it is very likely that there will be major confusion in the business world. Do they revert to the old form? Do they not pay at all? What if they based business decisions on the legislative policy embedded in the new form, and now find themselves reversed? There are ways to institutionalize the existing advisory council of accountants and external comment process, a system which is working. The recommended JLCAR process will be bad for business.

HB 593-FN-A-L, relative to video lottery and table gaming. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Gary S Azarian for the **Majority** of Ways and Means: This bill is a bi-partisan pro business bill that will create jobs, grant tax relief, and provide the state with an additional revenue source. The citizen's of the state overwhelmingly support the idea of expanded gaming. Today, New Hampshire residents spend roughly 80 million dollars a year gambling outside of the state. Expanded gaming will keep those dollars here and expand our economy by attracting residents from our neighboring states. The amendment to this bill provides for charitable gaming, provides 500K for each license application; provides 100K to the attorney general's office for investigation of each application; provides for a 120 day time frame for due diligence which can be extended if needed; provides for two licenses at 50 million each; provides an equitable process by which any entity can submit an application for any location to include the north country; provides revenue to offset business taxes; provides revenue to the host community and abutting community; and makes provision to HHS for those in need. Massachusetts has passed gaming legislation. If we fail to act on this legislation, New Hampshire's economy will be forever negatively impacted. The state will see a decrease in revenues from across a wide spectrum to include liquor, lottery and tourism. We will also be paying for those who may become addicted to gambling out of state with no additional revenue to offset the cost. This bill supports job creation, tax relief, and additional revenue sources. **Vote 14-7.**

Rep. David W Hess for the **Minority** of Ways and Means: As amended, this bill authorizes the exclusive licensing of two casinos in New Hampshire. As compensation for granting these monopolies (or duopolies if you're a stickler for semantics), the State would receive a fixed, flat licensing fee. Thereafter, the licensee is entitled to renew its monopoly every five years, without limit, as long as it is "in good standing under this chapter." Each such renewal, which can go on under this bill in perpetuity, carries an additional fee amounting to just \$300,000 a year. If the licensee sells its license to a third party, the bill prohibits the State from collecting "any additional fee." And the public "take" from these casinos is only 40% of net machine proceeds and 8% of table game proceeds. The amendment to this bill voted on by Ways and Means is almost a complete rewrite of the original bill. It was introduced for the first time in subcommittee. It has had no public hearing, and it was written almost entirely by the lawyer-lobbyists of the casino interests. Not surprisingly, therefore, it is a win-win-win for their gambling-interest clients, but it is a lose-lose-lose proposition for all of the rest of us. This bill is a Great Giveaway to the casino interests. The taxpayers of New Hampshire lose because the licensing fees are fixed at low, arbitrary amounts. Many other states today have adopted a competitive application process requiring a minimum license fee bid. In Massachusetts, the minimum bid will be at least \$85 million. In Illinois it was \$100 million for a relatively suburban location. In New York, it was \$300 million. In both Illinois and New York, higher amounts were bid and collected by the states. No rationale or explanation has been given as to why \$50 million was set as a fixed fee – as opposed to a minimum bid – in this bill, particularly since the market for any casinos in Southern New Hampshire overlap with those in Massachusetts – a market which Millennium has described as perhaps the most potentially-lucrative gambling market in the U.S. Why are the renewal fees so absurdly low? And why doesn't the state get a share of any windfall profits a licensee will harvest if, as will almost certainly happen, it "flips" its license by selling it to a third party for considerably more than the \$50 million it paid? The State of New Hampshire and host municipalities lose because the "take" from the casino operations is arbitrarily set at 40% for VLTs and 8% for

table games. The original bill sent 49% of VLT proceeds to our public coffers. Pennsylvania collects 55% and has had no shortage of applicants for its casino licenses, including Millennium. Indeed, in just a few short years, Pennsylvania at 55% is raising the most revenue from gambling of any jurisdiction in the country. Third, New Hampshire jobs and the New Hampshire economy lose because this bill requires no minimum capital investment and no construction build-out time line. Indiana required a minimum of \$100 million per casino; Ohio \$300 million; and Massachusetts is considering \$500 million. We are informed that revenues have a direct correlation with the quality of the gambling venue – and that such venues provide both more and better paying jobs in both construction and operation. Millennium has told us it plans to spend \$450 million in Salem; Green Meadow is promoting a \$300 million project in Hudson. Let's require a minimum capital investment in the bill, instead of making this just another part of the Great Giveaway. Further, the regulatory framework for effective oversight of this huge industry with incredible cash flows is not in place. In its May 18, 2010 report, the Governor's Gaming Study Commission recommended: "New Hampshire needs to review its regulation of gaming, with or without expansion of legalized gaming. To insure integrity and public confidence, this review should be completed and necessary changes implemented before any expansion is enacted." That has not come about. And this bill imposes absurdly artificial and unreasonable time lines on the Lottery Commission to do just that – requiring it to adopt "interim rules" governing the licensing process for these casinos within 90 days of passage of the bill. And "interim rules" require no public hearing before adoption. Why the rush? Why does this bill circumvent sound public policy and transparency? Finally, there is no turning back if this bill passes. Once casinos are in place, they will be here forever. Many of us believe they will change the culture and tourism brand of New Hampshire forever – and not for the better. This bill is 36 pages long; the two bills under consideration in Massachusetts are 109 and 164 pages long. What are we missing? If we are to have casino gambling here in New Hampshire, let's do it right. This bill doesn't even come close.

HB 645-FN-A-L, eliminating various taxes and fees and tax and fee increases enacted in fiscal years 2007 through 2010. **REFER FOR INTERIM STUDY.**

Rep. David W Hess for Ways and Means: This bill identifies all of the new taxes and fees, and increases in taxes and fees, enacted during the previous two legislative sessions (FY 2007 – 2010). It details the additional annual revenue generated by each such new or increased tax and fees, as such, constitutes a single, convenience source for measuring how the repeal of anyone or more of these tax and fee increases will impact state revenues. In this respect, it is an invaluable resource to review all state revenue sources, and is available to roll back one or more of these new or increased taxes and fees in the coming year and next biennium. **Vote 16-4.**

HB 646-FN-A-L, eliminating various taxes and fees and tax and fee increases enacted in fiscal years 2006 through 2010. **REFER FOR INTERIM STUDY.**

Rep. David W Hess for Ways and Means: This bill is identical to HB 645 except that it extends its purview to FY 2006 as well as FY's 2007 through 2010. The committee desires to retain this bill for Interim Study for the same reasons as HB 645. **Vote 16-4.**

SB 168-FN, conforming the interest and dividends tax to federal tax definitions.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Gary S Azarian for the **Majority** of Ways and Means: Bringing our state tax definitions into conformity with federal law will significantly simplify tax preparation and predictability thereby reducing preparation costs to the taxpayer. The result would be treating all taxpayers equally regardless of the corporate form that they may be organized under. It also avoids the double taxation that owners of sub-chapter S corporations may experience under current law. The committee was advised that 95% of taxpayers, especially small business owners, will experience no significant change in tax liability with this statute. The DRA advised the committee that the state would receive additional interest and

dividend taxes of approximately 22 million over current receipts. However, they also reported that if 10 of the largest 120 I and D taxpayers changed their domicile status, the state could actually lose 10 million dollars. Given the fact that there was no opposition to the bill by the public, the committee felt this to be an unlikely scenario. **Vote 16-4.**

Rep. Susan W Almy for the **Minority** of Ways and Means: Although this bill is good tax policy - it simplifies an antiquated structure, removes constitutional and economic conflicts that have been the source of several lawsuits and failed political attempts at solutions, and makes it easier for businesses to comply – it is not at this time good fiscal policy. The state is struggling to stay within its budget, and federal government cuts and global economic malaise threaten serious budgetary imbalance and further reduction of essential services to businesses and citizens. The department of revenue administration has done its best to estimate the impact, but does not have a way to measure the impact on those earning under a million dollars in I&D income. From those few mega-earners, they estimate we could lose up to \$20 million in revenue. Accountants with large (not mega) clients tell us that the measure will be roughly revenue-neutral. An accountant with medium-level clients thinks we will lose a considerable amount. The department has been struggling to get underway a new computer system that will allow them to provide the information on the less-than-megas we need, but budget cuts have delayed it. Fiscally, we need to hold off on this bill until we can measure its impact and decide how the state can pay for it within the budget the legislature (or a future one) has set. To do otherwise is the same as spending the rent money on new clothing. The old rags can make do for a bit longer.

COMMITTEE MEETINGS

TUESDAY, JANUARY 3, 2012

RULES COMMITTEE, Room 303, LOB

10:00 a.m. Regular meeting.
Executive session to follow.

WEDNESDAY, JANUARY 4

EDUCATION OF CHILDREN WITH DISABILITIES ADVISORY COMMITTEE (RSA 186-C:3-b), Department of Education, Londergan Hall, Room 15, 101 Pleasant Street, Concord

4:30 p.m. Regular meeting. (Snow date January 11).

THURSDAY, JANUARY 5

ETHICS COMMITTEE (RSA 14-B:2), Room 304, LOB

10:00 a.m. Meeting to consider request for Advisory Opinion whether it is permissible under RSA 15-B for legislators to accept complimentary ski tickets offered by Cannon Mountain Aerial Tramway & Ski Area either as a legislative member of Cannon Mountain Advisory Commission established by RSA 12-A:29-b, or as a member of the General Court.

FRIDAY, JANUARY 6

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 205-207, LOB

9:00 a.m. Continued regular meeting.

ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128), Employment Security, 32 South Main Street, Concord

9:00 a.m. Regular meeting.

SPECIAL COMMITTEE ON EDUCATION FUNDING REFORM, Room 210-211, LOB

10:00 a.m. **HB 1321**, establishing a committee to study the relationship between public funding of postsecondary education and workforce development.

10:30 a.m. **HB 1473-FN-L**, relative to the calculation and distribution of adequate education grants.

Executive session may follow.

SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM, Rooms 201-203, LOB

10:00 a.m. **HB 1483-FN**, repealing the retirement system special account.

11:00 a.m. **HB 1460**, establishing a committee to study additional public employee pension reforms.

1:00 p.m. **HB 1306-FN-L**, requiring retirement system employers to make contributions for part-time employment of retired members of the retirement system.

Executive session may follow.

MONDAY, JANUARY 9

COMMISSION TO STUDY BUSINESS TAXES (RSA 77-F:1), Room 202, LOB

10:00 a.m. Public hearing on draft final report.

ECONOMIC STRATEGIC COMMISSION TO STUDY THE RELATIONSHIP BETWEEN NEW HAMPSHIRE BUSINESSES AND STATE GOVERNMENT (RSA 359-K:2), Rooms 301-303, LOB

10:00 a.m. Organizational meeting.

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

10:00 a.m. Regular meeting.

STATE COMMITTEE ON AGING (RSA 161-F:7), Department of Health and Human Services, Brown Building , Pleasant Street, Concord

10:00 a.m. Regular meeting.

TUESDAY, JANUARY 10

CONSTITUTIONAL REVIEW AND STATUTORY RECODIFICATION, Room 206, LOB

10:00 a.m. **HB 1343**, prohibiting employees of parties and political committees from running for state office.

1:00 p.m. **HB 1344**, prohibiting public employees from being candidates for certain offices.

3:00 p.m. **HB 1444**, prohibiting certain state employees from wearing fragrances.

Executive session may follow.

COUNTY-STATE FINANCE COMMISSION (RSA 28-B:1), Primex Building Training Room, 46 Donovan Street, Concord

1:00 p.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **HB 1128**, relative to reports of failed breath tests when using an ignition interlock device.

10:15 a.m. **HB 1330**, establishing a committee to study blood testing of drivers after motor vehicle fatalities.

- 10:30 a.m. **HB 1168**, requiring the removal of electronic records and information upon entry of an order of annulment.
- 11:00 a.m. **HB 1184**, relative to the use of videotape evidence of criminal activity.
- 1:00 p.m. **HB 1421-FN**, requiring a vegetarian diet for inmates in state correctional facilities.
- 1:30 p.m. **HB 1449**, requiring a search warrant for searches of privately-owned property.
Executive session may follow.

EDUCATION, Room 207, LOB

- 10:00 a.m. **HB 1145**, relative to the New Hampshire public television's affiliation with the university system of New Hampshire.
- 11:00 a.m. **HB 1268-FN**, requiring the department of education to reimburse the community colleges for the costs of providing remedial courses.
- 1:00 p.m. **HB 1433**, relative to instruction for pupils on the issues of HIV, AIDS, and sexually transmitted diseases.
Executive session may follow.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **HB 1241**, relative to table wines.
- 11:00 a.m. **HB 1402**, relative to the sale of homemade food.
- 1:00 p.m. **HB 1481**, relative to effluent limitations with regard to nitrogen.
- 2:00 p.m. **HB 1435**, establishing a committee to oversee the department of environmental services.
- 2:15 p.m. **HB 1234**, establishing a department of environmental services oversight and grievance committee.
Executive session may follow.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 10:00 a.m. **HB 1147**, proclaiming March 31 of each year as a day to remember Terri Schiavo.
- 10:45 a.m. **HB 1195**, relative to membership of the joint legislative historical committee.
- 11:30 a.m. **HB 1196**, repealing the task force on state procurement policies and procedures.
- 1:15 p.m. **HB 1430**, designating the Thompson/Center Contender pistol as the official state firearm of New Hampshire.
- 2:00 p.m. **HCR 43**, urging the joint legislative historical committee to move the granite gates Lafayette passed through to the state house grounds.
Executive session may follow.

FINANCE, Rooms 210-211, LOB

- 1:00 p.m. **HB 1534-FN**, repealing the self-funding of the department of labor.
- 2:00 p.m. **HB 1638**, establishing a commission to study and recommend standards for downshifting and cost shifting from the state to counties, cities, towns, and individuals.
Executive session may follow.

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

- 10:00 a.m. **HB 1197-FN**, requiring the commissioner of the department of health and human services to apply for a state plan waiver.
- 11:30 a.m. **HB 1250**, allowing designated persons to provide emergency medical treatment to another person.
- 1:00 p.m. **HB 1340**, relative to reimbursing chiropractors.
Executive session may follow.

JUDICIARY, Room 208, LOB

- 9:00 a.m. **CACR 24**, relating to age limitations for judges. Providing that no person shall be eligible to be appointed a judge until such person has reached 60 years of age.
- 9:30 a.m. **HB 1156**, relative to preserving due process in all common law matters.
- 10:00 a.m. **HB 1181**, relative to offers of judgments.
- 10:30 a.m. **HB 1188**, relative to civil actions for defamation.
- 11:00 a.m. **HB 1247**, relative to the duties of jurors as constitutional officers and changing the term "petit jury" to "trial jury."
- 11:30 a.m. Full committee organizational meeting.
- 1:30 p.m. **HB 1311**, changing a statutory reference to reflect the current homestead exemption amounts.
- 2:00 p.m. **HB 1368**, relative to real property held as a joint tenancy with rights of survivorship.
- 2:30 p.m. **HB 1384**, relative to the statute of limitations for complaints against judges.
- 3:00 p.m. **HB 1396**, restoring and reinforcing the exemptions from levy, sale on execution, and liability to be encumbered or taken for the payment of debts of the homestead right.
- 3:30 p.m. **HB 1565**, establishing a committee to study landlord-tenant law and practice.
Executive session may follow.

REDRESS OF GRIEVANCES, Room 307, LOB

- 10:00 a.m. Further hearing on **PETITION 9**, redress of grievance of Frank M. Handibode, with possible executive session to follow.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

- 10:00 a.m. **HB 1140**, relative to the care of war memorials in Franconia Notch state park.
- 10:45 a.m. **HB 1416-L**, relative to the introduction of substances into the New Hampshire public water supply.
- 1:00 p.m. **HB 1256**, establishing a New Hampshire state register of historic places.
- 1:45 p.m. **HB 1415**, relative to exceptions for proposed sewage waste disposal systems.
- 2:30 p.m. **HB 1166**, relative to the installation of broadband equipment on Cardigan Mountain.
Executive session may follow.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 1299-FN**, relative to permit fee transfer credits.
- 10:45 a.m. **HB 1478**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements.
- 11:45 a.m. **HB 1310**, increasing the number of days a motorcycle learner's permit is valid.
- 1:15 p.m. **HB 1328**, relative to vehicle operation with a stuck throttle or runaway engine.
- 1:45 p.m. **HB 1434**, relative to display of antique motor vehicle plates.
Executive session may follow.

WEDNESDAY, JANUARY 11

ADVANCED MANUFACTURING EDUCATION ADVISORY COUNCIL (RSA 188-E:21), Room 101, LOB

- 3:00 p.m. Regular meeting.

THURSDAY, JANUARY 12

COMMERCE AND CONSUMER AFFAIRS (INSURANCE/CONSUMER PROTECTION DIVISION), Room 302, LOB

- 10:00 a.m. **HB 1439**, establishing a committee to study sprinkler requirements in nightclubs.
- 10:30 a.m. **HB 1153**, relative to fire protection of floors in certain detached dwellings.
- 11:15 a.m. **HB 1186**, relative to uniform override keys for elevators.
- 1:15 p.m. **HB 1157**, relative to signage at fuel service stations.
- 2:00 p.m. **HB 1182**, prohibiting the sale of baby food products containing bisphenol A in New Hampshire.
- Work sessions on these bills may follow the public hearings.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **HB 1468**, relative to seizure of personal property.
- 10:30 a.m. **HB 1499-FN**, relative to criminal coercion.
- 11:00 a.m. **HB 1524-FN**, expanding the definition of official oppression.
- 1:00 p.m. **HB 1514-FN**, establishing the crime of oppressing an inhabitant's free exercise of rights.
- 1:30 p.m. **HB 1327**, relative to official oppression.
- Executive session may follow.

EDUCATION, Room 207, LOB

- 10:00 a.m. **HB 1225**, permitting a charter school to incur long-term debt.
- 10:30 a.m. **HB 1284**, authorizing the Concord school district to amend its charter without prior legislative approval.
- 11:00 a.m. **HB 1325**, relative to school attendance by children of divorced parents.
- 1:00 p.m. **HB 1382**, including parents in the approval process for alternative learning plans and requiring a truant officer to obtain a warrant or permission of a parent prior to returning a child to school.
- Executive session may follow.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **HB 1235**, establishing a committee to study and propose a recodification of certain environment-related statutes.
- Executive session may follow.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 10:00 a.m. **HB 1274-FN**, abolishing the department of cultural resources.
- 10:45 a.m. **HB 1521-FN**, relative to retired state employees group insurance participation.
- 11:30 a.m. **HB 1544-FN**, adding state and local government part-time and public employees to employees eligible to participate in the state group insurance coverage.
- 1:15 p.m. **HB 1285-FN**, repealing the state art fund.
- 2:00 p.m. **HB 1552-FN**, repealing or inactivating certain funds and relative to the reporting of funds.
- Executive session may follow.

FISH AND GAME AND MARINE RESOURCES, Room 307, LOB

- 10:00 a.m. **HB 1332**, relative to the law enforcement authority of fish and game conservation officers.
- 10:30 a.m. **HB 1333**, relative to the revocation or suspension of a fish and game license for a conviction.
- 11:00 a.m. **HB 1334**, relative to the suspension of a fish and game license by the executive director.

11:30 a.m. **HB 1335**, relative to the authority of the fish and game department to refuse to issue a hunting license.
Executive session may follow.

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

1:00 p.m. Subcommittee work session on medical sharps.

JUDICIARY, Room 208, LOB

9:00 a.m. **HB 1263**, repealing the law requiring landlords of restricted residential property provide service of process information.
9:30 a.m. **HB 1459**, relative to court proceedings in civil actions.
10:00 a.m. **HB 1462**, relative to the eviction process.
10:30 a.m. **HB 1463**, relative to abandonment of the tenancy and relative to property abandoned by a tenant.
11:00 a.m. **HB 1290**, relative to self-storage facility liens.
11:30 a.m. **HB 1395**, revoking amendments to supreme court rules 50 and 50-A.
1:30 p.m. **HB 1223-FN**, relative to remedies under the right-to-know law.
2:00 p.m. **HB 1308**, relative to the definition of "public body" under the right-to-know law.
2:30 p.m. **HB 1506-FN**, relative to the right-to-know exemption for public employee personnel files.
3:00 p.m. **CACR 26**, relating to administration of the supreme court. Providing that the article authorizing the chief justice of the supreme court to make rules governing the administration of all the courts of the state shall be repealed.
3:30 p.m. **CACR 28**, relating to the allocation of authority between the legislative and judicial branches. Providing that the supreme court shall determine the constitutionality of judicial acts and the legislature shall determine the constitutionality of legislative acts.
Executive session may follow.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **HB 1271-L**, relative to the penalty for violating ordinances governing hawkers and peddlers.
10:20 a.m. **HB 1303**, amending certain requirements to obtain a local vendor license.
10:50 a.m. **HB 1507-L**, authorizing towns to enter into agreements with the state for collection of outstanding taxes.
11:35 a.m. **HB 1498-FN-L**, repealing dog licensing requirements.
12:05 p.m. **HB 1512-FN**, relative to the authority of conservation commissions.
Executive session may follow.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

10:00 a.m. **HB 1501-FN-L**, establishing a fund to upgrade wastewater treatment plants.
10:45 a.m. **HB 1525-FN**, repealing the wetlands and shorelands review fund.
1:00 p.m. **HB 1480**, relative to requiring sprinklers in certain buildings
1:45 p.m. **HB 1207-FN**, defining the owner of timber rights for purposes of timber tax assessment.
2:30 p.m. **HB 1495-FN**, establishing a Purple Heart Trail along U.S. Route 3 and relative to fees for state parks for members of the United States uniformed services.
Executive session may follow.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 203, LOB

9:00 a.m. Full committee work session-NH Veteran's Issues Update.
9:30 a.m. **HB 1229**, declaring March 30 as Welcome Home Veterans Day to honor veterans of Vietnam.

- 10:30 a.m. **HR 26**, expressing support for admitting the District of Columbia as the fifty-first State of the United States of America.
- 11:30 a.m. **HB 1277**, requiring federal law enforcement agencies to notify New Hampshire law enforcement agencies prior to investigation or enforcement of federal law in New Hampshire, as all lawful police work is local.
- 1:15 p.m. **HCR 31**, commending the work of pregnancy care centers in New Hampshire and across the United States.
Executive session may follow.

FRIDAY, JANUARY 13

CHARTER SCHOOLS AND OPEN ENROLLMENT LEGISLATIVE OVERSIGHT COMMITTEE (RSA 194-B:21), Room 103, LOB

9:00 a.m. Regular meeting.

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Room 101, LOB

1:00 p.m. Regular meeting.

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

10:00 a.m. Regular meeting.

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

9:00 a.m. Regular meeting.

TUESDAY, JANUARY 17

COMMERCE AND CONSUMER AFFAIRS (BANKING/BUSINESS DIVISION), Room 302, LOB

- 10:15 a.m. **HB 1243**, establishing a committee to study the requirements of the deposit of certain checks.
- 10:45 a.m. **HB 1262**, prohibiting banks from requiring blood samples, fingerprints, and DNA samples in order to complete a banking transaction.
- 11:15 a.m. **HB 1319**, limiting credit card interchange fees charged to merchants.
- 1:30 p.m. **HB 1445**, requiring refunds for returns of merchandise.
Work sessions on these bills may follow the public hearings.

EDUCATION, Room 207, LOB

- 10:00 a.m. **HB 1360**, relative to the rulemaking authority of the state board of education.
- 11:00 a.m. **HB 1413-FN**, directing New Hampshire to withdraw from the No Child Left Behind Act.
- 1:00 p.m. **HB 1517-FN-L**, prohibiting the state and any political subdivision from entering any agreement implementing any provision of the No Child Left Behind Act without prior approval of the general court.
Executive session may follow.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **HB 1211**, establishing a committee to study the promotion of lease of state-owned land for use for beginning farmers.
- 11:00 a.m. **HR 20**, urging the federal government to allow the cultivation of hemp for industrial purposes.
Executive session may follow.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 10:00 a.m. **HCR 35**, designating Miss New Hampshire, of the Miss America Scholarship Program, the official honorary hostess of the state of New Hampshire during her term as Miss New Hampshire.
- 10:35 a.m. **HB 1505-FN**, relative to public employee suggestions for cost-saving measures.
- 11:00 a.m. **HB 1387**, requiring United States flags purchased with state funds or displayed in state facilities to be manufactured in the United States.
- 11:30 a.m. **HB 1272**, establishing a legislative oversight committee to study implementation of the recommendations of the commission on the status of men and solutions to identified problems.
- 1:30 p.m. **HB 1173**, relative to complaints against psychologists.
- 2:30 p.m. **HCR 33**, honoring Charlie St. Clair for his contributions to the tourism industry in New Hampshire.
Executive session may follow.

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

- 10:00 a.m. **HB 1322**, establishing a task force to study and recommend options to provide hospitals with the capacity to fund uncompensated care over time.
- 11:00 a.m. **HB 1326**, relative to advance directives pertaining to medically administered nutrition and hydration.
- 1:30 p.m. **HB 1358**, establishing a committee to study the costs of health care.
Executive session may follow.

JUDICIARY, Room 208, LOB

- 9:00 a.m. **HB 1397**, relative to the right of a jury to judge the application of the law in relationship to the facts in controversy.
- 9:30 a.m. **HB 1577**, relative to petitions for reconsideration of court rulings in the judicial branch family division.
- 10:00 a.m. **HB 1597**, relative to taking by eminent domain for certain purposes.
- 10:30 a.m. **HB 1298**, relative to the definition of "public use" under the eminent domain procedure act.
- 11:00 a.m. **HB 1394**, relative to appeals of eminent domain decisions.
- 11:30 a.m. **CACR 22**, relating to the chief justice of the supreme court. Providing that the chief justice shall adopt court rules with the concurrence of the general court.
- 1:30 p.m. **CACR 25**, relating to the supreme and superior courts. Providing that the supreme and superior courts shall not be constitutionally established courts.
- 2:00 p.m. **CACR 30**, relating to limitations on impeachment judgment. Providing that judgment may include forfeiture of pension and retirement benefits.
- 2:30 p.m. **CACR 32**, relating to judicial conduct. Providing that the people of New Hampshire, in a manner established by law, shall be responsible for investigating and evaluating the conduct of members of the judiciary.
- 3:00 p.m. **HB 1612**, requiring the supreme court to adopt uniform rules of evidence for the superior and circuit courts and relative to child support and guardians ad litem.
- 3:30 p.m. **HB 1408**, establishing a commission to study the judicial branch family division.
Executive session may follow.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

- 10:00 a.m. **HB 1515-FN-L**, relative to the assessment of the land use change tax and the use of land use change tax revenues.
- 11:00 a.m. **HB 1393**, relative to the valuation of property for property tax purposes and procedures for imposing sanctions against appraisers who act in bad faith or violate statutory requirements.

- 11:30 a.m. **HB 1266**, requiring the assessing standards board to recommend standards rather than guidelines.
- 1:30 p.m. **HB 1429**, enabling municipalities to adopt a property tax credit based on home renovation costs.
- 2:00 p.m. **HB 1451**, establishing a statewide property tax credit for a resident maintaining a personal vegetable garden.
- 2:30 p.m. **HB 1482**, relative to the exemption from property taxation for hospitals. Executive session may follow.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 9:30 a.m. **HB 1204**, relative to matching funds of highway projects.
- 10:30 a.m. **HB 1253**, relative to bridge aid and highway block grants for class V roads in certain village districts.
- 11:15 a.m. **HB 1400-FN-A**, allowing the department of transportation to sell naming rights for certain structures.
- 1:45 p.m. **HB 1314**, establishing a committee to study the maintenance of water and sewer infrastructure.
- 2:15 p.m. **HB 1286**, relative to the installation of sprinklers. Executive session may follow.

RESOURCES, RECREATION AND DEVELOPMENT, Room 305, LOB

- 10:00 a.m. **HB 1356**, classifying certain land in Litchfield as land to be retained by the state.
- 10:45 a.m. **HB 1233**, establishing a statute of limitations on wetlands filling and dredging.
- 1:30 p.m. **HB 1373**, relative to the definition of first-in, first-out as it applies to wastewater or public water supply projects.
- 2:15 p.m. **HB 1380**, relative to the development of wetland mitigation banks.
- 3:00 p.m. **HB 1557**, directing the department of resources and economic development to develop a "Live Free or Die Bucks Program" to increase tourism spending. Executive session may follow.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 1143**, relative to speed limits on certain residential ways.
- 10:30 a.m. **HB 1193**, relative to requirements for temporary certificates of safe boating education.
- 11:00 a.m. **HB 1278**, relative to obstructions on highways.
- 11:30 a.m. **HB 1287-FN**, relative to nonresident vehicle registration.
- 1:40 p.m. **HB 1307**, relative to agricultural plates. Executive session may follow.

THURSDAY, JANUARY 19

COMMERCE AND CONSUMER AFFAIRS (INSURANCE/CONSUMER PROTECTION DIVISION), Room 302, LOB

- 10:00 a.m. **HB 1283-FN**, relative to insurance payments for domestics.
- 11:00 a.m. **HB 1297**, relative to health care exchanges.
- 1:15 p.m. **HB 1493-FN**, relative to copayments for certain specialists.
- 2:00 p.m. **HB 1471**, relative to authority for opticians to replace eyeglasses. Work sessions on these bills may follow the public hearings.

COMMISSION TO STUDY THE EFFECTS OF SERVICE-CONNECTED POST-TRAUMATIC STRESS DISORDER AND TRAUMATIC BRAIN INJURY (RSA 115-D:1), Room 203, LOB

- 2:30 p.m. Regular meeting.

EDUCATION, Room 207, LOB

- 10:00 a.m. **HB 1485-FN-L**, relative to funding for chartered public schools established by the state board of education.
- 10:30 a.m. **HB 1383**, relative to residency status for purpose of receiving in-state tuition status within the university system of New Hampshire.
Executive session may follow.
- 1:00 p.m. Executive session on **HB 1145**, relative to the New Hampshire public television's affiliation with the university system of New Hampshire, **HB 1268-FN**, requiring the department of education to reimburse the community colleges for the costs of providing remedial courses, **HB 1382**, including parents in the approval process for alternative learning plans and requiring a truant officer to obtain a warrant or permission of a parent prior to returning a child to school, **HB 1433**, relative to instruction for pupils on the issues of HIV, AIDS, and sexually transmitted diseases.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

- 10:00 a.m. **HB 1446**, relative to the meat inspection program.
Executive session may follow.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 9:30 a.m. **HB 1130**, relative to weighted voting by the Winnepesaukee River advisory board.
- 10:30 a.m. **HB 1320-FN-L**, relative to law enforcement responsibility for interstate highways.
- 11:15 a.m. **HB 1138**, naming a bridge in Pelham in honor of Sergeant Daniel R. Gionet.
- 1:15 p.m. **HB 1165**, naming a bridge in the town of Meredith the POW/MIA Vigil and Freedom Ride bridge.
Executive session may follow.

SHORELAND ADVISORY COMMITTEE (RSA 483-B:21, V), Department of Environmental Services, 29 Hazen Drive, Concord

- 9:00 a.m. Regular meeting.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 203, LOB

- 9:30 a.m. **HB 1353**, relative to establishing an individual's status as a veteran.
- 10:00 a.m. **HB 1420**, relative to the disposition of the remains of service members.
- 11:00 a.m. **HCR 30**, congratulating the Republic of Hungary on the adoption of its first national constitution.
- 11:30 a.m. **HCR 38**, urging the United States Congress to extend equal benefits for the treatment of Agent Orange exposure to Vietnam veterans who served outside of Vietnam.
Executive session may follow.

FRIDAY, JANUARY 20**ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 305-307, LOB**

- 9:00 a.m. Regular meeting.

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 201, LOB

- 1:00 p.m.. Regular meeting.

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

- 10:00 a.m. Regular business.

NEW HAMPSHIRE LAND AND COMMUNITY HERITAGE AUTHORITY BOARD OF DIRECTORS (RSA 227-M:4), Dept. of Resources & Economic Development, 172 Pembroke Rd., Concord

10:00 a.m. Regular meeting. (Snow Date January 27, 2012)

MONDAY, JANUARY 23

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

9:00 a.m. Investment committee meeting.

10:00 a.m. Regular meeting.

INTERAGENCY COORDINATING COUNCIL FOR WOMEN OFFENDERS (RSA 21- H:14-c), Room 100, State House.

9:00 a.m. Regular meeting.

TUESDAY, JANUARY 24

COMMERCE AND CONSUMER AFFAIRS (BANKING/BUSINESS DIVISION), Room 302, LOB

10:15 a.m. **HB 1406**, relative to goods in intrastate commerce.

11:00 a.m. **HB 1370**, making technical changes to the New Hampshire real estate practice act.

1:15 p.m. **HB 1348**, relative to playing mind sports for money.

2:00 p.m. **HB 1359**, relative to exceptions for municipal regulation of hawkers and peddlers.

Work sessions on these bills may follow the public hearings.

EDUCATION, Room 207, LOB

10:00 a.m. Executive session on **HB 1225**, permitting a charter school to incur long-term debt, **HB 1284**, authorizing the Concord school district to amend its charter without prior legislative approval, **HB 1325**, relative to school attendance by children of divorced parents, **HB 1360**, relative to the rulemaking authority of the state board of education.

1:00 p.m. Executive session on **HB 1413-FN**, directing New Hampshire to withdraw from the No Child Left Behind Act, **HB 1517-FN-L**, prohibiting the state and any political subdivision from entering any agreement implementing any provision of the No Child Left Behind Act without prior approval of the general court, **HB 1485-FN-L**, relative to funding for chartered public schools established by the state board of education, **HB 1383**, relative to residency status for purpose of receiving in-state tuition status within the university system of New Hampshire.

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

10:00 a.m. **HB 1441**, removing the requirement for the reporting of incidents by emergency medical services providers and units.

11:00 a.m. **HB 1519-FN**, requiring hospitals to provide Medicaid patient outpatient services at outpatient Medicaid rates for certain hours.

Executive session may follow.

1:00 p.m. Executive session on **HB 1250**, allowing designated persons to provide emergency medical treatment to another person, **HB 1322**, establishing a task force to study and recommend options to provide hospitals with the capacity to fund uncompensated care over time, **HB 1326**, relative to advance directives pertaining to medically administered nutrition and hydration.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:30 a.m. **HB 1412**, requiring the department of transportation to post signs on roads that cross the border into Massachusetts.

- 11:00 a.m. **HB 1203**, relative to the membership of the capital budget overview committee.
- 11:30 a.m. **HB 1205**, relative to the duty of the long range capital planning and utilization committee.
- 1:15 p.m. **HB 1134**, establishing a committee to study the construction of a permanent memorial to Governor John Gilbert Winant on the state house grounds.
- 2:00 p.m. **HB 1437**, relative to display of certain historical items in the state house.
Executive session to follow.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 1309-FN-A**, establishing a special number plate to support public elementary and secondary schools.
- 10:45 a.m. **HB 1374-FN**, relative to speed limits approaching toll booths.
- 11:15 a.m. **HB 1398**, relative to lighting on bicycles at night.
- 1:00 p.m. **HB 1414**, relative to revocation or suspension of youth operators' licenses for speeding.
- 1:45 p.m. **HB 1432**, relative to the release of motor vehicle registration information.
Executive session may follow.

WEDNESDAY, JANUARY 25

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

- 9:30 a.m. **HB 1504**, reinstating the Maine-New Hampshire Interstate Bridge Authority.
Executive session to follow.
- 10:30 a.m. **HB 1576-FN**, requiring construction of a noise barrier along Interstate Route 95 in Portsmouth.
Executive session to follow.

THURSDAY, JANUARY 26

COMMERCE AND CONSUMER AFFAIRS (INSURANCE/CONSUMER PROTECTION DIVISION), Room 302, LOB

- 10:00 a.m. **HB 1409**, relative to definitions under the Uniform Securities Act.
- 11:00 a.m. **HB 1410**, relative to securities regulation.
- 1:15 p.m. **HB 1228**, prohibiting the sale of grave markers and memorial markers by funeral directors.
- 2:00 p.m. **HB 1231**, repealing the prohibition on the sale, gift, or display of certain young birds and rabbits.
Work sessions on these bills may follow the public hearings.

EDUCATION, Room 207, LOB

- 10:00 a.m. **HB 1162**, establishing a committee to study the effects of compulsory school attendance on children and families.
- 10:30 a.m. **HB 1167**, repealing the 180 day school year requirement.
- 11:00 a.m. **HB 1403**, allowing a parent or guardian to withdraw a child from a school district which adopts the international baccalaureate program.
- 1:00 p.m. **HB 1461**, requiring school officials to notify parents of a class or event involving an outside speaker and allowing parents to opt for their child not to participate in the class or event.
- 2:00 p.m. **HB 1175**, relative to the membership of the cooperative school district budget committees.
Executive session may follow.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 203, LOB

- 9:00 a.m. **HCR 32**, to urge the Congress of the United States to withdraw the membership of the United States from the United Nations so that the United States may retain its sovereignty and control over its own funds and military forces.
- 10:00 a.m. **HCR 34**, urging Congress to withdraw the United States from the North American Free Trade Agreement (NAFTA) in accordance with Article 2205 of the agreement.
- 11:00 a.m. **HCR 37**, urging Congress to pass legislation against losses in value due to money supply by the federal reserve; restoring gold and silver money; and phasing out the federal reserve system.
- 1:00 p.m. **HR 25**, affirming States' powers based on the Constitution for the United States and the Constitution of New Hampshire.
- 2:00 p.m. **HR 24**, urging relief from the current level of federal nursing home regulation.
Executive session may follow.

FRIDAY, JANUARY 27

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), New Hampshire Department of Revenue Administration, 109 Pleasant Street, Concord

9:30 a.m. Regular meeting.

MONDAY, JANUARY 30

CURRENT USE BOARD (RSA 79-A:3), Department of Revenue Administration, 109 Pleasant Street, Concord

9:30 a.m. Rulemaking hearing.

TUESDAY, JANUARY 31

COMMERCE AND CONSUMER AFFAIRS (BANKING/BUSINESS DIVISION), Room 302, LOB

- 10:15 a.m. **HB 1172**, authorizing nano brewery licensees to sell their products at farmers' markets.
- 10:45 a.m. **HB 1208**, relative to restrictions on beverage manufacturers.
- 11:30 a.m. **HB 1236-FN**, relative to ownership and operation of liquor licensees.
- 1:15 p.m. **HB 1411**, establishing a committee to study small brewer relationships with distributors.
- 1:35 p.m. **HB 1500-FN**, relative to on-premises liquor licenses.
- 2:00 p.m. **HB 1251-FN**, permitting off-premises licensees to sell liquor.
Work sessions on these bills may follow the public hearings.

CONSTITUTIONAL REVIEW AND STATUTORY RECODIFICATION, Room 206, LOB

- 10:00 a.m. **HB 1361**, prohibiting generic fiscal notes on bills.
- 11:00 a.m. **HB 1475**, relative to enforcement of interstate compacts.
- 1:00 p.m. **HB 1146**, requiring pupils to stand during the pledge of allegiance.
- 2:00 p.m. **HB 1194**, relative to the text of Article 73-a of Part II of the New Hampshire Constitution.
- 3:00 p.m. **HB 1131**, establishing a committee to study the revisions to laws which would be necessary if the supreme court and superior court were abolished as constitutional courts.
Executive session may follow.

EDUCATION, Room 207, LOB

- 10:00 a.m. **HB 1202-FN**, relative to tuition payments for chartered public school students attending out-of-district regional vocational education centers.
- 11:00 a.m. **HB 1516-FN-L**, relative to the instruction of English and mathematics for pupils in kindergarten through grade 3.
- 2:00 p.m. **HB 1139**, making changes to the unique pupil identification system.
Executive session may follow.

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

- 10:00 a.m. **HB 1596** relative to the membership of the advisory council on child care.
- 10:30 a.m. **HB 1599** relative to mammography
- 11:30 a.m. **HB 1614**, establishing a committee to study the public health implications involved with the imposition of the energy provisions of the state building code.
- 1:00 p.m. **HB 1613**, relative to protected health information.
- 2:00 p.m. **HB 1618**, relative to fire safety standards for community living facilities.
Executive session may follow.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **HB 1503-FN**, relative to motorcycle rider education.
- 11:30 a.m. **HB 1447**, relative to motorcycle number plates.
- 1:00 p.m. **HB 1171**, updating certain references in motor vehicle statutes.
- 1:20 p.m. **HB 1440**, relative to driver education.
Executive session may follow.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Cheshire County Executive Committee will meet in the Commissioners' Conference Room, 33 West St., Keene, NH, **January 9, 2012** at 9:00 a.m.

1. To begin review of the 2012 Commissioners Proposed Budget.
2. To discuss any other matters which might come before the committee.

Rep. John Hunt, Chairman
Cheshire County Executive Committee

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 as requested.

Rep. Frank G. Case, 44 Beach Head Road, Nottingham, New Hampshire 03290-4921.

Rep. Jennifer R. Coffey, 748 Raccoon Hill Road, Andover, New Hampshire 03216-4040.

Rep. Susan Emerson, Fisher House #5, Room 109, 24 Stokes Road, Bethesda, MD 20814.

Rep. James F. Powers, 135 Bow St., Unit 5, Portsmouth, New Hampshire 03801-5565.

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 legislative 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.

The General Court is exploring the issue of the disposal of used syringes, needles and any other sharps into proper disposal boxes. During the first phase of exploration, we will have a sharps box for all legislators and employees use on top of the refrigerator in Health Services department to place all sharps in. This will assist us in planning to see if there is any viability for placing other containers in the complex. Please help make this study possible by bringing all your sharps to Health Services.

Rep. J. David Knox

The NH House Business Coalition will meet on Thursday, **December 29**, at the Kimball Jenkins Estate at 266 North Main Street in Concord at 9:30 a.m. This is immediately following a Business Roundtable with Steve Forbes at the same location, which starts at 8 a.m. All pro-business legislators are welcome to attend either or both, but RSVPs are required. Please contact Laurie Sanborn at RepSanborn@gmail.com for more information and to RSVP.

Rep. Laurie Sanborn

The Legislative Anti-Gambling Caucus invites all legislators to a luncheon presentation and Q&A on Wednesday, **January 4** (a session day) on the key features and economics of HB 593, the casino bill to come to the House floor for debate in early January. The legislative luncheon will take place at the Holiday Inn ballroom (diagonally across North Main Street from the State House). A free buffet lunch will be served at session lunch break (if no break, at the conclusion of session).

Reps. David W. Hess and Mary Jane Wallner

Sheehan Phinney Capitol Group will be hosting the annual Welcome Back Reception for all House and Senate members and staff on Wednesday, **January 4, 2012**, at Tandy's Top Shelf Restaurant located directly across the street from the State House at 1 Eagle Square, following the close of session (or 3:00 p.m. should the session end early).

Reps. DJ Bettencourt and Terie Norelli

The Sullivan County Republican Committee will have a Debate Watch Party, **January 7, 2012**, Saturday evening, 7:30 p.m., at our office, 12 Main Street, Newport, NH. The televised debate begins at 9:00 p.m. and ends at 11:00 p.m. We will start with a one hour "surrogate debate". Representatives of the various candidates will be present to answer your questions prior to the WMUR debate. Of course there will be pizza, soft drinks, cheering, booing and camaraderie. Come and have a good time. Admission is \$10 and we are limited to 50 attendees. Contact Chairman Steve Cunningham @ 763-4359 or DrSteveC@live.com to register.

Rep. Steven L. Cunningham

All legislators and state house staff are cordially invited to attend a “Welcome Back Legislators” reception hosted by the Business and Industry Association, New Hampshire’s statewide chamber of commerce. The reception will take place at the Holiday Inn, 172 North Main Street, Concord from 4:00 to 6:00 p.m. on Thursday, **January 12**. Legislators and state house staff are guests of the BIA, but please RSVP your attendance by calling the BIA at 224-5388, ext. 113 or by using their online registration at www.nhbia.org and utilizing the “programs and events” link.

Reps. DJ Bettencourt and Terie Norelli

Come visit the Red Hook Brewery in Portsmouth for its Legislative Educational Seminar of the New Hampshire craft beer industry, a brewery tour, and a food and beer tasting. The event will take place **January 20**, 2012 from 2:00 – 7:00 p.m., and is open to all legislators, please RSVP to Ted Lane at ted@lanepr.com.

Rep. Kyle Tasker

During National Eye Health Month, Health Services will have a local eye care professional (Kristin Bryant, O.D.) back to conduct a “brown bag” seminar on eye health. The eye seminars will occur at the State House Annex in Room 411 on Thursday, **January 26** in three repeat sessions each lasting 30 minutes from 11:30 a.m. to 1:00 p.m. An RSVP would be appreciated at 271-2757 or email dianne.bergquist@leg.state.nh.us for each of the three seminars.

Rep. James R. MacKay

All members of the NH House of Representatives are invited to attend the annual Legislative and Business Breakfast sponsored by Bi-State Primary Care Association and New Hampshire’s Community Health Centers on Wednesday, **February 1, 2012** (snow date February 2, 2012) from 7:30 a.m. – 9 a.m. at the Holiday Inn, 272 North Main Street, Concord. A delicious hot breakfast buffet will be served followed by a short program.

Rep. John Reagan

All members of the Republican caucus are invited to the House Republican Alliance's weekly meeting. The HRA will meet Tuesdays at 8:30 a.m. in Rooms 210-211, LOB.

Reps. Dan McGuire, Marilinda Garcia and Stephen Palmer

The Main Street Republicans will meet every Tuesday, prior to a Wednesday session, at 9:00 a.m. in Room 209, LOB. All Republican House members are welcome.

Reps. David H. Kidder and Rick M. Ladd

The Natural Rights Council will hold its weekly meeting at 8:00 a.m. Wednesdays at Caffenio, 84 North Main Street. All House members are welcome. NRC is a bi-partisan group dedicated to upholding principles outlined in Article 2, Part I of the NH Constitution.

WEDNESDAY, JANUARY 4, 2012

ADDITIONAL AMENDMENTS

(LISTED IN NUMERICAL ORDER)

**Floor Amendment to HB 162-FN
(2012-0046h)**

Proposed by Rep. Greazzo

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

AN ACT repealing the capital murder in New Hampshire.

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

1 Commitment to Hospitals; Notification Authorized. Amend RSA 135:17-b to read as follows:

135:17-b Notification Authorized. Notwithstanding any provision of law to the contrary, in the event that a person who has been charged with murder~~[, pursuant to RSA 630:1, I a, or I b]~~, manslaughter, or aggravated felonious sexual assault, found incompetent to stand trial pursuant to RSA 135:17-a, and civilly committed pursuant to RSA 135-C, is discharged to the community, either conditionally or absolutely, the department of health and human services shall immediately notify the attorney general, who shall notify the family of the victim, or the victim of aggravated felonious sexual assault if an adult, and the law enforcement agency in the community to which the person is being discharged. For purposes of this section, discharge shall include the initial authorization by the administrative review committee of New Hampshire hospital to allow a person to leave the grounds of the hospital unaccompanied by a hospital staff member.

2 Involuntary Commitment of Sexually Violent Predators; Definitions. Amend RSA 135-E:2, XI to read as follows:

XI. "Sexually violent offense" means:

- (a) ~~[Capital murder in violation of RSA 630:1, I(e);~~
~~(b)]~~ First degree murder in violation of RSA 630:1-a, I(b)(1);
- ~~(e)]~~ (b) Aggravated felonious sexual assault in violation of RSA 632-A:2;
- ~~(d)]~~ (c) Felonious sexual assault in violation of RSA 632-A:3, III;
- ~~(e)]~~ (d) Kidnapping in violation of RSA 633:1, I(d), where the offender confined the victim with the purpose to commit sexual assault against the victim;
- ~~(f)]~~ (e) Burglary in violation of RSA 635:1, I, where the offender entered a building or occupied structure with the purpose to commit sexual assault;
- ~~(g)]~~ (f) An attempt, criminal solicitation, or conspiracy, to commit any of the offenses listed above; or
- ~~(h)]~~ (g) A violation of any other statute prohibiting the same conduct as the offenses listed above in another state, territory, or possession of the United States.

3 Access to Information by Victims of Violent Crime. Amend RSA 169-B:35-a, I(c) to read as follows:

(c) "Violent crime" shall mean ~~[capital]~~ first-degree or second-degree murder, attempted murder, manslaughter, aggravated felonious sexual assault, felonious sexual assault, first-degree assault, or negligent homicide committed in consequence of being under the influence of intoxicating liquor or controlled drugs, as these crimes are defined by statute.

4 School Employee and Volunteer Background Investigations. Amend RSA 189:13-a, V to read as follows:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of RSA ~~[630:1]~~ 630:1-a; 630:1-b; 630:2; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a

child in material deemed obscene; in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be hired by a school administrative unit, school district, chartered public school, or public academy. By decision of the appropriate governing body, a school administrative unit, school district, chartered public school, or public academy may deny a selected applicant a final offer of employment if such person has been convicted of any felony in addition to those listed above. The governing body may adopt a policy stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

5 Jurisdiction; Complaints. Amend RSA 592-A:7, II to read as follows:

II. The description of the accused may include an identifiable ridge skin impression or a DNA profile. A complaint that contains only an identifiable ridge skin impression or DNA profile, and that alleges one or more of the following offenses shall, upon its filing, toll the applicable statute of limitations under RSA 625:8:

- (a) ~~Capital murder under RSA 630:1.~~
- ~~(b)~~ First degree murder under RSA 630:1-a.
- ~~(c)~~ **(b)** Second degree murder under RSA 630:1-b.
- ~~(d)~~ **(c)** Manslaughter under RSA 630:2.
- ~~(e)~~ **(d)** Negligent homicide under RSA 630:3.
- ~~(f)~~ **(e)** First degree assault under RSA 631:1.
- ~~(g)~~ **(f)** Second degree assault under RSA 631:2.
- ~~(h)~~ **(g)** Aggravated felonious sexual assault under RSA 632-A:2.
- ~~(i)~~ **(h)** Felonious sexual assault under RSA 632-A:3.
- ~~(j)~~ **(i)** Kidnapping under RSA 633:1.
- ~~(k)~~ **(j)** Arson under RSA 634:1, I-III.
- ~~(l)~~ **(k)** Robbery under RSA 636:1.

6 Bail and Recognizances. Amend RSA 597:1-a, I to read as follows:

I. After conviction for an offense punishable ~~[by death or,]~~ by a term of life imprisonment without possibility of parole, or for aggravated felonious sexual assault or felonious sexual assault, a defendant shall not be allowed bail.

7 Charging Manner of Death. Amend RSA 601:6 to read as follows:

601:6 Charging Manner of Death. In indictments charging any degree of murder~~;~~ ~~including capital murder,~~ it is not necessary to set forth the manner in which or the means by which the death of the deceased was caused, but it is sufficient in an indictment for murder to charge the culpable mental state applicable and, where appropriate, the particular circumstances set forth in ~~[RSA 630:1, I,]~~ RSA 630:1-a, I~~;~~ or RSA 630:1-b, I, constituting an element of the offense charged, and in an indictment for manslaughter to charge the culpable mental state applicable and, where appropriate, the particular circumstances set forth in RSA 630:2 constituting an element of the offense charged.

8 Rights of Accused. Amend RSA 604:1 to read as follows:

604:1 ~~[Capital Cases and]~~ First Degree Murder. Every person indicted ~~[for an offense punishable by death or]~~ for murder in the first degree shall be entitled to a copy of the indictment before he **or she** is arraigned thereon; to a list of the witnesses to be used and of the jurors returned to serve on the trial, with the place of abode of each, to be delivered to him **or her** 24 hours before the trial; and to process from court to compel witnesses to appear and testify at the trial; provided, however, the justice presiding at the trial may admit the testimony of any witness whose name and place of abode is not on the list hereinbefore provided for upon such notice to the respondent as ~~[he,]~~ the presiding justice~~;~~ shall direct, whenever, in his **or her** discretion, ~~[he]~~ **the presiding justice** deems such action will promote justice.

9 Adequate Representation for Indigent Defendants; Appointment of Counsel. Amend RSA 604-A:2, I to read as follows:

I. In every criminal case in which the defendant is charged with a felony or a class A misdemeanor and appears without counsel, the court before which ~~[he]~~ **the defendant**

appears shall advise the defendant that he **or she** has a right to be represented by counsel and that counsel will be appointed to represent him **or her** if ~~he~~ **the defendant** is financially unable to obtain counsel. Unless the defendant waives the appointment of counsel, if the defendant indicates to the court that he **or she** is financially unable to obtain counsel, the court shall instruct the defendant to complete a financial affidavit in such form as designated by the unit of cost containment. If after review of the financial affidavit and application of the rules established pursuant to RSA 604-A:10, IV the commissioner of administrative services, is satisfied that the defendant is financially unable to obtain counsel, the court shall appoint counsel to represent him **or her** ~~[- provided, however, that in any case in which the defendant is charged with a capital offense, the court may appoint 2 counsel to represent him].~~ Whenever defendants have such conflicting interests that they cannot be properly represented by the same counsel, or when other good cause is shown, the court shall appoint separate counsel for each of them.

10 Adequate Representation for Indigent Defendants; Compensation Limited. Amend RSA 604-A:5 to read as follows:

604-A:5 Compensation Limited. For representation of a defendant in any criminal case in which one or more felonies are charged, the total compensation paid counsel shall not exceed \$500 ~~[- provided that in cases alleging a capital offense in which 2 counsel are appointed to represent a defendant, each may be paid not exceeding \$500].~~ For representation of a defendant in any criminal case in which only misdemeanors are charged, the total compensation to be paid counsel shall not exceed \$200. For representation of any juvenile charged with being delinquent or for representation of a neglected or abused child, the total compensation to be paid counsel shall not exceed \$100. Provided, that of the above specified amounts, the proportion allowed by a justice of a district or municipal court for services rendered by counsel while representing the defendant in proceedings before said court shall not be in excess of \$175 for a preliminary examination in the case of a felony; \$100 for the trial of a misdemeanor or \$50 for a juvenile case or a case involving a neglected or abused child. Each clerk of a district or municipal court shall certify to the clerk of the superior court the amount approved by the district or municipal court. In cases where homicides are charged or the penalty exceeds 25 years and there are extraordinary circumstances, payment in excess of these limits may be made if the court finds that the nature of the case is such as to require intensive and protracted representation.

11 Challenges; Defendant. Amend RSA 606:3 to read as follows:

606:3 Challenges; Defendant. Every person arraigned and put on trial for an offense may, in addition to challenges for cause or unless he **or she** stands wilfully mute, peremptorily challenge:

- I. ~~20 jurors for capital murder.~~
- ~~II.]~~ 15 jurors for murder in the first degree.
- ~~III.]~~ **II.** 3 jurors in any other case.

12 Challenges; State. Amend RSA 606:4 to read as follows:

606:4 Challenges; State. The state shall be entitled to the following number of peremptory challenges, in addition to challenges for cause, in the following cases:

- I. ~~Upon the trial for capital murder, 10 challenges.~~
- ~~II.]~~ Upon the trial for murder in the first degree, 15 challenges.
- ~~III.]~~ **II.** Upon the trial for any other case, 3 challenges.

13 Waiver of Jury Trial in Certain Cases. Amend RSA 606:7 to read as follows:

606:7 Waiver of Jury Trial in Certain Cases. Any defendant in the superior court in a criminal case ~~[other than a capital case]~~ may, if ~~he~~ **the defendant** shall so elect, when called upon to plead, or later and before a jury has been impaneled to try ~~him~~ **the defendant**, waive ~~his~~ **the defendant's** right to trial by jury by signing a written waiver thereof and filing the same with the clerk of the court, whereupon ~~he~~ **the defendant** shall be tried by the court instead of by a jury, but not, however, unless all the defendants, if there are 2 or more to be tried together for the same offense, shall have exercised such election

before a jury has been impaneled to try any of the defendants. In every such case the court shall have jurisdiction to hear and try the case and render judgment and sentence thereon.

14 Offer of Reward. Amend RSA 610:1 to read as follows:

610:1 Offer of Reward. The county commissioners of any county, the city council of a city and the selectmen of a town are authorized, whenever in their opinion the public good requires it, to offer and pay from the treasury of such county, city or town a suitable reward, not exceeding \$300 in any one case, to any person who shall, in consequence of such offer, apprehend and secure any person or persons charged with having committed a ~~[capital or other]~~ high crime.

15 Uniform Criminal Extradition Law; Bail. Amend RSA 612:16 to read as follows:

612:16 Bail; In What Cases; Conditions of Bond. Unless the offense with which the prisoner is charged is shown to be an offense punishable by ~~[death or]~~ life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties in such sum as he **or she** deems proper, conditioned for his **or her** appearance before the judge or magistrate at a time specified in such bond, and for his **or her** surrender, to be arrested upon the warrant of the governor of this state.

16 Interference With Freedom; Stalking. Amend RSA 633:3-a, III to read as follows:

III. For purposes of this section, a person who engages in acts which would constitute stalking after having been advised by a law enforcement officer as defined in RSA ~~[630:1, II]~~ **318-B:1, XIV-a** that the person's acts were in violation of this chapter, or a person who has been served with a protective order issued pursuant to paragraph III-a of this section, shall be presumed to have acted knowingly.

17 Taking a Firearm from a Law Enforcement Officer. Amend RSA 642:3-a, V(b) to read as follows:

(b) "Law enforcement officer" means law enforcement officer as defined in RSA ~~[630:1, II]~~ **318-B:1, XIV-a**.

18 Obstructing Governmental Operations; Bail Jumping. Amend RSA 642:8, III(a)(1) to read as follows:

(1) An offense punishable by ~~[death,]~~ life imprisonment~~[-]~~ or imprisonment of a maximum term of 15 years or more, he **or she** shall be fined not more than \$10,000 or imprisoned for not more than 15 years, or both;

19 Annulment of Criminal Records. Amend RSA 651:5, XIII(a) to read as follows:

(a) ~~[Capital murder,]~~ First or second degree murder, manslaughter, or class A felony negligent homicide under RSA 630;

20 Victims of Certain Violent Crimes Permitted to Speak. Amend RSA 651:4-a to read as follows:

651:4-a Victims of Certain Violent Crimes Against a Person Permitted to Speak Before Sentencing and at Sentence Reduction or Suspension Hearings. Before a judge sentences or suspends or reduces the sentence of any person for ~~[capital,]~~ first degree or second degree murder, attempted murder, manslaughter, aggravated felonious sexual assault, felonious sexual assault, first degree assault, or negligent homicide committed in consequence of being under the influence of intoxicating liquor or controlled drugs, the victim of the offense, or the victim's next of kin if the victim has died, shall have the opportunity to address the judge. The victim or victim's next of kin may appear personally or by counsel and may reasonably express his views concerning the offense, the person responsible, and the need for restitution. The prosecutor, the person to be sentenced, and the attorney for the person to be sentenced shall have the right to be present when the victim or victim's next of kin so addresses the judge. The judge may consider the statements of the victim or next of kin made pursuant to this section when imposing sentence or making a decision regarding sentence reduction or sentence suspension.

21 Release From State Prison. Amend RSA 651:25, VI(a) to read as follows:

(a) The prisoner has been sentenced to the state prison for an offense other than

[~~capital~~,] first degree or second degree murder, attempted murder, manslaughter, aggravated felonious sexual assault, felonious sexual assault or first degree assault;

22 Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, V(a) to read as follows:

(a) [~~Capital murder, RSA 630:1, I(e);~~] First degree murder, RSA 630:1-a, I(b)(1); aggravated felonious sexual assault, RSA 632-A:2; felonious sexual assault, 632-A:3; sexual assault, 632-A:4, I(a) or RSA 632-A:4, III; violation of privacy, RSA 644:9, I(a) or RSA 644:9, III-a; or a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I.

23 Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, VII(a) to read as follows:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense: [~~capital murder, RSA 630:1, I(e);~~] First degree murder, RSA 630:1-a, 1(b)(1); aggravated felonious sexual assault, RSA 632-A:2; felonious sexual assault, RSA 632-A:3; sexual assault, RSA 632-A:4, I(a) or RSA 632-A:4, III; kidnapping, RSA 633:1; criminal restraint, RSA 633:2; false imprisonment, RSA 633:3; incest, RSA 639:2; violation of privacy, RSA 644:9, I(a) or RSA 644:9, III-a; a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I; indecent exposure and lewdness, RSA 645:1, II and RSA 645:1, III; or prostitution, RSA 645:2.

24 Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, X(a) to read as follows:

(a) [~~RSA 630:1, I(e);~~] RSA 630:1-a, I(b)(1), RSA 632-A:2, RSA 632-A:3, III, RSA 632-A:3, IV if the victim was under the age of 13, RSA 633:1; or RSA 639:2.

25 Repeal. The following are repealed:

I. RSA 606:6, relative to rebutting evidence in capital cases.

II. RSA 630:1, relative to capital murder.

III. RSA 630:5, relative to sentencing procedures and the death penalty.

IV. RSA 630:6, relative to places of and witnesses to executions.

26 Effective Date. This act shall take effect January 1, 2013.

AMENDED ANALYSIS

This bill repeals the capital murder in New Hampshire.

Floor Amendment to HB 217-FN (2012-0047h)

Proposed by Rep. Souza

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

AN ACT including “unborn child” in the definition of “another” for the purpose of first and second degree murder, manslaughter, and negligent homicide.

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

1 Homicide; Capital Murder; Definition of Unborn Child. Amend RSA 630:1, IV to read as follows:

IV. As used in this section [~~and RSA 630:1 a, 1 b, 2, 3 and 4~~], the meaning of “another” does not include a fetus.

2 New Paragraphs; First Degree Murder; Definition of Another; Exemption for Abortion. Amend RSA 630:1-a by inserting after paragraph III the following new paragraphs:

IV. For the purposes of this section and RSA 630:1-b, RSA 630:2, RSA 630:3, and RSA 630:4, the meaning of “another” shall include an unborn child as defined in paragraph V.

V.(a) Nothing in this section or RSA 630:1-b, RSA 630:2, RSA 630:3, or RSA 630:4 shall apply to any act committed by the mother of the unborn child, to any medical procedure, including abortion, performed by a physician or other licensed medical professional at the request of the pregnant woman or her legal guardian, or to the lawful dispensation or administration of lawfully prescribed medication. For the purposes of this

section and RSA 630:1-b, RSA 630:2, RSA 630:3, or RSA 630:4, “abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to save the life or preserve the health of an unborn child, or to remove a dead unborn child caused by spontaneous abortion, or to remove an ectopic pregnancy.

(b) In this section:

(1) “Conception” means the fusion of a human spermatozoon with a human ovum.

(2) “Pregnant” means the female reproductive condition of having an unborn child in the woman’s body.

(3) “Unborn child” means the offspring of human beings from conception until birth.

3 Effective Date. This act shall take effect January 1, 2013.

AMENDED ANALYSIS

This bill provides that an unborn child shall be included in the definition of “another” for the purpose of first and second degree murder, manslaughter, and negligent homicide.

Floor Amendment to HB 309-FN (2012-0042h)

Proposed by Reps. Manuse and Bettencourt

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

AN ACT relative to certain insurance mandates and establishing a committee to study current insurance mandates.

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

1 Coverage for Certified Midwives; Individual. Amend RSA 415:6-1 to read as follows:

415:6-1 Coverage for Certified Midwives; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing maternity benefits, ~~[shall]~~ **may** also provide to certificate holders of such insurance, who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. ***If coverage is provided***, such coverage shall be subject to each insurer’s standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility or at home and within the scope of practice of a certified midwife. ***If benefits are provided they*** shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

2 Coverage for Certified Midwives; Group. Amend RSA 415:18-q to read as follows:

415:18-q Coverage for Certified Midwives. Each insurer that issues or renews any policy of group accident or health insurance providing maternity benefits ~~[shall]~~ **may** also provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. ***If coverage is provided***, such coverage shall be subject to each insurer’s standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility or at home and within the scope of practice of a certified midwife. ***If benefits are provided they*** shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

3 Coverage for Certified Midwives; Health Service Corporations. Amend RSA 420-A:17-f to read as follows:

420-A:17-f Coverage for Certified Midwives. Every health service corporation and every other similar corporation licensed under the laws of another state that issues or renews any policy of group accident or health insurance providing maternity benefits ~~[shall]~~ **may** also provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. ***If coverage is provided***, such coverage shall be subject to each insurer's standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility or at home and within the scope of practice of a certified midwife. ***If*** benefits ***are*** provided ***they*** shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

4 Coverage for Certified Midwives; Health Maintenance Organizations. Amend RSA 420-B:8-p to read as follows:

420-B:8-p Coverage for Certified Midwives. Every health maintenance organization and every similar corporation licensed under the laws of another state that issues or renews any policy, plan, or contract of individual or group health insurance providing maternity benefits ~~[shall]~~ **may** also provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. ***If coverage is provided***, such coverage shall be subject to each insurer's standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility or at home and within the scope of practice of a certified midwife. ***If*** benefits ***are*** provided ***they*** shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

5 Group Health Insurance Plans. Amend RSA 458:18-a to read as follows:

458:18-a Group Insurance Plans. Upon a decree of nullity~~[,]~~ **or** divorce, ~~[or legal separation,]~~ if one spouse is a member of a group health insurance plan and the employer or any other sponsor is responsible for the payment of the premium required by the insurer as the consideration for providing coverage to an ex-spouse, such premium shall be paid either by the health insurance plan member, the ex-spouse of the member, or by both the member and the ex-spouse as they shall agree or as shall be ordered in the decree of divorce by the court. The provisions of this section shall apply to dental coverage provided by such group health insurance plan and shall apply whether or not the ex-spouse is receiving child support payments. ~~[This section shall apply only to continued coverage under RSA 415:18, XVI or 29 U.S.C. section 1161, and shall not affect or limit any rights of the former spouse under RSA 415:18, VII b.]~~

6 Continuation of Coverage; Divorce or Legal Separation. Amend RSA 415:18, XV(c) to read as follows:

(c) "Individual" means any person covered under a group health plan, including but not limited to, the covered employee, the spouse of the covered employee, whether surviving, dependent, former dependent, ~~[divorced]~~ or legally separated; or the dependent child of the employee, and any other person including a child born or placed for adoption with the covered employee, who is covered under a group health plan through the employment relationship.

7 Continuation of Coverage; Divorced or Legally Separated. Amend RSA 415:18, XVI(c)(4)(B) to read as follows:

(B) The divorce or the legal separation of the covered employee ~~[or, if the employee's former spouse has been covered pursuant to RSA 415:18, VII b, the first occurring of any of the following events:~~

- ~~(i) The remarriage of the covered employee;~~
- ~~(ii) The death of the covered employee;~~

~~(iii) The 3 year anniversary of the final decree of divorce or legal separation; or~~

~~(iv) Such earlier time as provided by said decree];~~

8 Continuation of Coverage; Divorce or Legal Separation. Amend RSA 415:18, XVI(g)(2) to read as follows:

(2) Where the employee's spouse is also covered by the group plan, and there is a divorce or legal separation, the employee shall notify the employer of the divorce or separation within 30 days, and shall provide the employer and carrier with the employee's spouse's mailing address. In case of a divorce or legal separation, the carrier shall provide a separate notice of the right to continue to the divorced or separated spouse. The divorced or separated spouse may elect to continue coverage ~~[pursuant to this section]~~ by notifying the carrier within 45 days of the date of the notice and remitting the premium payment. ~~[The notice and election provisions of this paragraph shall also apply if the divorced or legally separated spouse of the employee has been covered pursuant to RSA 415:18, VII b, upon the occurrence of any of the following events:~~

~~(A) The remarriage of the employee;~~

~~(B) The death of the employee;~~

~~(C) The 3 year anniversary of the final decree of divorce or legal separation; or~~

~~(D) Such earlier time as provided by the final decree of divorce or legal separation.];~~

9 Continuation of Coverage; Divorce or Legal Separation. Amend RSA 415:18, XVI(g)(4) to read as follows:

(4) Where an individual declines the right to continue coverage ~~[pursuant to this section]~~, waiver shall be made by an affirmative means of declination, including but not limited to written declination of continuation coverage or electronic contact to the employer or plan administrator. An individual shall have the right to revoke the notice of declaration anytime within the specified election period.

10 Continuation of Coverage; Divorce or Legal Separation. Amend the introductory paragraph of RSA 415:18, XVI(h) to read as follows:

(h) End of Continuation Coverage. Nothing in this paragraph shall require a carrier to continue coverage ~~[pursuant to this section]~~ beyond:

11 Coverage for Children's Early Intervention Services; Individual. Amend RSA 415:6-n to read as follows:

415:6-n Coverage for Children's Early Intervention Therapy Services. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical, rehabilitation, or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care physician if applicable. The benefits included in this section may be subject to deductibles, copayments, coinsurance, or other terms and conditions of the policy, and may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. ***The benefits included in this section shall be subject to utilization review consistent with rules adopted by the insurance department.*** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

12 Coverage for Children's Early Intervention Services; Group. Amend RSA 415:18-s to read as follows:

415:18-s Coverage for Children's Early Intervention Services. Each insurer that issues or renews any policy of group accident or health insurance providing benefits for medical, rehabilitation, or hospital expenses, shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care physician if applicable. The benefits included in this section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the policy, and may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. ***The benefits included in this section shall be subject to utilization review consistent with rules adopted by the insurance department.*** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

13 Coverage for Children's Early Intervention Services; Health Service Corporations. Amend RSA 420-A:17-g to read as follows:

420-A:17-g Coverage for Children's Early Intervention Services. Every health service corporation and every other similar corporation licensed under the laws of another state that issues or renews any policy of group accident or health insurance providing benefits for medical, rehabilitation, or hospital expenses, which provides coverage for outpatient services shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care physician if applicable. The benefits included in this section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the policy, and may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. ***The benefits included in this section shall be subject to utilization review consistent with rules adopted by the insurance department.*** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

14 Coverage for Children's Early Intervention Services; Health Maintenance Organizations. Amend RSA 420-B:8-r to read as follows:

420-B:8-r Coverage for Children's Early Intervention Services. Every health maintenance organization and every similar corporation licensed under the laws of another state that issues or renews any policy, plan, or contract of individual or group health insurance providing benefits for medical, rehabilitation, or hospital expenses, shall provide to each individual or group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care physician if applicable. The benefits included in this section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the policy, and may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. ***The benefits included in this section shall be subject to utilization review consistent with rules adopted by the insurance department.*** Notwithstanding

any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

15 Coverage for Obesity and Morbid Obesity; Individual. Amend RSA 415:6-o to read as follows:

415:6-o Coverage for Obesity and Morbid Obesity; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, ~~[shall]~~ **may** provide to certificate holders of such insurance, who are residents of this state, coverage for the diseases and ailments caused by obesity and morbid obesity and treatment for such, including bariatric surgery, when the prescribing physician has issued a written order stating that treatment is medically necessary and in accordance with the patient qualifications and treatment standards set forth by the American Society for Metabolic and Bariatric Surgery or the American College of Surgeons. Such treatment standards may include, but not be limited to, pre-operative psychological screening and counseling, behavior modification, weight loss, exercise regimens, nutritional counseling, and post-operative follow-up, overview, and counseling of dietary, exercise, and lifestyle changes. The covered insured shall be at least 18 years of age. ***If offered***, the benefits included in this section shall be subject to the terms and conditions of the policy and shall be no less extensive than coverage provided for similar conditions or illnesses.

16 Coverage For Obesity and Morbid Obesity; Group. Amend RSA 415:18-t to read as follows:

415:18-t Coverage for Obesity and Morbid Obesity; Group. Each insurer that issues or renews any policy of group accident or health insurance providing benefits for medical or hospital expenses, ~~[shall]~~ **may** provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the diseases and ailments caused by obesity and morbid obesity and treatment for such, including bariatric surgery, when the prescribing physician has issued a written order stating that treatment is medically necessary and in accordance with the patient qualifications and treatment standards set forth by the American Society for Metabolic and Bariatric Surgery or the American College of Surgeons. Such treatment standards may include, but not be limited to, pre-operative psychological screening and counseling, behavior modification, weight loss, exercise regimens, nutritional counseling, and post-operative follow-up, overview, and counseling of dietary, exercise, and lifestyle changes. The covered insured shall be at least 18 years of age. ***If offered***, the benefits included in this section shall be subject to the terms and conditions of the policy and shall be no less extensive than coverage provided for similar conditions or illnesses.

17 Coverage for Treatment of Pervasive Developmental Disorder or Autism. Amend RSA 417-E:2, V to read as follows:

V. The benefits included in this section shall be subject to utilization review consistent with rules adopted by the insurance department.

VI. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the insurance coverage requirements established under this section.

18 Coverage for Hearing Aids. Amend the introductory paragraph of RSA 415:6-p to read as follows:

415:6-p Coverage for Hearing Aids. Each insurer that issues or renews any individual policy or certificate for delivery in this state, or contract of accident or health insurance providing benefits for medical or hospital expenses, ~~[shall]~~ **may** provide coverage for the professional services associated with the practice of fitting, dispensing, servicing, or sale of hearing instruments or hearing aids. ***If offered***, the benefits included in this section shall not be subject to any greater deductible or coinsurance or copay than any other benefits provided by the insurer. Insurers are required to cover the cost of a hearing aid for each ear, as needed, as well as related services necessary to assess, select, and fit the hearing aid with a maximum for the hearing aid and related services of no less than \$1,500 per hearing aid

every 60 months. The insured may choose a higher price hearing aid and pay the difference in cost. The hearing aid shall be prescribed and dispensed by a licensed audiologist or hearing instrument specialist. Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall not apply to the medical assistance program, pursuant to RSA 161 and RSA 167. In this section:

19 Coverage for Hearing Aids; Group. Amend the introductory paragraph of RSA 415:18-u to read as follows:

415:18-u Coverage for Hearing Aids. Each insurer that issues or renews any policy or certificate for delivery in this state of group or blanket accident or health insurance providing benefits for medical or hospital expenses, ~~shall~~ **may** provide coverage for the professional services associated with the practice of fitting, dispensing, servicing, or sale of hearing instruments or hearing aids by a hearing instrument dispenser or other hearing care professional. ***If offered***, the benefits included in this section shall not be subject to any greater deductible or coinsurance or copay than any other benefits provided by the insurer. Insurers are required to cover the cost of a hearing aid for each ear, as needed, as well as related services necessary to assess, select, and fit the hearing aid with a maximum for the hearing aid and related services of no less than \$1,500 per hearing aid every 60 months. The insured may choose a higher price hearing aid and pay the difference in cost. The hearing aid shall be prescribed and dispensed by a licensed audiologist or hearing instrument specialist. Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall not apply to the medical assistance program, pursuant to RSA 161 and RSA 167. In this section:

20 Committee Established.

I. There is established a committee to study current New Hampshire insurance mandates.

(a) The membership of the committee shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(2) Two members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

II. The committee shall study current New Hampshire insurance mandates. The committee's study shall include, but not be limited to, the costs of such mandates and whether some or all of the mandates should be optional. The committee shall also review the "essential benefits" section of the Patient Protection and Affordable Care Act of 2009, as amended, when it is released and compare that section with the mandates under New Hampshire law.

III. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

IV. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2012.

21 Effective Date.

I. Section 20 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Makes insurance coverage for certified midwives, obesity and morbid obesity, and deafness and hearing loss optional.

II. Repeals mandatory insurance coverage for continuation of group health insurance in the event of divorce or legal separation.

III. Requires utilization review for coverage for children's early intervention therapy services and diagnosis and treatment of pervasive developmental disorder or autism.

**Floor Amendment to HB 595
(2012-0073h)**

Proposed by Rep. Manuse

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

AN ACT amending the compulsory school attendance statutes to permit parent-directed instruction programs and repealing the home education statutes.

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

1 Statement of Purpose. It is the natural right and duty of parents to determine and direct the instruction of their children for their education. The general court acknowledges that the primary and natural instructors of a child are his or her parents, and the general court guarantees the right and duty of parents to provide for the instruction of their children. Parents shall be free to provide this instruction in the manner and at the location of their choosing, including in their homes or in private schools or in schools recognized or established by their resident school district or by the state or in other places where instruction can be given.

2 Child Protection Act; Definitions. Amend RSA 169-C:3, XIX(b) to read as follows:

(b) Who is without proper parental care or control, subsistence, ~~[education as required by law,]~~ or other care or control necessary for his physical, mental, or emotional health, when it is established that his health has suffered or is very likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian or custodian; or

3 Truant Officers; Duties. Amend RSA 189:36, I to read as follows:

I. Truant officers shall, when directed by the school board, enforce the laws and regulations relating to truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I~~(4)~~ **(b)(7)**; and the laws relating to the attendance at school of children between the ages of 6 and 18 years; and shall have authority without a warrant to take and place in school any children found employed contrary to the laws relating to the employment of children, or violating the laws relating to the compulsory attendance at school of children under the age of 18 years, and the laws relating to child labor. No ~~[home-school pupil]~~ **child in a parent-directed instruction program** nor any person between the ages of 6 and 18 who meets any of the requirements of RSA 193:1, I~~(e)-(h)~~ **(b)(1)-(7)** shall be deemed a truant.

4 School Attendance; Duty of Parents. Amend the section heading of RSA 193:1 and RSA 193:1, I to read as follows:

193:1 **Rights and** ~~[Duty]~~ **Duties** of ~~[Parent]~~ **Parents**; Compulsory Attendance by Pupil.

I. ***It is the natural right of parents to determine and direct the instruction of their children.*** A parent of any child at least 6 years of age and under 18 years of age:

(a) ***Shall instruct such child or cause such child to be instructed as determined by the parent. Parents involved in parent-directed instruction may consider the recommended subjects of the legislature, as listed in the New Hampshire constitution, Part I, Article 83 and;***

(1) ***A parent may notify the superintendent of his or her resident school district or the principal of a nonpublic school of his or her decision to involve his or her child in a parent-directed instruction program pursuant to this section. Such notification shall not be required of a parent, and failure to send such notification shall not be considered probable cause under this subparagraph; and***

(2) ***A parent who chooses to notify the superintendent of the resident***

school district or the principal of a nonpublic school under subparagraph (a)(1) may submit such notification within 14 days of the date the child is withdrawn from a public or nonpublic school, or moves into the resident school district, or reaches compulsory attendance age pursuant to this section. Notification may include the name, address, and age of each child whose education is being personally directed by the parent pursuant to this chapter. A parent may also send such notification if he or she terminates a parent-directed instruction program for any period of time and then subsequently resumes such a program. A parent may choose to enroll a child previously involved in a parent-directed instruction program in a public or private school at any time that any other child may be enrolled; and

(3) The superintendent of the resident school district or the principal of a nonpublic school receiving notification pursuant to subparagraphs (a)(1) and (a)(2) shall provide written acknowledgment of the notification within 14 days of receipt of the notification; and

(4) Records or information maintained by the superintendent of the resident school district or the principal of a nonpublic school under this chapter shall not be public records pursuant to RSA 91-A and shall not be released to any person or agency without the express written consent of the parent; or

*(b) Shall cause such child to attend the public school to which the child is assigned in the child's resident district. Such child shall attend **the public school to which the child is assigned** full time when such school is in session unless:*

~~[(a)]~~ *(1) The child is attending a New Hampshire public school outside the district to which the child is assigned or an approved New Hampshire private school for the same time;*

~~[(b)]~~ *The child is receiving home education pursuant to RSA 193-A and is therefore exempt from this requirement;*

~~[(c)]~~ *(2) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and adequate education grants under RSA 198:41;*

~~[(d)]~~ *(3) The child is attending a public or private school located in another state which has been approved by the state education agency of the state in which the school is located;*

~~[(e)]~~ *(4) The pupil has been exempted from attendance pursuant to RSA 193:5;*

~~[(f)]~~ *(5) The pupil has successfully completed all requirements for graduation and the school district is prepared to issue a diploma or the pupil has successfully achieved the equivalent of a high school diploma by ~~either:~~*

~~(1) obtaining a GED certificate; or~~

~~(2) Documenting the completion of a home school program at the high school level by submitting a certificate or letter to the department of education];~~

~~[(g)]~~ *(6) The pupil has been accepted into an accredited postsecondary education program; or*

~~[(h)]~~ *(7) The pupil obtains a waiver from the superintendent, which shall only be granted upon proof that the pupil is 16 years of age or older and has an alternative learning plan for obtaining either a high school diploma or its equivalent.*

~~[(1)]~~ *(A) Alternative learning plans shall include age-appropriate academic rigor and the flexibility to incorporate the pupil's interests and manner of learning. These plans may include, but are not limited to, such components or combination of components of extended learning opportunities as independent study, private instruction, performing groups, internships, community service, apprenticeships, and on-line courses.*

~~[(2)]~~ **(B)** Alternative learning plans shall be developed, and amended if necessary, in consultation with the pupil, a school guidance counselor, the school principal and at least one parent or guardian of the pupil, and submitted to the school district superintendent for approval.

~~[(3)]~~ **(C)** If the superintendent does not approve the alternative learning plan, the parent or guardian of the pupil may appeal such decision to the local school board. A parent or guardian may appeal the decision of the local school board to the state board of education consistent with the provisions of RSA 21-N:11, III.

5 Compulsory School Attendance; Definitions. Amend RSA 193:1, III to read as follows:

III. In this section~~[],~~:

(a) “Child” means a child or children of compulsory attendance age who is a resident of New Hampshire.

(b) “Parent” means a parent, guardian, or person having legal custody of a child.

(c) “Parent-directed instruction” means instruction determined and directed by the parent or guardian of a child who is of compulsory school age. Such instruction may also be referred to as “homeschooling.”

6 New Paragraph; School Attendance; Limitations on State, County, and Municipal Action. Amend RSA 193:1 by inserting after paragraph I the following new paragraph:

I-a. Under no circumstances shall the neglect provisions of RSA 169-C or RSA 169-D, or the provisions of RSA 639:3 apply to parent-directed instruction. Instead, only the following civil procedure shall apply to a parent involved in parent-directed instruction:

(a) Original jurisdiction of any action brought against a parent engaged in parent-directed instruction pursuant to this chapter shall be in the superior court in the county of the parent's residence.

(b) The state, a county or any local jurisdiction shall not interfere with the natural right of a parent to instruct his or her child unless the acting jurisdiction has probable cause to believe that a parent involved in a parent-directed instruction program has failed to instruct or cause the child to be instructed.

(c) If there is probable cause to believe that a parent involved in a parent-directed instruction program has failed to instruct or cause the child to be instructed, a local jurisdiction may investigate, after prior written notice to the parent, to determine if there is sufficient evidence to proceed against the parent. The division of children, youth and family shall not investigate any case of failure to instruct or cause the child to be instructed. No other state agency shall investigate any case of failure to instruct or cause the child to be instructed. Not more than one jurisdiction shall ever investigate a case of failure to instruct or cause the child to be instructed.

(d) A local jurisdiction shall only proceed against a parent in accordance with the Constitutional provisions for due process and a fair trial, during which the parent shall retain the presumption of innocence.

(e) A local jurisdiction shall not compel a parent to submit evidence to prove his or her innocence, nor shall the local jurisdiction presume such parent has failed to instruct or cause the child to be instructed based on the parent's failure to submit such evidence.

(f) In any action relating to a parent involved in a parent-directed instruction program, no finding or opinion that a parent has failed to instruct or cause the child to be instructed shall issue except upon evidence proven beyond a reasonable doubt.

(g) A parent involved in a parent-directed instruction program who has failed to instruct or cause the child to be instructed may be found guilty only of a civil violation. Under no circumstances shall the state, a county, a local jurisdiction, or any other government official, including but not limited to a court, remove a child from a parent's custody based on an allegation or finding of failure to instruct or cause the child to be instructed or for any other allegation or finding pertaining to a parent-directed instruction program. Only after the procedure in this paragraph has been followed, and a court has found by evidence proven beyond a reasonable doubt, in 3 separate court proceedings, that a

parent has failed to instruct the child or failed to cause the child to be instructed, may the court, as of the third court proceeding, order the child to be enrolled in a public or nonpublic school, as shall be determined by the parent. Nothing in this section shall preclude a parent from withdrawing the child from enrollment in the public or nonpublic school during any subsequent year, and returning the child to parent-directed instruction.

(h) No state agency or local jurisdiction shall have authority to write or enforce rules relative to parent-directed instruction programs.

7 School Attendance; Access to Public School Programs. Amend RSA 193:1-c to read as follows:

193:1-c Access to Public School Programs by ***Pupils in*** Nonpublic or ~~[Home-Educated Pupils]~~ ***Parent-Directed Instruction Programs***.

I. ***Pupils in*** nonpublic or ~~[home-educated pupils]~~ ***parent-directed instruction programs*** shall have access to curricular courses and cocurricular programs offered by the school district in which the pupil resides. The local school board may adopt a policy regulating participation in curricular courses and cocurricular programs, provided that such policy shall not be more restrictive for ~~[non-public or home-educated pupils]~~ ***pupils in a nonpublic or parent-directed instruction program*** than the policy governing the school district's resident pupils. In this section, "cocurricular" shall include those activities which are designed to supplement and enrich regular academic programs of study, provide opportunities for social development, and encourage participation in clubs, athletics, performing groups, and service to school and community. For purposes of allowing access as described in this section, a ~~["home-educated pupil"]~~ ***pupil in a parent-directed instruction program*** shall not include any pupil who has graduated from a high school level program ~~[of home education,]~~ or its equivalent, or has attained the age of 21.

II. Nothing in this section shall be construed to require a parent to establish a ~~[home education]~~ ***parent-directed instruction*** program which exceeds the requirements of RSA 193:1.

8 School Attendance; Bylaws as to Nonattendance. Amend RSA 193:16 to read as follows:

193:16 Bylaws as to Nonattendance. Districts may make bylaws, not repugnant to law, concerning habitual truants and children between the ages of 6 and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I~~(4)~~ ***(b)(7)***, and to compel the attendance of such children at school; failure to comply with such bylaws shall constitute a violation for each offense.

9 Legislative Youth Advisory Council; Membership. Amend RSA 19-K:2, I-IV to read as follows:

I. The president of the senate shall appoint the following 7 members:

(a) Three youths who are students in secondary schools, who are ~~[home-school]~~ students ***in a parent-directed instruction program as provided in RSA 193:1, I***, or who are enrolled in programs that lead to a secondary school diploma, certificate of attendance, or general equivalency diploma.

(b) Three youths who are residents of this state and who are students at postsecondary education institutions located in the state.

(c) One member of the senate.

II. The speaker of the house of representatives shall appoint the following 8 members:

(a) Four youths who are students in secondary schools, who are ~~[home-school]~~ students ***in a parent-directed instruction program as provided in RSA 193:1, I***, or who are enrolled in programs that lead to a secondary school diploma, certificate of attendance, or general equivalency diploma.

(b) Three youths who are residents of this state and who are students at postsecondary education institutions located in the state.

(c) One member of the house of representatives.

III. The governor shall appoint the following 3 members:

(a) Two youths who are students in secondary schools, who are ~~[home-school]~~ students ***in a parent-directed instruction program as provided in RSA 193:1, I***, or who are enrolled in programs that lead to a secondary school diploma, certificate of attendance, or general equivalency diploma.

(b) One youth who is a resident of this state and who is a student at a postsecondary education institution located in the state.

IV. The secretary of state shall appoint the following 3 members:

(a) Two youths who are students in secondary schools, who are ~~[home-school]~~ students ***in a parent-directed instruction program as provided in RSA 193:1, I***, or who are enrolled in programs that lead to a secondary school diploma, certificate of attendance, or general equivalency diploma.

(b) One youth who is a resident of this state and who is a student at a postsecondary education institution located in the state.

10 Special Education; Advisory Committee. Amend RSA 186-C:3-b, II(p) to read as follows:

(p) One individual representing children with disabilities who are ~~[home-schooled]~~ ***in a parent-directed instruction program as specified in RSA 193:1, I***, appointed by the governor.

11 Statewide Education Improvement and Assessment Program; Assessment Required. Amend RSA 193-C:6 to read as follows:

193-C:6 Assessment Required. Each year, a statewide assessment shall be administered in all school districts in the state in grades 3 through 8 and one grade in high school. All public school students in the designated grades shall participate in the assessment, unless such student is exempted, or provided that the commissioner of the department of education may, through an agreement with another state when such state and New Hampshire are parties to an interstate agreement, allow pupils to participate in that state's assessment program as an alternative to the assessment required under this chapter. ~~[Home-educated students]~~ ***Students in a parent-directed instruction program pursuant to RSA 193:1, I*** may contact their local school districts if they wish to participate in the statewide assessment. Private schools may contact the department of education to participate in the statewide assessment.

12 Safe School Zones; Definitions. Amend RSA 193-D:1, III to read as follows:

III. "School" means any public or private elementary, secondary, or secondary vocational-technical school in New Hampshire. It shall not include ~~[home-schools under RSA 193-A]~~ ***a personal residence or other space used to conduct a parent-directed instruction program pursuant to RSA 193:1, I***.

13 Chartered Public Schools; Establishment and Application. Amend RSA 194-B:3, VIII to read as follows:

VIII. ~~[Home-education programs established pursuant to RSA 193-A]~~ ***A parent-directed instruction program as specified in RSA 193:1, I*** shall not be eligible to be a chartered public school.

14 School Administrative Units; Superintendent Services. Amend RSA 194-C:4, II(d) to read as follows:

(d) Compliance with laws, regulations, and rules regarding special education, Title IX, the Americans with Disabilities Act, ~~[home-education,]~~ minimum standards, student records, sexual harassment, and other matters as may from time to time occur.

15 Cooperative School Districts; Procedure for Formation. Amend RSA 195:18, III(e) to read as follows:

(e) The method of apportioning the operating expenses of the cooperative school district among the several preexisting districts and the time and manner of payment of such shares. ~~[Home-education pupils]~~ ***Student in a parent-directed instruction program pursuant to RSA 193:1, I*** who do not receive services from the cooperative school district[;

~~except an evaluation pursuant to RSA 193-A:6, II]~~ shall not be included in the average daily membership relative to apportionment formulas.

16 Cooperative School Districts; Procedure for Formation. Amend RSA 195:18, III(g) to read as follows:

(g) The method of apportioning the capital expenses of the cooperative school district among the several preexisting districts, which need not be the same as the method for apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the costs of acquiring land and buildings for school purposes, including property owned by a preexisting district; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same or which is assumed by the cooperative school district. ~~[Home education pupils]~~ ***Students in a parent-directed instruction program pursuant to RSA 193:1, I*** who do not receive services from the cooperative school district~~[-except an evaluation pursuant to RSA 193-A:6, II,]~~ shall not be included in the average daily membership relative to apportionment formulas.

17 Cooperative School Districts; Costs of Capital Outlay and Operation. Amend RSA 195:7, II to read as follows:

II. ~~[Home education pupils]~~ ***Students in a parent-directed instruction program pursuant to RSA 193:1, I*** who do not receive services from the cooperative school district~~[-except an evaluation pursuant to RSA 193-A:6, II,]~~ shall not be included in the average daily membership relative to apportionment formulas.

18 Repeal. RSA 193-A, relative to home education programs, is repealed.

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

AMENDED ANALYSIS

This bill:

I. Repeals the home education statute.

II. Permits parent-directed instruction programs.

III. Asserts that it is the natural right of a parent to determine and direct the instruction of his or her child and limits the involvement of the state in parent-directed instruction programs only to cases in which there is probable cause to believe that a parent is not instructing his or her child.

Floor Amendment to HB 602-FN-A (2011-2820h)

Proposed by Rep. Manuse

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

1 Subdivision Heading; Hospital Infections. Amend the subdivision heading preceding RSA 151:32 to read as follows:

Reporting of ~~[Hospital and Ambulatory Surgical Facility]~~
Health Care Associated Infections

2 Statewide Database Required. Amend RSA 151:34, II(a) to read as follows:

II.(a) Subject to subparagraph (c), on or before ~~[June]~~ ***August*** 1 of each year, provided that the data collection and analytical methodologies meet accepted standards for validity and reliability, the commissioner shall report on the department's web site infection rates both exclusive and inclusive of adjustments for potential differences in risk factors for each reporting hospital and ambulatory surgical facility, an analysis of trends in the prevention and control of infection rates in hospitals and ambulatory surgical facilities across the state, regional and, if available, national comparisons for the purpose of comparing individual hospital and ambulatory surgical facility performance, and a narrative describing lessons for safety and quality improvement that can be learned from leadership hospitals and programs.

3 Payment by Hospitals and Ambulatory Surgical Centers. RSA 151:36 is repealed and reenacted to read as follows:

151:36 Payment by Hospitals and Ambulatory Surgical Centers.

I. The department shall assess a fee to hospitals and ambulatory surgical centers that are required to report under RSA 151:33 to support the program's approved operating budget.

(a) The hospitals' portion shall be proportional to the number of measures reported by all hospitals in the state.

(b) The ambulatory surgical centers' portion shall be proportional to the total number of measures reported by ambulatory surgical centers in the state.

II. There shall be proportional fee categories based on the hospital's number of beds, which shall total the amount of payment required by the hospitals. Of that base amount as stated in subparagraph I(a), each individual hospital shall pay a fee based on the appropriate category for that hospital.

III. There shall be proportional fee categories based on the range of procedures performed annually at an ambulatory surgical center, which shall equal the total amount of payment that is required by all ambulatory surgical centers. Of that base amount as stated in subparagraph I(b), each ambulatory surgical facility required to report shall pay a fee based on the appropriate category for that ambulatory surgical center.

IV. The department shall adopt rules, pursuant to RSA 541-A, relative to fee categories, a payment schedule, and proportional rates adequate to fund the requirements of this subdivision for each fiscal year.

4 Effective Date. This act shall take effect July 1, 2012.

AMENDED ANALYSIS

This bill establishes a fee for hospitals and ambulatory surgical centers required to report health care associated infections.