

HOUSE RECORD

First Year of the 155th Session of the General Court Calendar and Journal of the 1997 Session

Vol. 19 Concord N.H. Wednesday, March 19, 1997 No. 42

HOUSE JOURNAL No. 12(cont.)

Tuesday, March 18, 1997

Rep. Wheeler moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 13

Wednesday, March 19, 1997

The House assembled at 9:00 a.m., the hour to which it stood adjourned and was called to order by the Speaker.

Prayer was offered by House Chaplain, Reverend Edward G. Horstmann.

Glorious God, as we begin our work this day grant unto each of us new energy and hope, humility and passion. Through all of our varied emotions, make us instruments of Your peace. Help us to welcome one another in a spirit of trust and truth so that we may persistently move beyond personal differences to collective compassion for the sake of Your justice and the common good. Amen.

Rep. Bernier led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Arnold, George Brown, Patricia Cote, Dowling, Felch, Feng, Beverly Gage, Lockwood, Morello, O'Connell, O'Rourke, Vincent and Wiggins, the day, illness.

Reps. Abbott, Ameen, Channing Brown, Franks, Robert Kelley, Lynde, McNamara, Manning, McRae, Benjamin Moore, Musler, Rubin and Veazey, the day, important business.

Reps. Kevin Clemons and Irene Pratt, the day, illness in the family.

INTRODUCTION OF GUESTS

The Parkside Jr. High School band from Manchester, guests of the House. Connie Stone, wife of Rep. Stone. John Pelletier, son of Reps. Arthur and Marsha Pelletier.

SPECIAL GUESTS

The Girl's Varsity Volleyball Team from Moultonborough Academy and their coaches, guests of the House.

SPECIAL ORDERS

HB 133, establishing a family resource council to address the efficient delivery of services to children and families. INEXPEDIENT TO LEGISLATE

Rep. Kevin M. Smith for Judiciary and Family Law: The majority opinion was that while a council of this type may have been helpful 5 years ago, with the recent growth in new computer technologies, a council such as this is now unnecessary, and would almost definitely be obsolete in 2 years, if enacted. Another concern of the committee is the fact that the council would be duplicating already existing community family council centers, and would only be creating more bureaucracy at the higher levels. Vote 9-6.

Adopted.

HB 365, providing that communications made during family mediation shall be privileged. OUGHT TO PASS WITH AMENDMENT

Rep. Sandra B. Keans for Judiciary and Family Law: This bill gives to a family mediators the same confidentiality privilege that this legislature confers on marital mediators. Family mediators are volunteers offering their services free of charge to non-profit programs throughout the state. The goals of family mediation are to keep families intact, prevent youths from becoming entangled in the criminal justice system, and improve the daily lives of family members. Families are frequently referred to these programs by the court, schools, and juvenile justice authorities. If the volunteer mediators can be compelled to appear in court to testify, the pool of mediators will vanish. This bill, is prompted by a recent case where a volunteer mediator might have been subpoenaed. Vote 9-3.

Amendment (0221h)

Amend the bill by replacing section1 with the following:

1 New Section; Family Mediator Privileged Communications. Amend RSA 516 by inserting after section 35 the following new section:

516:35-a Family Mediators.

I. Family mediation proceedings shall be held in private, and all communications, oral or written, made in the proceedings shall be privileged and confidential and shall not be disclosed, except as provided in paragraph III of this section.

II. Nothing said by the parties during family mediation sessions shall be admissible in any court proceedings.

III. No family mediator shall be subpoenaed by any court of competent jurisdiction in this state to disclose any information received from any client unless:

(a) The family mediator has received material information alleging abuse or sexual abuse or neglect, as defined by RSA 169-C or RSA 173-B.

(b) The family mediator has received information about a felony that has been or is about to be committed.

IV. In this section:

(a) "Family mediation" means a process by which an impartial third person or persons, with the consent of the parties, assists and enables the members of a family or household to work together to communicate about common concerns and to reach mutually satisfactory agreements to disputes.

(b) "Family mediator" means an impartial third person who, with the consent of the participating family or household members, assists and enables those participants to communicate about common concerns and to reach mutually satisfactory agreements to disputes.

Adopted.

Report adopted and ordered to third reading.

HB 421, amending the law against discrimination to prohibit discrimination on the basis of sexual orientation. OUGHT TO PASS WITH AMENDMENT

Rep. Barbara Hull Richardson for Judiciary and Family Law: This bill extends civil rights in employment, public accommodations and housing accommodations to include persons regardless of their sexual orientation. The Manchester Diocese supports this bill. The definition of sexual orientation does not render lawful any conduct prohibited by the criminal laws of New Hampshire. Vote 13-3.

Amendment (0602h)

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

AN ACT amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation.

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

1 Statement of Intent. While the state of New Hampshire does not intend to promote or endorse any sexual lifestyle other than the traditional marriage-based family, the legislature recognizes the need to provide protection in certain areas to individuals on account of their sexual orientation.

2 New Section; Definition of Sexual Orientation. Amend RSA 21 by inserting after section 48 the following new section:

21:49 Sexual Orientation. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, bisexuality or homosexuality. This definition is intended to describe the status of persons and does not render lawful any conduct prohibited by the criminal laws of this state or impose any duty on a religious organization. This definition does not confer legislative approval of such status, but is intended to assure the basic rights afforded under New Hampshire law.

3 Adding Reference; Division of Personnel. Amend 21-I:42, XVI to read as follows:

XVI. Developing and implementing an equal employment opportunity program that will ensure the employment of all qualified people regardless of age, sex, race, color, **sexual orientation**, ethnic background, marital status, or physical or mental disability. This program shall include a review and revision of the job classification process and testing process to ensure that they are free from either conscious or inadvertent bias.

4 Adding Reference; State Employees. Amend RSA 21-I:52, I to read as follows:

I. No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of ~~[his]~~ **the person's** political opinions, religious beliefs or affiliations, age, sex, or race ~~[- provided, however, that] . In addition, no person shall have any such employment action taken on account of such person's sexual orientation.~~ Nothing in this section shall require the appointment or prevent the dismissal of any person who advocates the overthrow of the government by unconstitutional and violent means. No person shall use, or promise to use directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. No employee in the state classified service shall hold any remunerative elective public office, or have other employment, either of which creates an actual, direct and substantial conflict of interest with ~~[his]~~ **the employee's** employment, which conflict cannot be alleviated by said employee abstaining from actions directly affecting ~~[his]~~ **such** classified employment. Determination of such conflict shall be made by the personnel appeals board after the parties are afforded rights to a hearing pursuant to RSA 21-I:58. The burden of proof in establishing such a conflict shall be upon the party alleging it. No action affecting said employee shall be taken by the appointing authority because of such public office or other employment until after a full hearing before and approval of such action by the personnel appeals board. If an actual, direct and substantial conflict of interest, which cannot be alleviated by abstention by the employee, is found by the personnel appeals board, the board must approve any action proposed by the appointing authority; and the employee shall be given a reasonable amount of time to leave ~~[his]~~ **the employee's** public office or other employment or otherwise end the conflict before the appointing authority initiates that action.

5 Reference Added; Appeals under the Personnel Rules. Amend RSA 21-I:58, I to read as follows:

I. Any permanent employee who is affected by any application of the personnel rules, except for those rules enumerated in RSA 21-I:46, I and the application of rules in classification decisions appealable under RSA 21-I:57, may appeal to the personnel appeals board within 15 calendar days of the action giving rise to the appeal. The appeal shall be heard in accordance with the procedures provided for adjudicative proceedings in RSA 541-A. If the personnel appeals board finds that the action complained of was taken by the appointing authority for any reason related to politics, religion, age, sex, race, color, ethnic background, marital status, or disabling condition, **on account of the person's sexual orientation** or was taken in violation of a statute or of rules adopted by the director, the employee shall be reinstated to the employee's former position or a position of like seniority, status, and pay. The employee shall be reinstated without loss of pay, provided that the sum shall be equal to the salary loss suffered during the period of denied compensation less any amount of compensation earned or benefits received from any other source during the period. "Any other source" shall not include compensation earned from continued casual employment during the period if the employee held the position of casual employment prior to the period, except to the extent that the number of hours worked in such casual employment increases during the period. In all cases, the personnel appeals board may reinstate an employee or otherwise change or modify any order of the appointing authority, or make such other order as it may deem just.

6 Changing Reference. Amend RSA 151:21, XVI to read as follows:

XVI. The patient shall not be denied appropriate care on the basis of race, religion, color, national origin, sex, age, disability, marital status, ~~[sexual preference]~~ or source of payment, **nor shall any such care be denied on account of the patient's sexual orientation.**

7 Changing Reference. Amend RSA 151:21-b, II(b) to read as follows:

(b) Receive appropriate and professional care without discrimination based on race, color, national origin, religion, sex, ~~[sexual preference]~~ disability, or age, **nor shall any such care be denied on account of the patient's sexual orientation.**

8 Adding Reference. Amend RSA 354-A:1 to read as follows:

354-A:1 Title and Purposes of Chapter. This chapter shall be known as the "Law Against Discrimination." It shall be deemed an exercise of the police power of the state for the protection of the public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the constitution of this state concerning civil rights. The general court hereby finds and declares that practices of discrimination against any of its inhabitants because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin are a matter of state concern, that such discrimination not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants. A state agency is hereby created with power to eliminate and prevent discrimination in employment, in places of public accommodation and in housing accommodations because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes. ***In addition, the agencies and council's so created shall exercise their authority to assure that no person be discriminated against on account of sexual orientation.***

9 New Paragraph; Definition of Sexual Orientation. Amend RSA 354-A:2 by inserting after paragraph XIV the following new paragraph:

XIV-a. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, bisexuality or homosexuality. This definition is intended to describe the states of persons and does not render lawful any conduct prohibited by the criminal laws of this state or impose any duty on a religious organization. This definition does not confer legislative approval of such status, but is intended to assure basic rights afforded under this chapter.

10 Adding Reference. Amend RSA 354-A:5, VIII and IX to read as follows:

VIII. To create such advisory agencies and conciliation councils, local, regional or statewide, as in its judgment will aid in effectuating the purpose of this chapter, and the commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination, because of age, sex, race, color, ***sexual orientation***, marital status, familial status, or physical or mental disability, religious creed or national origin, in order to foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of the state, and make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the commission may make provision for technical clerical assistance to such agencies and councils and for the expenses of such assistance.

IX. To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of age, sex, race, color, marital status, familial status, physical or mental disability, religious creed or national origin ***and on account of sexual orientation.***

11 Adding Reference. Amend RSA 354-A:6 to read as follows:

354-A:6 Opportunity for Employment Without Discrimination a Civil Right. The opportunity to obtain employment without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right. ***In addition, no person shall be denied the benefits of the rights afforded by this section on account of that person's sexual orientation.***

12 Adding Reference. Amend RSA 354-A:7, I-III to read as follows:

I. For an employer, because of the age, sex, race, color, marital status, physical or mental disability, religious creed, or national origin of any individual, to refuse to hire or employ or to bar or to discharge from employment such

individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

II. For a labor organization, because of the age, sex, race, color, marital status, physical or mental disability, creed, or national origin of any individual, to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer, unless based upon a bona fide occupational qualification. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

III. For any employer or employment agency to print or circulate or to cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry or record in connection with employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, sex, race, color, marital status, physical or mental disability, religious creed or national origin or any intent to make any such limitation, specification or discrimination in any way on the ground of age, sex, race, color, marital status, physical or mental disability, religious creed or national origin, unless based upon a bona fide occupational qualification; provided, however, that nothing in this chapter shall limit an employer after the offer of hire of an individual from inquiring into and keeping records of any existing or pre-existing physical or mental conditions. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

13 Adding Reference. Amend RSA 354-A:8 to read as follows:

354-A:8 Equal Housing Opportunity Without Discrimination a Civil Right. The opportunity to obtain housing without discrimination because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin is hereby recognized and declared a civil right. ***In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation.***

14 Adding Reference. Amend RSA 354-A:10 to read as follows:

354-A:10 Unlawful Discriminatory Practices. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, sublessee, assignee, managing agent or other person having the right to rent or lease a dwelling or commercial structure or being in the business of selling or renting dwellings or commercial structures:

I. To refuse to sell or rent after the receipt of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or commercial structure to any person because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

II. To discriminate against any person in the terms, conditions, or privilege of sale or rental of a dwelling or commercial structure, or in the provision of services or facilities in connection therewith, because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

III. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling or commercial structure that indicates any preference, limitation, or discrimination based on age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin, or an intention to make any such preference, limitation or discrimination. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

IV. To represent to any person because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin that any dwelling or commercial structure is not available for inspection, sale, or rental when such dwelling is in fact so available.

V. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

VI. To evict a tenant solely on the grounds that the person has acquired immune deficiency syndrome (AIDS) or is regarded to have acquired immune deficiency syndrome.

VII. For any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of age, race, color, religion, sex, disability, familial status, marital status, or national origin. ***In addition, no person shall be denied the benefit of the rights afforded by this paragraph on account of that person's sexual orientation.***

15 Adding Reference. Amend RSA 354-A:16 and 17 to read as follows:

354-A:16 Equal Access to Public Accommodations a Civil Right. The opportunity for every individual to have equal access to places of public accommodation without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right. ***In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation.***

354-A:17 Unlawful Discriminatory Practices in Public Accommodations. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental disability or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age, sex, race, creed, color, marital status, physical or mental disability or national origin; or that the patronage or custom thereof of any person belonging to or purporting to be of any particular age, sex, race, creed, color, marital status, physical or mental disability or national origin is unwelcome, objectionable or acceptable, desired or solicited. ***In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation.***

16 Clarifying Reference. Amend RSA 651:6, I(g) to read as follows:

(g) He was substantially motivated to commit the crime because of hostility towards the victim's religion, race, creed, sexual orientation ***as defined in RSA 21:49***, national origin or sex; or

17 Applicability. Nothing in this act shall be interpreted to permit adoptions by homosexuals or to allow marriage of persons of the same sex.

18 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill prohibits the denial of the benefit of the rights afforded under the employment, public accommodations, and housing accommodations law on account of a person's sexual orientation.

The bill also clarifies references to sexual orientation and sexual preference in the patient's bill of rights and the criminal code.

Adopted.

Rep. Adams spoke against.

Reps. Keans and Carol Moore spoke in favor and yielded to questions.

Rep. Daniels spoke against and yielded to questions.

Rep. Cushing non-spoke in favor.

Rep. Donald White requested a roll call; sufficiently seconded.

The question being the adoption of the majority report.

**YEAS 205 NAYS 125
YEAS 205
BELKNAP**

Lawton, Robert Ziegler, Alice

CARROLL

Babson, David, Jr. Bradley, Jeb Dickinson, Howard, Jr. Mock, Henry

Patten, Betsey

CHESHIRE

Avery, Stephen Bonneau, Sarah Burnham, Daniel Champagne, Richard

Doucette, Richard Hunt, John Lynch, Margaret Lynott, Margaret

McGuirk, Paul Meader, David Metzger, Katherine Pratt, John

Richardson, Barbara Riley, William Robertson, Timothy Russell, Ronald

Smith, Edwin Vogl, John

COOS

Bradley, Paula Coulombe, Henry Coulombe, Yvonne Davis, Perley

Hawkinson, Marie Horton, Lynn Mears, Edgar Moynihan, Wayne

Tholl, John, Jr.

GRAFTON

Akins, Ralph Alger, John Almy, Susan Below, Clifton

Copenhaver, Marion Eaton, Stephanie Guest, Robert Ham, Bonnie

Hill, Richard Lovett, Sidney Luker, Elsa Mirski, Paul

Nordgren, Sharon Teschner, Douglass

HILLSBOROUGH

Ackerman, Philip Alukonis, David Amidon, Eleanor Asselin, Robert

Baroody, Benjamin Barry, William, III Batula, Peter Belvin, William

Bergin, Peter Bernier, Shannon Boutin, David Buckley, Raymond

Cardin, Lori Chabot, Robert Clemons, Jane Cote, David

Cote, Peter Daigle, Robert Dawe, Eileen Dokmo, Cynthia

Drabinowicz, A. Theresa Durham, Susan Dwyer, Paul, Sr. Dyer, Merton

Emerton, Lawrence, Sr. Ferguson, Charles Fields, Dennis Foster, Joseph

Foster, Linda Gage, Ruth Gagnon, Eugene Ginsburg, Ruth

Haettenschwiller, Alphonse Hall, Betty Hansen, Herbert Hart, Nick

Holden, Carol Jean, Claudette Johnson, Lionel Kurk, Neal

LaRose, Richard Leishman, Peter Leonard, Peter Lozeau, Donnalee

MacAuslan, Rita Martin, Mary McCarthy, William McCarty, Winston

Melcher, Harold Mercer, Robert Messier, Irene Mittelman, David

Murphy, Robert O'Hearn, Jane Perkins, Paul Peterson, Andrew

Reidy, Frank Sargent, Maxwell Turgeon, Roland Vaillancourt, Steve

Welch, Donald Wheeler, Robert White, Jay Williams, Carol

MERRIMACK

Anderson, Eric Burney, Carol Crosby, Toni Daneault, Gabriel

Dunn, Miriam Feuerstein, Martin Fraser, Marilyn French, Barbara

Gile, Mary Hager, Elizabeth Hess, David Jacobson, Alf

Lamach, Bernard Marshall, Kenneth Maxfield, Roy Moore, Carol

Owen, Derek Reardon, Tara Rogers, Katherine Seldin, Gloria

St. Cyr, Gerard Wallin, Jean Yeaton, Charles

ROCKINGHAM

Belanger, Ronald Blanchard, MaryAnn Cegelis, Mark Clark, Martha

Coes, Betsy Cushing, Robert Dube, LeRoy Francoeur, Sheila

Frechette, Joseph Heath, John Henderson, Warren Hutchinson, Rebecca

Johnson, Robert Kane, Cecelia Kelley, Jane Langley, Jane

Langone, John Major, Norman McCarthy, John, Jr. McGovern, Cynthia

McKinney, Betsy Norelli, Terie Noyes, Richard O'Keefe, Patricia

Pantelakos, Laura Sabella, Norma Schanda, Frank Stone, Joseph

Syracusa, Anthony Tufts, J. Arthur Weatherspoon, Jackie Woods, Deborah

STRAFFORD

Berube, Roger Brennan, William Brown, Julie DeChane, Marlene

Dunlap, Patricia Estabrook, Iris Grassie, Anne Hemon, Roland

Hilliard, Dana Kaen, Naida Keans, Sandra Knowles, William

Lundborn, Raymond McCann, William, Jr. Merrill, Amanda Merritt, Deborah

Pelletier, Arthur Rogers, Rose Marie Rollo, Michael Smith, Marjorie

Snyder, Clair Spear, Barbara Sullivan, Henry Taylor, Kathleen

Torr, Ann Tsiros, William Twardus, Joseph Vachon, Dennis

Wall, Janet

SULLIVAN

Allison, David Burling, Peter Cloutier, John Donovan, Thomas

Flint, Gordon Leone, Richard Lindblade, Eric Palmer, Lorraine

Schotanus, Merle

NAYS 125 BELKNAP

Bartlett, Gordon Boriso, Thomas Boyce, Robert Clark, Charles

Golden, Paul Holbrook, Robert Laflam, Robert Lawton, David

Pilliod, James Rice, Thomas, Jr. Rosen, Ralph Thomas, John

Turner, Robert

CARROLL

Chandler, Gene Cooper, Kipp Foster, Robert Howard, Godfrey

Kenney, Joseph Lyman, L. Randy MacDonald, Kenneth Philbrick, Donald

CHESHIRE

Royce, H. Charles Steere, Myron, III

COOS

Guay, Lawrence Merrill, Gerald Pratt, Leighton St. Hilaire, Paul

GRAFTON

Chase, Paul, Jr. Cobbin, Philip Guaraldi, Lawrence MacNeil, Allen

Phinney, William Root, John Trelfa, Richard Weber, Phil

Williams, William, Jr.

HILLSBOROUGH

Briefs, Geoffrey Brundige, Robert Burke, M. Virginia Calawa, Leon, Jr.

Carlson, Donald Christiansen, Lars Clegg, Robert, Jr. Daniels, Gary

Flora, Kathleen Golding, William Gosselin, Gerald Goulet, Maurice

Herman, Keith Holley, Sylvia Hunter, Bruce L'Heureux, Robert

Lefebvre, Roland Lessard, Rudy Letendre, Evelyn Luebker, Bernard

MacGillivray, Jeffrey MacIntyre, Doris Marcinkowski, Michael McDonald, James, Sr.

McGough, Tim Milligan, Robert Murch, George Riley, Frances

Searles, Stanley, Sr. Thulander, O. Alan White, Donald Wright, George

MERRIMACK

Adams, Stephen Brown, Mary Chandler, Earle Crowell, Peter

Hoadley, Elizabeth Krueger, Patricia Langer, Ray Larrabee, David

Lavoie, Gerard Leber, William Morrill, Olive Nichols, Avis

Pfaff, Terence Whalley, Michael Whittemore, James

ROCKINGHAM

Arndt, Janet Beaulieu, Jon Bishop, Franklin Camm, Kevin

Cooney, Richard Dearborn, Bruce Dodge, Robert Dolan, Richard

Dowd, Sandra Downing, Michael Dunham, Vivian Fesh, Robert

Flanagan, Natalie Flanders, John, Sr. Gibbons, Paul Gleason, John

Griffin, Mary Katsakiores, George Katsakiores, Phyllis Klemm, Arthur, Jr.

Kobel, Rudolph Letourneau, Robert Malcolm, Kenneth Mikowski, Walter

Millard, Ralph Morris, Debbie Nowe, Ronald Packard, Sherman

Raynowska, Bernard Simmons, John Anthony Smith, Kevin Stickney, Nancy

Stritch, C. Donald Varrell, Thomas Welch, David Weyler, Kenneth

STRAFFORD

Callaghan, Frank McKinley, Robert Torr, Franklin

SULLIVAN

Adler, Rudolf Ferland, Brenda Krueger, Richard

and the report was adopted.

Ordered to third reading.

Rep. Loren Jean declared a conflict of interest and did not participate.

Rep. Clay did not vote and wished to be recorded in favor.

Rep. Lockwood wished to be recorded in favor.

REMARKS

Rep. Kurk moved that his questions and the responses of Rep. Carol Moore be printed in the Journal.

Adopted.

Rep. Kurk: Thank you, Madam Speaker. My question, Madam Speaker, is this. If I am an employer and this bill passes and I offer health insurance to my employees, would I be required under this bill to extend that also to the domestic partners of my employees who are homosexual, if I extend the insurance coverage to families of my employees?

Rep. Carol Moore: Absolutely not, this bill deals only with housing for the particular individual, public accommodations and jobs. There is nothing about covering insurance for the partners of people who are homosexual.

Rep. Kurk: Thank you Rep. Moore, thank you Madam Speaker. The second question is with the elderly exemption, which many of our communities have adopted. If this bill passes, would a community be required to extend that benefit to the homosexual partner of a person who otherwise qualifies, just as today that is extended to the spouse of a person who otherwise qualifies?

Rep. Carol Moore: I believe I just answered that, Rep. Kurk. This does not involve partners unless the partner, him or herself, is the person involved in job discrimination, housing discrimination or public accommodation discrimination. There is nothing in this bill that sanctions homosexual couples and there is nothing that guarantees rights in the same way that heterosexual marriages get benefits.

SPECIAL ORDERS (Cont'd.)

HR 16, urging that impeachment proceedings be instituted against Strafford county probate court judge Gary R. Cassavechia. INEXPEDIENT TO LEGISLATE

Reps. Deborah L. Woods, Barbara Hull Richardson, Marjorie K. Smith, Cynthia A. McGovern, Lionel W. Johnson, Janet G. Wall, David C. Allison, Kevin H. Smith, Alf E. Jacobson, Sandra B. Keans, Susan J. Clay and Irene A. Pratt for Judiciary and Family Law: This legislation is essentially the same as HR 51 of the 1996 session and HR 46 of the 1994 session. Both were overwhelmingly voted down by this committee and the full House. For the 3rd time this committee is convinced that this legislation is a personal vendetta against Judge Cassavechia and for the 3rd time unanimously votes ITL. It cannot be stated strongly enough that we feel this resolution has no merit whatsoever. Vote 13-0.

Rep. McCann moved Recommit to Committee, spoke in favor and yielded to questions.

Rep. Jacobson requested a Quorum Count. The Speaker declared a Quorum present.

Reps. Jacobson and Holden spoke against.

Rep. Mirski spoke in favor.

Rep. Cobbin spoke in favor and yielded to questions.

On a division vote, 51 members having voted in the affirmative and 286 in the negative, the motion failed.

Report adopted.

Reps. Jeb Bradley and Bonneau declared a conflict of interest and did not participate.

PROTESTS

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. McCann requested that his protest be entered on the Journal.

I submit my testimony, given before the House Judiciary and Family Law Committee on March 4, 1997, as my protest to the ill-advised vote which is a free speech issue, which was ignored by the committee because of its bias against the prime sponsor.

I appear as a co-sponsor of HR 16 because I felt it necessary to acquaint the Judiciary Committee of my first-hand involvement with Judge Gary Cassavechia, from 1990 until he issued his unconstitutional order of July 12, 1993, wherein he ordered that I be investigated by the Attorney General's office and the office of the Strafford County Attorney. He alleged that my petition know as document #42, dated August 2, 1992, was a possible threat under RSA 640:3. This action clearly attempted to deny the people of Strafford District 11 their rights under Part I, Article 30 of the New Hampshire Constitution. This action could be deemed malpractice and/or maladministration in office which is an impeachable offense under Part 2, Article 38 of the New Hampshire Constitution. Further the issuing of said order calls into question the mental process of the judge in defending his actions to conform with Article 80, Part 2 of the Constitution regarding "Jurisdiction which shall be exercised as the legislature have directed". Since 1990 I have worked with Mr. Hemon, now Rep. Hemon, to determine how his mother's estate located in Maine and Florida would come under the jurisdiction of a New Hampshire court. To do this I arranged for Mr. Hemon to meet with Emily Rice of the Attorney General's office. Following that meeting I wrote to then Attorney General John Arnold on September 21, 1991. In that letter I expressed my concern about the actions or lack thereof, and requested that the Department of Justice reconsider their position and failing that they at least provide me with reasons for their decision.

Several months later I wrote to then Governor Judd Gregg regarding the matter. This was done not only because of my concern regarding my constituent's rights but because one of the wills in question involved a bequest to the University of New Hampshire. I believe the will, dated 25 February 1976, conveyed about a third of the estate to the UNH Mechanical Division. I expressed to Governor Gregg my concern that the University system could become a party to this case because of an impending action by Judge Cassavechia, thus incurring legal costs. Needless to say, as most members of this General Court have come to expect, the Attorney General took no action. So only after requesting the executive branch to act, did I then consider requesting the courts to act. On August 2, 1992 I filed a petition with Judge Cassavechia which presented him with 13 facts, number 12 of which was my interest in this case for what could be learned as an example "can be a source of remedial legislation aimed at preventing acts in the future". After I filed the petition nothing happened until Wednesday, December 16, 1992 which was two weeks after Rep. Hemon was sworn into office. During the hearing there was discussion about various wills and I was asked about my role at the hearing by Judge Cassavechia. I reiterated by position that my interest was in future remedial legislation. I then spent the rest of the hearing as an observer while Rep. Hemon, Attorney McIntosh and Attorney Satter discussed procedures for a hearing to be held on September 29, 1993. My recollection is the hearing took less than an hour at best.

On July 12, 1993 Judge Cassavechia issued his order. In that order Judge Cassavechia characterized my petition as "an attempted infringement" of the separation of powers outlined in Part 1, Article 37, which position on the fact, may appear to some as perhaps reasonable. However in view of Part 2, Article 4 and Part 2, Article 80, Judge Cassavechia ignores the role of the General Court to "forever have full power and authority to erect and constitute courts of record, or other courts" (Part 2, Article 4) or the fact that probate courts power "shall be exercised....in such a manner as the legislature have directed" (Part 2, Article 80). So the Judge views Document 42 as an "infringement" of Part 2, Article 37, not a threat to him. He then proceeds to deny the petition know as Document 42. While I do not necessarily agree with his action he is not guilty of malpractice or maladministration by dismissing Document 42. However, two paragraphs later in the order, he orders the registrar to forward a copy of Document 42 to the Attorney General's Office and to the Strafford County Attorney's office with possible sanction of my being charges with a Class B felony. So in this instance a sitting member of the Judiciary orders the Executive Branch of government to launch an investigation against a sitting member of the General Court, with the possible outcome be a charge of a Class B felony be handed up whereby the voter of Strafford District 11 are denied their rights under Part 1, Article 30. This action on its face is more of a violation of the separation of powers than my filing Document 42. Therefore, I must conclude that Judge Cassavechia violated Part 1, Article 37 and Part 1, Article 30 of our Constitution and in doing so is guilty of malpractice and maladministration which are impeachable

offenses under the New Hampshire Constitution. Therefore this resolution requests that in accord with Part 2, Article 17 of our Constitution this House sit in Grand Inquest and make recommendation to the Senate to impeach Judge Cassavechia. My petition did not threaten Judge Cassavechia it told him I was looking to seek remedial legislation based on case A23695 and it asked him to address the motion of Rep. Hemon that the court declare itself without jurisdiction and answer the 85 statement submitted by Rep. Hemon. In regard to remedial legislation, I have submitted HB 394 to this Committee as a result of my inquiries into Case A23695. You will also recall that at the hearing on 20 February, 1997 Judge Mayer,, the head of the Probate Court, also brought to this Committee's attention the previous remedial legislation I had filed in 1993 and 1994 dealing with probate jurisdiction in accord with Part 2, Article 80. I acted in accord with our Constitution, Judge Cassavechia tried to obstruct it by filing his threat against me on 12 July, 1993. Based on these facts I urge you to begin impeachment proceedings by recommending a Committee of the Whole House convene this fall as a Grand Inquest to indict Judge Cassavechia in accord with the Constitution.

When Judge Mayer appeared before the Committee he went out of his way to mislead the Committee about Keefe v. Roberts. Yes, the facts in question dealt with an internal problem of a Speaker trying to get a quorum. However, the Supreme Court had to deal with two separate articles of the Constitution, Part1, Article 30 and Part 2, Article 21. Therefore the Court had to take a hard look at just what rights members have. This is the only case ever and the Court came down four square on the rights of a member. So contrary to the lie of Judge Mayer the Court took the case seriously and made a strong case for upholding the right of free speech. Specifically, the Supreme Court, in Keefe v. Roberts compared Part 1, Article 30 as equivalent to Article 1, Section 6 of the United States Constitution which insures legislative privilege. It then went on to say that Part 1, Article 30 preserves the principal that the legislature must be free both to speak and act without fear of criminal or civil liability. "This article is the equivalent of the speech or debate clause, article 1, section 6 of the United States Constitution which insures legislative privilege in the federal system.

This State, in its constitution of 1784 was one of the first to preserve the principle that the legislature must be free to both speak and act without fear of criminal or civil liability, Tenney v. Brandhove, 341 U.S. 367, 375 (1951). The immunities are intended to protect the integrity of the legislative process by insuring the independence of individual legislators."

The Court further stated the immunities are intended to protect the integrity of the legislative process by insuring the independence of individual legislators. The Court then proceeded to articulate what acts are protected. They said the Constitution must be read broadly. They cited Coffin v. Coffin, 4 Mass 1,27 where Chief Justice Parsons stated, "I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature, and in the execution, of the office; and I would define the article as securing to every member exemption from prosecution, for everything said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules."

When Judge Cassavechia issued his order/decreed of July 12, 1993 he was in effect filing a complaint against me. This is specifically prohibited by Part 1, Article 30 which states in part, "it cannot be the foundation of any complaint....in any place whatsoever." The Judiciary Committee totally ignored the egregious action by the Judge against one of its fellow members simply because of their bias against another member. That is wrong and justice and the Constitution demand that they correct this travesty of your rights and mine.

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Re. Hemon requested this his protest be entered on the Journal.

I, Representative Roland E. Hemon, Strafford 11, wish to file a protest pursuant to Article 24, Part 2 of the New Hampshire Constitution, because the House of Representatives refused to send HR 16, the matter of impeaching Judge Gary R. Cassavechia, to the Senate for trial pursuant to Article 38, Part 2 of the New Hampshire Constitution, though there were many triable issues to justify a decision for trial.

SPECIAL ORDERS (Cont'd.)

HB 768-FN, relative to certain abortions. MAJORITY: INEXPEDIENT TO LEGISLATE.
MINORITY: OUGHT TO PASS

Rep. Cynthia A. McGovern for the Majority of Judiciary and Family Law: The United States Supreme Court has ruled repeatedly that a woman has a constitutionally protected right to obtain an abortion of a nonviable fetus free from government intrusion, and an abortion of a viable fetus if her life or health is at risk. Such medical decisions cannot be made by this, or any, legislature. They must remain where they belong - with the woman, her conscience and her physician. HB 768 places an impermissible and unconstitutional burden on a woman's right to choose. Vote 9-7.

Rep. Paul M. Mirski for the Minority of Judiciary and Family Law: Partial birth abortion is a procedure which entails delivering a baby in the breech position until only its head is left in the mother. At this point, scissors are used to open a hole in the upper portion of the baby's neck, a catheter tube is then inserted in the hole created by the scissors in order to suck the baby's brains out, collapsing the skull and permitting delivery of the inert remains. Every doctor testifying at the hearing supported the bill and described the procedure as barbaric, gruesome, and unnecessary. They all agreed that this procedure falls just short of legal infanticide.

Reps. Patricia Krueger and Flora spoke against and yielded to questions.

Reps. Marjorie Smith, Schotanus and Hager spoke in favor and yielded to questions.

Rep. Mary Brown spoke against.

Rep. Kevin Smith requested a roll call; sufficiently seconded.

The question being the adoption of the majority report.

YEAS 217 NAYS 137
YEAS 217
BELKNAP

Bartlett, Gordon Pilliod, James Salatiello, Thomas Thomas, John

Turner, Robert Ziegra, Alice

CARROLL

Babson, David, Jr. Bradley, Jeb Chandler, Gene Cooper, Kipp

Dickinson, Howard, Jr. Foster, Robert Howard, Godfrey MacDonald, Kenneth

Patten, Betsey Philbrick, Donald

CHESHIRE

Avery, Stephen Bonneau, Sarah Burnham, Daniel Champagne, Richard

DePecol, Benjamin Hunt, John Lynch, Margaret Lynott, Margaret

McGuirk, Paul Meader, David Metzger, Katherine Pratt, John

Richardson, Barbara Riley, William Robertson, Timothy Royce, H. Charles

Russell, Ronald Smith, Edwin Steere, Myron, III Vogl, John

COOS

Bradley, Paula Davis, Perley Hawkinson, Marie Horton, Lynn

Mears, Edgar Merrill, Gerald Moynihan, Wayne Pratt, Leighton

GRAFTON

Alger, John Almy, Susan Below, Clifton Copenhaver, Marion

Eaton, Stephanie Guest, Robert Hill, Richard LaMott, Paul

Lovett, Sidney Luker, Elsa MacNeil, Allen Nordgren, Sharon

Teschner, Douglass

HILLSBOROUGH

Ackerman, Philip Allen, W. Gordon Alukonis, David Amidon, Eleanor

Baroody, Benjamin Barry, William, III Belvin, William Bergin, Peter

Bernier, Shannon Buckley, Raymond Calawa, Leon, Jr. Cardin, Lori

Carlson, Donald Carney, Lauren Christiansen, Lars Clay, Susan

Clemons, Jane Cote, David Cote, Peter Daigle, Robert

Dawe, Eileen Dokmo, Cynthia Durham, Susan Dyer, Merton

Emerton, Lawrence, Sr. Ferguson, Charles Foster, Joseph Foster, Linda

Gage, Ruth Ginsburg, Ruth Haettenschwiller, Alphonse Hall, Betty

Hansen, Herbert Hart, Nick Holt, David Hunter, Bruce

Johnson, Lionel Kurk, Neal Leishman, Peter Leonard, Peter

Lozeau, Donnalee MacAuslan, Rita MacIntyre, Doris McCarthy, William

McCarty, Winston Melcher, Harold Mercer, Robert Messier, Irene

Milligan, Robert Murphy, Robert O'Hearn, Jane Perkins, Paul

Peterson, Andrew Sargent, Maxwell Thulander, O. Alan Turgeon, Roland

Vaillancourt, Steve Welch, Donald White, Jay Williams, Carol

MERRIMACK

Anderson, Eric Burney, Carol Chandler, Earle Crosby, Toni

Dunn, Miriam Feuerstein, Martin Fraser, Marilyn French, Barbara

Gile, Mary Hager, Elizabeth Hess, David Hoadley, Elizabeth

Jacobson, Alf Lamach, Bernard Langer, Ray Marshall, Kenneth

Maxfield, Roy Moore, Carol Morrill, Olive Nichols, Avis

Owen, Derek Reardon, Tara Rogers, Katherine Seldin, Gloria

St. Cyr, Gerard Wallin, Jean Wallner, Mary Jane Yeaton, Charles

ROCKINGHAM

Battles-Peirce, Marjorie Beaulieu, Jon Bishop, Franklin Blanchard, MaryAnn

Camm, Kevin Case, Margaret Christie, Andrew, Jr. Clark, Martha

Coes, Betsy Cushing, Robert Flanagan, Natalie Flanders, David

Flanders, John, Sr. Francoeur, Sheila Gleason, John Heath, John

Hutchinson, Rebecca Johnson, Robert Kane, Cecelia Kelley, Jane

Klemm, Arthur, Jr. Langone, John Major, Norman McGovern, Cynthia

McKinney, Betsy Micklon, Stephanie Norelli, Terie Nowe, Ronald

O'Keefe, Patricia Pantelakos, Laura Sabella, Norma Schanda, Frank

Stone, Joseph Syracuse, Anthony Tufts, J. Arthur Vaughn, Charles

Weatherspoon, Jackie Woods, Deborah

STRAFFORD

Brennan, William Brown, Julie DeChane, Marlene Dunlap, Patricia

Estabrook, Iris Grassie, Anne Hemon, Roland Hilliard, Dana

Kaen, Naida Keans, Sandra Knowles, William Lundborn, Raymond

McCann, William, Jr. Merrill, Amanda Merritt, Deborah Pelletier, Arthur

Rogers, Rose Marie Rollo, Michael Smith, Marjorie Snyder, Clair

Sullivan, Henry Taylor, Kathleen Torr, Franklin Vachon, Dennis

Wall, Janet

SULLIVAN

Allison, David Burling, Peter Cloutier, John Ferland, Brenda

Flint, Gordon Krueger, Richard Lindblade, Eric Palmer, Lorraine

Schotanus, Merle

NAYS 137 BELKNAP

Boriso, Thomas Boyce, Robert Clark, Charles Golden, Paul

Holbrook, Robert Hurt, George Laflam, Robert Lawton, David

Lawton, Robert Rice, Thomas, Jr. Rosen, Ralph

CARROLL

Kenney, Joseph Lyman, L. Randy Mock, Henry

CHESHIRE COOS

Coulombe, Henry Coulombe, Yvonne Guay, Lawrence St. Hilaire, Paul

Tholl, John, Jr.

GRAFTON

Akins, Ralph Chase, Paul, Jr. Cobbin, Philip Guaraldi, Lawrence

Ham, Bonnie Hinman, Harry Mirski, Paul Phinney, William

Root, John Trelfa, Richard Weber, Phil Williams, William, Jr.

HILLSBOROUGH

Asselin, Robert Batula, Peter Boutin, David Briefs, Geoffrey

Brundige, Robert Burke, M. Virginia Chabot, Robert Clegg, Robert, Jr.

Daniels, Gary Drabinowicz, A. Theresa Dwyer, Paul, Sr. Fields, Dennis

Flora, Kathleen Gagnon, Eugene Golding, William Gosselin, Gerald

Goulet, Maurice Herman, Keith Holden, Carol Holley, Sylvia

Jean, Claudette Jean, Loren L'Heureux, Robert LaRose, Richard

Lefebvre, Roland Lessard, Rudy Letendre, Evelyn Luebker, Bernard

MacGillivray, Jeffrey Marcinkowski, Michael Martin, Mary McDonald, James, Sr.

McGough, Tim Mittelman, David Murch, George Pepino, Leo

Piteri, Dawn Reidy, Frank Riley, Frances Searles, Stanley, Sr.

Wheeler, Robert White, Donald Wright, George

MERRIMACK

Adams, Stephen Brown, Mary Colburn, Kathleen Colburn, Thomas

Crowell, Peter Daneault, Gabriel DeStefano, Stephen Krueger, Patricia

Larrabee, David Lavoie, Gerard Leber, William Pfaff, Terence

Whalley, Michael Whittemore, James

ROCKINGHAM

Arndt, Janet Belanger, Ronald Carson, Gregory Cegelis, Mark

Cooney, Richard Dearborn, Bruce Dodge, Robert Dolan, Richard

Dowd, Sandra Downing, Michael Dube, LeRoy Dunham, Vivian

Fesh, Robert Frechette, Joseph Gibbons, Paul Griffin, Mary

Guthrie, Joseph Henderson, Warren Katsakiores, George Katsakiores, Phyllis

Kobel, Rudolph Langley, Jane Letourneau, Robert Lovejoy, Marian

Malcolm, Kenneth McCarthy, John, Jr. Mikowski, Walter Millard, Ralph

Morris, Debbie Noyes, Richard Packard, Sherman Raynowska, Bernard

Simmons, John Anthony Smith, Kevin Stickney, Nancy Stritch, C. Donald

Varrell, Thomas Welch, David Weyler, Kenneth

STRAFFORD

Berube, Roger Bickford, David Callaghan, Frank McKinley, Robert

Spear, Barbara Tsiros, William Twardus, Joseph

SULLIVAN

Adler, Rudolf Donovan, Thomas Leone, Richard

and the report was adopted.

Rep. Hunter voted yea and intended to vote nay.

Rep. Lockwood wished to be recorded in favor.

MOTION TO PRINT REMARKS

Rep. Rosen moved that the remarks of Rep. Patricia Krueger be printed in the Journal.

The motion failed.

RECESS

(Speaker Sytek in the Chair)

SPECIAL ORDERS (Cont'd.)

{Type BILL N

MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: RE-REFER TO COMMITTEE.

Rep. George D. Murch, III for the Majority of Labor, Industrial and Rehabilitative Services : This bill would require all employers who offer health care to also offer point-of-service options even if employees do not sign up for the option. This is an employer mandate. This mandate potentially adds significant administrative burdens that could force some small businesses to drop out of providing health care altogether. The majority feels that most employers try to meet the health care needs of their employees without being mandated to do so. Vote 10-5.

Rep. Rebecca C. Hutchinson for the Minority of Labor, Industrial and Rehabilitative Services: The sponsor requested to have this bill re-referred to address concerns of the subcommittee. The point-of-service option, allowing employees to receive services outside a provider network, is important and merits further study. The intent of this bill is for the employee, not the employer, to pay any additional costs that may be incurred.

Adopted.

HB 495, prohibiting registered lobbyists from serving on the legislative ethics committee **OUGHT TO PASS WITH AMENDMENT**

Rep. Warren C. Henderson for Legislative Administration: The Legislative Ethics Committee has worked hard to deal with complex and sensitive issues while withstanding criticism about its goals, its members and its legality. The house has clearly spoken about the appropriateness of maintaining an Ethics Committee. This bill would assure that lobbyists could not sit on that Ethics Committee in

judgment of legislators. The committee stressed that this bill does not in any way adversely reflect on the current makeup of the Ethics Committee. Vote 11-2.

Amendment (0589h)

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

1 Membership on Legislative Ethics Committee. Amend RSA 14-B:2, II to read as follows:

II. *No person registered with the secretary of state as a lobbyist under RSA 15 shall serve as a member of the legislative ethics committee.*

III. A committee meeting shall be called within 60 days of the convening of each biennial session. The members shall elect a chairperson and vice-chairperson at this meeting. The members shall serve for the biennium and shall not be removed from the committee for any reason except for good cause by unanimous vote of the remaining committee members. Members shall receive no compensation, except that legislative members shall receive mileage at the legislative rate and public members shall receive mileage at the state employee rate.

2 Effective Date. This act shall take effect July 1, 1997.

Adopted.

Report adopted and ordered to third reading.

Reps. Jeb Bradley and Bonneau declared conflicts of interest and did not participate.

HB 622-FN, requiring legislative approval of certain out-of-court settlements of claims against the state. OUGHT TO PASS WITH AMENDMENT

Rep. Donnalee Lozeau for Legislative Administration: This bill requires that all settlements that would have a substantial financial impact on the state budget must be approved by the legislature. While current state law prohibits state officials from agreeing to settlements beyond appropriated funds, this bill sets out a procedure for legislative review of those legal settlements resulting in financial commitments in excess of 1/4 of one percent of the previous year's general fund unrestricted revenues. (In 1997, this figure is \$2,047,000). The threshold amount requiring review will be adjusted annually by the Legislative Budget Assistant based on the previous year's general fund unrestricted revenues. Vote 10-2.

Amendment (0693h)

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

AN ACT relative to legislative approval of settlements of court claims against the state.

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

1 New Subdivision; Settlements of Court Claims Against the State. Amend RSA 14 by inserting after section 35-a the following new subdivision:

Approval of Court Settlements

14:35-b Settlements of Court Claims Against the State.

I. Any settlement of a claim against the state in which the state through its attorneys agrees to a commitment with financial consequences in excess of $\frac{1}{4}$ of one percent or more of total reported general fund revenues for the previous fiscal year as reported by the legislative budget assistant pursuant to paragraph II shall be subject to the approval of the legislature.

II. The legislative budget assistant shall report to the attorney general on January 1 of each year the latest available audited general fund unrestricted revenues for the previous fiscal year as well as the threshold amount at which a financial settlement would be subject to legislative approval pursuant to paragraph I.

III. Any proposed settlement subject to this section shall be presented as legislation in the next convened session of the legislature and acted upon in the same manner as any other bill.

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

AMENDED ANALYSIS

This bill requires legislative approval of certain settlements of court claims against the state.

Adopted.

Report adopted and ordered to third reading.

HB 337-L, allowing a municipality to reduce the property tax on improvements. RE-REFER TO COMMITTEE

Rep. Jean R. Wallin for Local and Regulated Revenues: This bill has raised many issues which the committee would like to review during the summer. Vote 11-3.

Adopted.

CACR 10, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute adopted by the legislature. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph E. Stone for Municipal and County Government: The bill provides that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions. As a result of this change, municipalities will have greater flexibility to deal with the increased responsibilities that they face in today's more competitive world. The amendment deleted language which could have provided confusion with regard to bills passed by the legislature but not enacted into law. The committee recommends that once this is approved by a 2/3 vote by the people of New Hampshire an appropriate transition committee be established to work on issues resulting from this change in the constitution. Vote 17-0.

Amendment (0191h)

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

RELATING TO: municipalities' home rule.

PROVIDING THAT: municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute.

Amend the resolution by replacing paragraph I with the following:

I. That the first part of the constitution be amended by inserting after article 39 the following new article:

[Art.] 40 [Home Rule Authority Granted.] A municipality may exercise any powers and perform any functions pertaining to its government and affairs, unless specifically prohibited from doing so by the state or federal constitutions or by any statute.

Amend the resolution by replacing paragraph IV with the following:

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

Are you in favor of amending the constitution to allow home rule for municipalities, unless specific functions are prohibited by the state or federal constitutions or by any statute.

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution provides home rule authority to municipalities, so that they may exercise any powers not specifically prohibited by the state and federal constitutions or by statute.

Adopted.

Rep. Fraser spoke in favor.

Reps. Stone and Burling spoke in favor and yielded to questions.

Reps. Metzger and Robert Johnson requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 317 NAYS 29
YEAS 317
BELKNAP

Bartlett, Gordon Boriso, Thomas Boyce, Robert Clark, Charles

Golden, Paul Holbrook, Robert Hurt, George Laflam, Robert

Lawton, David Lawton, Robert Pilliod, James Rice, Thomas, Jr.

Rosen, Ralph Salatiello, Thomas Thomas, John Turner, Robert

Ziegra, Alice

CARROLL

Babson, David, Jr. Bradley, Jeb Chandler, Gene Cooper, Kipp

Dickinson, Howard, Jr. Foster, Robert Howard, Godfrey Kenney, Joseph

Lyman, L. Randy MacDonald, Kenneth Mock, Henry Patten, Betsey

Philbrick, Donald

CHESHIRE

Avery, Stephen Bonneau, Sarah Burnham, Daniel Champagne, Richard

DePecol, Benjamin Doucette, Richard Hunt, John Lynch, Margaret

Lynott, Margaret McGuirk, Paul Meader, David Metzger, Katherine

Pratt, John Richardson, Barbara Riley, William Robertson, Timothy

Royce, H. Charles Russell, Ronald Smith, Edwin Steere, Myron, III

Vogl, John

COOS

Bradley, Paula Coulombe, Henry Coulombe, Yvonne Davis, Perley

Guay, Lawrence Hawkinson, Marie Horton, Lynn Mears, Edgar

Merrill, Gerald Moynihan, Wayne Tholl, John, Jr.

GRAFTON

Akins, Ralph Alger, John Almy, Susan Below, Clifton

Chase, Paul, Jr. Cobbin, Philip Guaraldi, Lawrence Guest, Robert

Ham, Bonnie Hill, Richard Hinman, Harry LaMott, Paul

Lovett, Sidney Luker, Elsa MacNeil, Allen Nordgren, Sharon

Phinney, William Root, John Teschner, Douglass Trelfa, Richard

Weber, Phil Williams, William, Jr.

HILLSBOROUGH

Ackerman, Philip Allen, W. Gordon Alukonis, David Amidon, Eleanor

Asselin, Robert Baroody, Benjamin Barry, William, III Batula, Peter

Belvin, William Bergin, Peter Bernier, Shannon Boutin, David

Briefs, Geoffrey Brundige, Robert Buckley, Raymond Burke, M. Virginia
Cardin, Lori Carlson, Donald Carney, Lauren Chabot, Robert
Christiansen, Lars Clay, Susan Clegg, Robert, Jr. Clemons, Jane
Cote, David Cote, Peter D'Allesandro, Lou Daigle, Robert
Daniels, Gary Dawe, Eileen Desrosiers, William Dokmo, Cynthia
Drabinowicz, A. Theresa Durham, Susan Dyer, Merton Emerton, Lawrence, Sr.
Fenton, James Fields, Dennis Flora, Kathleen Foster, Joseph
Foster, Linda Gage, Ruth Gagnon, Eugene Ginsburg, Ruth
Golding, William Gosselin, Gerald Goulet, Maurice Haettenschwiller, Alphonse
Haley, Robert Hansen, Herbert Hart, Nick Herman, Keith
Holden, Carol Holt, David Hunter, Bruce Jean, Claudette
Johnson, Lionel L'Heureux, Robert LaRose, Richard Lefebvre, Roland
Leishman, Peter Leonard, Peter Lessard, Rudy Letendre, Evelyn
Lozeau, Donnalee Luebker, Bernard MacAuslan, Rita MacIntyre, Doris
Marcinkowski, Michael Martin, Mary McCarty, Winston McDonald, James, Sr.
McGough, Tim Mercer, Robert Messier, Irene Milligan, Robert
Mittelman, David Murch, George O'Hearn, Jane Pepino, Leo
Perkins, Paul Peterson, Andrew Piteri, Dawn Reidy, Frank
Riley, Frances Sargent, Maxwell Searles, Stanley, Sr. Thulander, O. Alan
Turgeon, Roland Vaillancourt, Steve Welch, Donald Wheeler, Robert
White, Donald Wright, George

MERRIMACK

Adams, Stephen Anderson, Eric Burney, Carol Chandler, Earle
Crosby, Toni Crowell, Peter Daneault, Gabriel DeStefano, Stephen
Dunn, Miriam Fraser, Marilyn French, Barbara Gile, Mary

Hager, Elizabeth Hess, David Hoadley, Elizabeth Jacobson, Alf
Krueger, Patricia Lamach, Bernard Larrabee, David Lavoie, Gerard
Leber, William Moore, Carol Morrill, Olive Nichols, Avis
Owen, Derek Pfaff, Terence Reardon, Tara Seldin, Gloria
St. Cyr, Gerard Wallner, Mary Jane Whalley, Michael Whittemore, James
Yeaton, Charles

ROCKINGHAM

Arndt, Janet Battles-Peirce, Marjorie Belanger, Ronald Bishop, Franklin
Blanchard, MaryAnn Carson, Gregory Case, Margaret Cegelis, Mark
Christie, Andrew, Jr. Clark, Martha Coes, Betsy Cooney, Richard
Cushing, Robert Dodge, Robert Dolan, Richard Dowd, Sandra
Downing, Michael Dube, LeRoy Dunham, Vivian Fesh, Robert
Flanders, David Flanders, John, Sr. Francoeur, Sheila Frechette, Joseph
Gibbons, Paul Gleason, John Griffin, Mary Guthrie, Joseph
Heath, John Henderson, Warren Hutchinson, Rebecca Johnson, Robert
Kane, Cecelia Katsakiores, George Katsakiores, Phyllis Kelley, Jane
Klemm, Arthur, Jr. Kobel, Rudolph Langley, Jane Langone, John
Letourneau, Robert Lovejoy, Marian Malcolm, Kenneth McCarthy, John, Jr.
McGovern, Cynthia McKinney, Betsy Micklon, Stephanie Mikowski, Walter
Norelli, Terie Noyes, Richard O'Keefe, Patricia Packard, Sherman
Pantelakos, Laura Reardon, Neil Sabella, Norma Schanda, Frank
Simmons, John Anthony Smith, Kevin Stickney, Nancy Stone, Joseph
Stritch, C. Donald Syracuse, Anthony Tufts, J. Arthur Varrell, Thomas
Vaughn, Charles Weatherspoon, Jackie Welch, David Weyler, Kenneth
Woods, Deborah

STRAFFORD

Berube, Roger Brennan, William Brown, Julie DeChane, Marlene

Dunlap, Patricia Estabrook, Iris Hemon, Roland Hilliard, Dana

Kaen, Naida Keans, Sandra Knowles, William Lundborn, Raymond

McCann, William, Jr. McKinley, Robert Merrill, Amanda Merritt, Deborah

Pelletier, Arthur Pelletier, Marsha Rogers, Rose Marie Rollo, Michael

Smith, Marjorie Snyder, Clair Sullivan, Henry Taylor, Kathleen

Torr, Ann Twardus, Joseph Vachon, Dennis Wall, Janet

SULLIVAN

Adler, Rudolf Allison, David Burling, Peter Cloutier, John

Donovan, Thomas Flint, Gordon Leone, Richard Palmer, Lorraine

Schotanus, Merle

NAYS 29 BELKNAP

None

CARROLL

None

CHESHIRE

None

COOS

Pratt, Leighton

GRAFTON

Copenhaver, Marion Mirski, Paul

HILLSBOROUGH

Calawa, Leon, Jr. Hall, Betty Holley, Sylvia Jean, Loren

Kurk, Neal MacGillivray, Jeffrey McCarthy, William Melcher, Harold

Murphy, Robert Williams, Carol

MERRIMACK

Colburn, Thomas Feuerstein, Martin Langer, Ray Marshall, Kenneth

Maxfield, Roy Wallin, Jean

ROCKINGHAM

Beaulieu, Jon Camm, Kevin Dearborn, Bruce Major, Norman

Morris, Debbie Nowe, Ronald Raynowska, Bernard

STRAFFORD

Torr, Franklin

SULLIVAN

Ferland, Brenda Lindblade, Eric

and the report was adopted by the Constitutionally required three-fifths.

Ordered to third reading.

Rep. Lockwood wished to be recorded in favor.

SUSPENSION OF RULES

Reps. Wheeler and Burling moved that the Rules be so far suspended as to permit third reading and final passage at the present time of **CACR 10**, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute.

Adopted by the necessary two-thirds.

MOTION ON CACR

Reps. Wheeler and Burling moved that **CACR 10**, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute, be read a third time and passed.

On a division vote, 323 members having voted in the affirmative and 26 in the negative, CACR 10 was adopted by the constitutionally required three-fifths.

Third reading and final passage

CACR 10, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions or any statute.

SPECIAL ORDERS (Cont'd.)

HB 653-L, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws. OUGHT TO PASS WITH AMENDMENT

Rep. Betsey L Patten for Municipal and County Government: The first section of this bill addresses the notification process when a numbering change happens within a community. The governing body or the planning board may hold a public hearing if they deem it necessary. The municipalities are also encouraged to notify the bureau of emergency communications to keep the E911 database up to date. The second part of the bill increases the fines for transferring lots in unapproved subdivisions from \$500 per lot/per day to \$1000 per lot/per day to curb this type of action. Vote 13-0.

Amendment (0651h)

Amend the bill by replacing section 1 with the following:

1 Address Numbers on Streets and Highways. Amend RSA 231:133-a to read as follows:

231:133-a Address Numbers on Streets and Highways. The governing body may adopt a system for assigning or altering address numbers of buildings and other property along any public or private way in the municipality. Prior to the actual assignation or alteration of numbers along any way or portion of any way the governing body **or planning board** shall hold a public hearing for which 10 days' notice has been given by posting in 2 public places in the municipality, by publication in a newspaper in circulation in the municipality, and by first class mail to all owners of property being numbered or renumbered, as indicated by town records. **No public hearing shall be required where the property owner or owners voluntarily consent to their property being numbered or renumbered, as indicated by town records. Each municipality addressing numbers on streets and highways pursuant to this section is encouraged to notify the bureau of emergency communications of the changes in accordance with RSA 106-H:10.**

Amend the bill by inserting after the enacting clause the following and renumbering the original section 1-5 to read as 2-6:

1 Notification to Enhanced 911 System. Amend RSA 106-H:10 to read as follows:

106-H:10 Municipal Cooperation. Each municipality is encouraged to establish a customer data base containing information to identify the location of each telephone number within the municipality **and is encouraged to notify the bureau of any changes**. Customer information provided under this chapter may be used only for the purposes of responding to emergency calls or for the investigation of false or intentionally misleading reports of incidents requiring emergency services.

AMENDED ANALYSIS

This bill allows for the administrative renumbering of property in certain situations and encourages notification of the renumbering to the enhanced 911 system. The bill also increases the penalty for transferring lots in unapproved subdivisions and other violations of the planning and zoning laws.

Adopted.

Report adopted and ordered to third reading.

HB 743-FN-L, relative to the municipal option to impose additional fees for motor vehicle registration permits to fund public parking facilities. INEXPEDIENT TO LEGISLATE

Rep. Robert A. Lockwood for Municipal and County Government: This bill would have repealed an enabling statute passed which allowed cities of over 50,000 population to administer a surcharge on local vehicle registrations to help fund maintenance costs for public parking garages. Manchester exercised this option. The Manchester Board of Mayor and Alderman voted on March 4, 1997 to abandon the surcharge policy effective in June, thus settling their problems through "home rule". The committee was reluctant to repeal at this time because it was not aware if there is any other such activity ongoing under this RSA. Vote 17-1.

Rep. D'Allesandro spoke against and yielded to questions.

Rep. Pepino spoke against.

Rep. Metzger spoke in favor.

On a division vote, 240 members having voted in the affirmative and 98 in the negative, the report was adopted.

HB 294-L, relative to the placement of off-premises advertising devices in municipalities which prohibit such advertising devices. MAJORITY: OUGHT TO PASS WITH AMENDMENT.
MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Paul I. LaMott for the Majority of Public Works and Highways: This bill as amended only deals with Department of Transportation designated business directional signs and their placement along New Hampshire highways exclusive of turnpikes and interstate highways. These signs are from 9 to 20 inches high, and 3 to 8 feet long depending on the area's speed limits. A number of towns in New Hampshire have zoning laws that prohibit off-premise signs and for years the Department of Transportation informally acknowledged those laws by not placing any off-premise business directional signs in towns that had such a prohibition. Unfortunately, challenges to that informal action resulted in a Department of Transportation decision that since there was no law prohibiting these placements, they were powerless to deny applications. Hence, this amended bill. This is simply an issue of fairness. If business A is located off the highway in a township that does not allow off-premise signs, and does not qualify for a state directional sign due to the type of business, they're stuck. Yet, business B in the next town who qualifies for a business directional sign can have an off-premise sign in business A's town when business A cannot. This bill will still allow off-premise business directional signs, but they will need to be placed within the town in which the advertised business is located. Vote 15-2.

Rep. Steve Vaillancourt for the Minority of Public Works and Highways: The minority believes that these signs serve as a service to the traveling public and should be viewed as a plus rather than a minus. The minority further believes that the Department of Transportation has not abused the privilege of placing these blue and white signs which are situated on the state right-of-way and not on private property.

Amendment (0498h)

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

AN ACT relative to the placement of off-premises business directional signs in municipalities which prohibit such advertising devices.

Amend the bill by replacing section 1 with the following:

1 New Section; Off-Premises Advertising Devices. Amend RSA 236 by inserting after section 74 the following new section:

236:74-a Off-Premises Advertising Devices. Notwithstanding any provision of law to the contrary, the department of transportation shall not permit the installation of any business directional sign which advertises a business or activity which is not located within a municipality, if such municipality has a local ordinance prohibiting off-premises advertising devices. Any business directional sign which is not in compliance with this section shall be removed within 3 years of the effective date of this section.

AMENDED ANALYSIS

This bill declares that the department of transportation shall not permit the installation of any business directional sign advertising a business or activity which is not located within a municipality which has a local zoning ordinance preventing off-premises advertising devices.

Adopted.

Report adopted and ordered to third reading.

HB 544, relative to reconstruction or repair of boathouses which are suitable for use as dwellings. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE

Rep. William E. Williams, Jr. for the Majority of Resources, Recreation and Development: RSA 482-A:26 III does not allow a dwelling over water to be reconstructed within its original footprint in the case of obsolescence, fire, storm damage, or pestilence. These legal, non-conforming structures presently can only be repaired. This bill solves this problem. Vote 15-1.

Rep. Mary Ellen Martin for the Minority of Resources, Recreation and Development: All the

waters in the State of New Hampshire are owned by the public and held in trust for them by the state via the Public Trust Doctrine. This legislature is appointed as guardians of the public trust and has both the authority and the responsibility to preserve and protect these waters and lands for the public good. In some instances, waterfront property owners have exceeded their one special right to wharf out over public lands, (i.e. read "*dock*") in order to access the water. Some have built homes or other structures beyond their property line (the high water mark) and out over or in the water (public land). This bill says in effect, "Hey, that's o.k. - You can have that land". It allows them to reconstruct these structures, in *effect* giving them the lands they encroached on *forever*. This is a "taking" of public trust lands. This creates two groups of waterfront property owners with unequal rights - also unconstitutional! One group stayed within their property lines, one did not. This legislature has the *authority* to do so, but it is certainly a violation of their responsibilities as guardians for all the people. This is a wrongful act, which we don't have the *right* to do!

Amendment (0755h)

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

AN ACT relative to dwellings which extend over public waters.

Amend the bill by deleting section 1 and renumbering the original sections 2-5 to read as 1-4, respectively.

Amend RSA 482-A:26, III as inserted by section 2 of the bill by replacing it with the following:

1 Construction, Reconstruction, or Repair of Dwellings Over Water. Amend RSA 482-A:26 to read as follows:

482-A:26 [~~Residential Use Prohibited~~] ***Dwellings Over Water.***

I. No person shall construct [~~or reconstruct~~] any structure [~~intended~~] ***suitable*** for use as a dwelling if [~~said~~] ***the*** structure or any part of [~~said~~] ***the*** structure extends beyond the shoreline of any public water or publicly-owned water body. [~~For the purposes of this paragraph, "the shoreline" shall be that shoreline which exists when the surface of the water is at the mean high water level.~~]

II. No person shall convert or modify any existing structure in order to make [~~said~~] ***the*** structure suitable as a dwelling if [~~said~~] ***the*** structure or any part of [~~said~~] ***the*** structure extends beyond the shoreline of any public water or publicly-owned water body. [~~For the purposes of this paragraph, "the shoreline" shall be that shoreline which exists when the surface of the water is at the mean high water level.~~]

2 New Paragraphs; Reconstruction or Repair of Dwellings Over Water. Amend RSA 482-A:26 by inserting after paragraph II the following new paragraphs:

III. Existing dwellings over water which were constructed or converted to be made suitable for use as a dwelling in accordance with the law in effect at the time of construction or conversion, may be repaired or reconstructed using any modern technologies. Such repair or reconstruction may alter the interior design or existing cribwork, but no expansion of the existing footprint or outside dimensions shall be permitted. A condition of RSA 482-A:3 approval shall be the existence or installation of a sewage disposal system which has been approved pursuant to RSA 485-A:29-44. No permit shall be required for routine maintenance that does not involve work in the water.

IV. For the purposes of this section:

(a) "Dwelling over water" means any structure suitable for use as a dwelling which extends in any part beyond the shoreline of any public water or public-owned water body.

(b) "Shoreline" means that shoreline which exists when the surface of the water is at the mean high water level.

(c) "Suitable for use as a dwelling" means any structure which is used for residential purposes by one or more persons, or which contains kitchen, bathroom, shower, or toilet facilities.

V. The provisions of RSA 482-A:10, relative to reconsideration and appeals, and RSA 482A:10-a, relative to takings without compensation, shall apply to all decisions of the department made under paragraph III.

AMENDED ANALYSIS

This bill requires any person reconstructing or repairing a dwelling which extends over public waters to obtain a septic system approval.

Adopted.

Reps. Martin and Jacobson spoke against.

Reps. Dickinson and William Williams spoke in favor and yielded to questions.

Rep. Martin requested a roll call; sufficiently seconded.

The question being the adoption of the majority report.

YEAS 233 NAYS 109
YEAS 233
BELKNAP

Bartlett, Gordon Boriso, Thomas Boyce, Robert Clark, Charles

Golden, Paul Holbrook, Robert Hurt, George Lawton, David

Lawton, Robert Pilliod, James Rice, Thomas, Jr. Rosen, Ralph

Salatiello, Thomas Turner, Robert Ziegra, Alice

CARROLL

Babson, David, Jr. Bradley, Jeb Chandler, Gene Cooper, Kipp

Dickinson, Howard, Jr. Foster, Robert Howard, Godfrey Kenney, Joseph

Lyman, L. Randy MacDonald, Kenneth Mock, Henry Patten, Betsey

Philbrick, Donald

CHESHIRE

Avery, Stephen Hunt, John Lynott, Margaret Meader, David

Metzger, Katherine Pratt, John Robertson, Timothy Royce, H. Charles

Smith, Edwin Steere, Myron, III

COOS

Bradley, Paula Davis, Perley Guay, Lawrence Horton, Lynn

Mears, Edgar Merrill, Gerald Pratt, Leighton St. Hilaire, Paul

Tholl, John, Jr.

GRAFTON

Akins, Ralph Alger, John Chase, Paul, Jr. Cobbin, Philip

Eaton, Stephanie Guaraldi, Lawrence Guest, Robert Hill, Richard

Hinman, Harry Lovett, Sidney Luker, Elsa Mirski, Paul

Root, John Teschner, Douglass Trelfa, Richard Williams, William, Jr.

HILLSBOROUGH

Ackerman, Philip Alukonis, David Amidon, Eleanor Batula, Peter

Belvin, William Bergin, Peter Brundige, Robert Burke, M. Virginia
Calawa, Leon, Jr. Carney, Lauren Chabot, Robert Christiansen, Lars
Clay, Susan Clegg, Robert, Jr. Daniels, Gary Dawe, Eileen
Desrosiers, William Dokmo, Cynthia Durham, Susan Dyer, Merton
Emerton, Lawrence, Sr. Fenton, James Ferguson, Charles Fields, Dennis
Flora, Kathleen Gage, Ruth Gagnon, Eugene Ginsburg, Ruth
Golding, William Gosselin, Gerald Goulet, Maurice Herman, Keith
Holden, Carol Hunter, Bruce Jean, Claudette Jean, Loren
Johnson, Lionel Kurk, Neal L'Heureux, Robert LaRose, Richard
Leonard, Peter Lessard, Rudy Letendre, Evelyn Lozeau, Donnalee
Luebkert, Bernard MacGillivray, Jeffrey MacIntyre, Doris McCarty, Winston
McGough, Tim Mercer, Robert Messier, Irene Milligan, Robert
Mittelman, David Murch, George Murphy, Robert O'Hearn, Jane
Pepino, Leo Perkins, Paul Peterson, Andrew Piteri, Dawn
Riley, Frances Sargent, Maxwell Searles, Stanley, Sr. Turgeon, Roland
Vaillancourt, Steve Welch, Donald Wheeler, Robert

MERRIMACK

Adams, Stephen Anderson, Eric Burney, Carol Chandler, Earle
Colburn, Thomas Crosby, Toni Crowell, Peter Daneault, Gabriel
Feuerstein, Martin Hager, Elizabeth Hess, David Hoadley, Elizabeth
Lamach, Bernard Larrabee, David Lavoie, Gerard Leber, William
Marshall, Kenneth Maxfield, Roy Morrill, Olive Nichols, Avis
Owen, Derek Pfaff, Terence Reardon, Tara St. Cyr, Gerard
Whalley, Michael Whittemore, James Yeaton, Charles

ROCKINGHAM

Arndt, Janet Battles-Peirce, Marjorie Beaulieu, Jon Belanger, Ronald
Bishop, Franklin Blanchard, MaryAnn Camm, Kevin Carson, Gregory
Case, Margaret Christie, Andrew, Jr. Cooney, Richard Dearborn, Bruce
Dodge, Robert Dolan, Richard Dowd, Sandra Downing, Michael
Dube, LeRoy Dunham, Vivian Fesh, Robert Flanders, John, Sr.
Francoeur, Sheila Gibbons, Paul Gleason, John Griffin, Mary
Henderson, Warren Hutchinson, Rebecca Johnson, Robert Katsakiores, George
Katsakiores, Phyllis Kelley, Jane Klemm, Arthur, Jr. Kobel, Rudolph
Langone, John Letourneau, Robert Lovejoy, Marian Major, Norman
Malcolm, Kenneth McCarthy, John, Jr. McKinney, Betsy Morris, Debbie
Nowe, Ronald Noyes, Richard Packard, Sherman Raynowska, Bernard
Reardon, Neil Simmons, John Anthony Smith, Kevin Stickney, Nancy
Stone, Joseph Tufts, J. Arthur Welch, David Weyler, Kenneth
Woods, Deborah

STRAFFORD

Brown, Julie Dunlap, Patricia Estabrook, Iris Hilliard, Dana
Kaen, Naida Knowles, William McKinley, Robert Snyder, Clair
Spear, Barbara Torr, Ann Torr, Franklin Tsiros, William
Twardus, Joseph

SULLIVAN

Adler, Rudolf Cloutier, John Donovan, Thomas Ferland, Brenda
Flint, Gordon Krueger, Richard Leone, Richard Lindblade, Eric
Palmer, Lorraine Schotanus, Merle

NAYS 109 BELKNAP

Laflam, Robert

CARROLL

None

CHESHIRE

Bonneau, Sarah Burnham, Daniel Champagne, Richard DePecol, Benjamin

Doucette, Richard Lynch, Margaret McGuirk, Paul Richardson, Barbara

Riley, William Russell, Ronald Vogl, John

COOS

Coulombe, Henry Coulombe, Yvonne Moynihan, Wayne

GRAFTON

Almy, Susan Below, Clifton Copenhaver, Marion Ham, Bonnie

MacNeil, Allen Nordgren, Sharon Phinney, William Weber, Phil

HILLSBOROUGH

Allen, W. Gordon Asselin, Robert Barry, William, III Briefs, Geoffrey

Buckley, Raymond Cardin, Lori Carlson, Donald Cote, David

Cote, Peter D'Allesandro, Lou Daigle, Robert Drabinowicz, A. Theresa

Dwyer, Paul, Sr. Foster, Joseph Foster, Linda Haettenschwiller, Alphonse

Haley, Robert Hall, Betty Hansen, Herbert Hart, Nick

Holley, Sylvia Holt, David Lefebvre, Roland Leishman, Peter

MacAuslan, Rita Marcinkowski, Michael Martin, Mary McCarthy, William

McDonald, James, Sr. Melcher, Harold Reidy, Frank Thulander, O. Alan

White, Donald Wright, George

MERRIMACK

DeStefano, Stephen Dunn, Miriam Fraser, Marilyn French, Barbara

Gile, Mary Jacobson, Alf Krueger, Patricia Langer, Ray

Moore, Carol Seldin, Gloria Wallner, Mary Jane

ROCKINGHAM

Clark, Martha Coes, Betsy Cushing, Robert Flanders, David

Frechette, Joseph Guthrie, Joseph Heath, John Kane, Cecelia

Langley, Jane McGovern, Cynthia Micklon, Stephanie Mikowski, Walter

Norelli, Terie O'Keefe, Patricia Pantelakos, Laura Sabella, Norma

Schanda, Frank Stritch, C. Donald Syracuse, Anthony Varrell, Thomas

Vaughn, Charles Weatherspoon, Jackie

STRAFFORD

Berube, Roger Brennan, William DeChane, Marlene Hemon, Roland

Keans, Sandra Lundborn, Raymond McCann, William, Jr. Merrill, Amanda

Pelletier, Arthur Pelletier, Marsha Rogers, Rose Marie Rollo, Michael

Smith, Marjorie Sullivan, Henry Taylor, Kathleen Vachon, Dennis

Wall, Janet

SULLIVAN

Allison, David Burling, Peter

and the report was adopted.

Ordered to third reading.

HB 547, relative to granting permits to build certain structures on shoreline property. MAJORITY: RE-REFER TO COMMITTEE. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Michael D. Whalley for the Majority of Resources, Recreation and Development: This bill deals with the granting of permits by the Department of Environmental Services to an owner of shoreline on public waters to construct docks or structures extending into the water. Under the common law public trust doctrine, the state owns the waters of the state and much of the beds beneath the waters, holding them in trust for the benefit of the public, while property owners have a right to wharf out and make reasonable use of their shorefront property. As mentioned in the Committee Report with regard to HB 272, the Department of Environmental Services is in the process of drafting proposed rules relating to shoreline structures. For this reason, the committee believes re-referred is the best action at this time to deal with those proposed rules. Vote 12-5.

Rep. Deborah F. Merritt for the Minority of Resources, Recreation and Development : The minority believes that the acceptance of certain structures as consistent with the public trust doctrine is a violation of historical case law. The state holds all waters in public trust and the Department of

Environmental Services ability to adopt rules regulating such structures is predicated on this doctrine.

Adopted.

HB 628, relative to leasing Mount Sunapee and Cannon Mountain ski areas based on the prototype lease developed pursuant to prior legislation. OUGHT TO PASS WITH AMENDMENT

Rep. Michael D. Whalley for Resources, Recreation and Development: This bill as amended provides appropriate legislative oversight in determining the future of Cannon Mountain Ski Area and Mt. Sunapee Ski Area. The bill as amended requires the Commissioner of the Department of Resources and Economic Development to develop and issue a request for proposals for an agreement or contract to include but not be limited to a lease, concession agreement, or management contract for the Mount Sunapee or Cannon Mountain Ski Area operations or both in consultation with a legislative committee established by this legislation. This bill also requires an agreement or contract recommended by the Commissioner be approved by the capital budget overview committee before that agreement takes effect. This bill also requires the Commissioner of the Department of Resources and Economic Development to report on the disposition of ski area employees affected by

Amendment (0707h)

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

AN ACT relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee.

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

1 Mount Sunapee and Cannon Mountain; Request for Proposals.

I. Notwithstanding any other provision of law, the commissioner of the department of resources and economic development shall, in consultation with the committee established in section 2 of this act, develop and issue a request for proposals to include but not be limited to a lease, concession agreement, or management contract for the Mount Sunapee or Cannon Mountain ski area operations or both.

II. The request for proposals shall include but not be limited to the following terms, conditions, and provisions:

(a) Length of the agreement.

(b) Assets to be included.

(c) Outline of master plan.

(d) Environmental regulation and controls including but not limited to:

(1) Soils,

(2) Water quality,

(3) Wetlands,

- (4) Wildlife habitat,
- (5) Scenic and aesthetic qualities,
- (6) Multi-seasonal recreational opportunities,
- (7) Forestry issues.
- (e) Expansion limitations.
- (f) State and local regulatory authority.
- (g) Operational responsibilities remaining with the state.
- (h) Requirement of performance bonds.
- (i) Past practices and agreements.
- (j) Repurchase.
- (k) Federal agency requirements, conditions, and regulations.
- (l) Consideration of state employees.

III. All responses to a request for proposals developed under this act shall be reviewed by the committee established in section 2 of this act in cooperation with the commissioner of resources and economic development.

2 Committee Established. There is established a committee for the purpose of advising the commissioner of resources and economic development, pursuant to section 1 of this act, on the creation of a request for proposals and the review of any responses to a request for proposals.

I. The committee shall consist of the following members:

(a) Ten members of the house of representatives, at least 3 of whom shall be members of the democratic party, and at least 8 of whom shall be members of the resources, recreation, and development committee, appointed by the speaker of the house.

(b) Four members of the senate, at least 1 of whom shall be a member of the democratic party, appointed by the president of the senate.

II. The members of the committee shall elect a chairperson from among its members. Members shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Review by Capital Budget Overview Committee. Any agreement or contract recommended pursuant to this act shall be submitted to the capital budget overview committee established in RSA 17-J for review and approval. No agreement or contract shall take effect until such approval is obtained.

4 Report on Future Status of Ski Area Employees. The commissioner of the department of resources and economic development shall provide along with any agreement or contract submitted under section 3 of this act, a report on the disposition of employees of the ski areas at Mount Sunapee or Cannon Mountain, or both.

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

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development to develop and issue a request for proposals for an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, in consultation with a legislative committee, and requires any agreement or contract to be approved by the capital budget overview committee.

This bill also requires the commissioner of resources and economic development to report on the disposition of ski area employees in any agreement or contract.

Adopted.

Reps. Gene Chandler and Jacobson spoke in favor.

Report adopted and ordered to third reading.

HB 693, establishing a house committee to examine water quality issues. OUGHT TO PASS WITH AMENDMENT

Rep. Deborah F. Merritt for Resources, Recreation and Development: This bill establishes a house committee to look at water quality issues including a centralized data system for water quality data, to develop an incentive system to reduce toxins, and the impact of water quality on growth and economic development. The committee will also look at the findings of The Comparative Risk Analysis project. Vote 11-5.

Amendment (0743h)

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house, the house clerk, the governor, and the state library on or before November 1, 1998.

Adopted.

Report adopted and ordered to third reading.

HB 528-L, relative to municipal water, gas and electric utilities. OUGHT TO PASS WITH AMENDMENT

Reps. Clifton C. Below and Jeb E. Bradley for Science, Technology and Energy: This legislation repeals and reenacts RSA 38 which allows for municipalization of electric, gas, or water systems by towns and cities. The provisions of this statute have not been updated in many years and are cumbersome for any community seeking to municipalize utility services. With competition coming in the electric industry, the committee believes that towns and cities need the option to municipalize electric utility services if there is to be a level playing field with utilities that might seek to delay implementation of competition. The provisions in this bill are balanced as the Public Utilities Commission must determine if a municipalization is in the public interest. A two thirds favorable vote by a city or town would, however, constitute a rebuttable presumption of public interest. Furthermore, there are protections for residents of a community that are not customers of a municipal utility. Vote 17-0.

Amendment (0722h)

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

1 Municipal Electric, Gas, or Water Systems. RSA 38 is repealed and reenacted to read as follows:

CHAPTER 38
MUNICIPAL ELECTRIC, GAS, OR WATER SYSTEMS

38:1 Definitions. In this chapter:

- I. "Commission" means the public utilities commission, unless the context otherwise indicates.
- II. "Utility" means any public utility engaged in the manufacture, generation, distribution, or sale of electricity, gas or water in the state.
- III. "Municipality" means any city, town, unincorporated town, unorganized place, or village district within the state.
- IV. "Municipal water company," means any water distribution system or water supply utility, owned or operated by a municipality, whether as a municipal department, separate company, or otherwise.

38:2 Establishment, Acquisition and Expansion of Plants. Any municipality may:

- I. Establish, expand, take, purchase, lease, or otherwise acquire and maintain and operate in accordance with the provisions of this chapter, one or more suitable plants for the manufacture and distribution of electricity, gas, or water for municipal use, for the use of its inhabitants and others, and for such other purposes as may be permitted, authorized, or directed by the commission.
- II. For these purposes, take, purchase and hold in fee simple or otherwise lease or otherwise acquire and maintain any real or personal estate and any rights therein, including water rights.
- III. Do all other things necessary for carrying into effect the purposes of this chapter.
- IV. Excavate and dig conduits and ditches in any highway or other land or place, and erect poles, place wires, and lay pipes for the transmission and distribution of electricity, gas, and water in such places as may be deemed necessary and proper.
- V. Change, enlarge, and extend the same from time to time when the municipality shall deem necessary, and maintain the same, having due regard for the safety and welfare of its citizens and security of the public travel.

38:3 By Cities. Any city may initially establish such a plant after 2/3 of the members of the governing body shall have voted, subject to the veto power of the mayor as provided by law, that it is expedient to do so, and after such action by the city council shall have been confirmed by a majority of the qualified voters at a regular election or at a special meeting duly warned in either case. Such confirming vote shall be had within one year from the date of the vote to establish such a plant, and if favorable, shall create a rebuttable presumption that such action is in the public interest. If the vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38:4 By Towns or Village Districts. Any town or village district may initially establish such a plant after 2/3 of all the voters present and voting at an annual or special meeting, duly warned in either case, have voted by ballot with the use of the checklist that it is expedient to do so. A favorable vote to establish such a plant shall create a rebuttable presumption that such action is in the public interest. If such vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38:5 By Unincorporated Towns and Unorganized Places. Any unincorporated town or unorganized place may initially establish such a plant after 2/3 of the members of the county convention shall have voted that it is expedient to do so, and, if there are any registered voters in that unincorporated town or unorganized place, after such action by the county convention shall have been confirmed by a majority of the qualified votes in that unincorporated town or unorganized place at a regular election or at a special meeting duly warned in either case. Such confirming vote shall be had within one year from the date of the vote to establish such a plant, and if favorable, shall create a rebuttable presumption that such action is in the public interest. If the vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38:6 Notice to Utility. Within 30 days after the confirming vote provided for in RSA 38:3, 38:4, or 38:5 the governing body shall notify in writing any utility engaged, at the time of the vote, in generating or distributing electricity, gas, or water for sale in the municipality, of the vote. The municipality notifying any utility in such manner may purchase all or such portion of the utility's plant and property located within such municipality that the governing body determines to be necessary for the municipal utility service, and shall purchase that portion, if any, lying without the municipality which the public interest may require, pursuant to RSA 38:11 as determined by the commission. The notice to such utility shall include an inquiry as to whether the utility elects to sell, in the manner hereinafter provided, that portion of its plant and property located within or without the municipality which the municipality has identified as being necessary for the municipal utility service.

38:7 Reply by Utility. The utility shall reply to the inquiry provided for in RSA 38:6 by delivering its answer in writing to the governing body within 60 days of the receipt of the inquiry. If the reply is in the negative, or if the reply is not made within the 60 days, the utility thereby forfeits any right it may have had to require the purchase of its plant and property by the municipality, and the municipality may proceed to acquire the plant as provided in RSA 38:10. If the reply is in the affirmative, the utility shall submit the price and terms it is willing to accept for all of its plant and property identified by the municipality in its inquiry, together with a detailed schedule of such plant and property with proper evidence of title. All of the plant and property identified by the municipality shall at all reasonable times thereafter be open to the examination of the officers and agents of the municipality and others charged with the duty of determining the fair value of the property.

38:8 By Agreement. The governing body of a municipality may negotiate and agree with the utility upon the price to be paid for such plant and property; provided, however, that such agreement shall not be binding upon the municipality until ratified pursuant to RSA 38:13.

38:9 Valuation.

I. If the municipality and the utility fail to agree upon a price, or if it cannot be agreed as to how much, if any, of the plant and property lying within or without the municipality the public interest requires the municipality to purchase, or if the schedules of property submitted in accordance with RSA 38:7 are not satisfactory, either the municipality or the utility may petition the commission for a determination of these questions.

II. The commission, after proper notice and hearing, shall decide the matters in dispute.

III. When required to fix the price to be paid for such plant and property, the commission shall determine the amount of damages, if any, caused by the severance of the plant and property proposed to be purchased from the other plant and property of the owner. In the case of electric utilities, such amount shall be limited to the value of such plant and property and the cost of direct remedial requirements, such as new through-connections in transmission lines, and shall exclude consequential damages such as stranded investment in generation, storage, or supply arrangements which shall be determined as provided in RSA 38:33.

IV. The expense to the commission for the investigation of the matters covered by the petition, including the amounts expended for experts, accountants, or other assistants, and salaries and expenses of all employees of the commission for the time actually devoted to the investigation, but not including any part of the salaries of the commissioners, shall be paid by the parties involved, in the manner fixed by the commission.

38:10 Construction or Condemnation. If the utility shall have replied to the inquiry provided for in RSA 38:7 in the negative or if it shall have failed to reply within the time prescribed in RSA 38:7, the municipality, in the event that it shall have passed the vote or votes required in RSA 38:3, 38:4, and 38:5 and after the commission upon proper notice and hearing has determined that it is in the public interest to do so, may construct a municipal plant or may take all or any portion of such private plant and property by condemnation, paying therefor just compensation determined in the manner provided in RSA 38:9.

38:11 Public Interest Determination by Commission. When making a determination as to whether the purchase or taking of utility plant or property is in the public interest under this chapter, the commission may set conditions and issue orders to satisfy the public interest. The commission need not make any public interest determinations when the municipality and utility agree upon the sale of utility plant and property.

38:12 Expansion of Existing Municipals. A municipality that has an existing municipal plant may expand such plant or may purchase or take, in the manner prescribed in RSA 38:6-11 and RSA 38:33, all or a portion of such plant owned by a utility which is necessary for expanded municipal utility service. Such action shall not require any further vote under RSA 38:3, 38:4, or 38:5.

38:13 Ratification. Within 90 days of the final determination of the price to be paid for the plant and property to be acquired under the provisions of RSA 38:8, 38:9 or 38:10 and any consequential damages under RSA 38:33, the municipality shall decide whether or not to acquire the plant and property at such price by a vote to issue bonds and notes pursuant to RSA 33-B as may be necessary and expedient for the purpose of defraying the cost of purchasing or taking the plant, property, or facilities of the utility which the municipality may thus acquire. The municipality is authorized to hold a special meeting, if necessary, to take such vote without having to petition the superior court for permission to do so. An affirmative vote under RSA 33-B shall constitute ratification on the part of the municipality of the final determination of the price to be paid for the plant and property under the provisions of RSA 38:8, 38:9, or 38:10 and any consequential damages under RSA 38:33. If the money is so raised it shall immediately be paid to the utility, which shall thereupon execute a proper conveyance and surrender the plant and property to the municipality. If the ratifying vote provided for in this section shall be in the negative, no other action under this chapter shall be had during the ensuing period of 2 years.

38:14 Operation of Plant. A municipality, which has so acquired the plant, property, or facilities of a public utility in any other municipality, may operate within such other municipality as a public utility with the same rights and franchises which the owners of such outlying plant, as purchased, would have had such purchase not been made. The operation by a municipality outside its own limits shall be subject to the jurisdiction of the commission except as provided in RSA 362. If the outlying municipality shall itself vote to establish a municipal plant all the provisions of this chapter shall be binding as to such determination.

38:15 Taking Property. Any such municipality may enter upon and take by eminent domain any land or any interest in land or water right within its limits, or in the case of a village district within the limits of the town or towns within which it is situated, which may be necessary for the construction, extension, or maintenance of its plant, and shall pay all damages sustained thereby, or by any other thing done under the authority of this chapter.

38:16 Damages. If the municipality shall not agree with the owner of the property referenced in RSA 38:15 as to damages, either party may apply to the superior court in the county where the town or district is located, or if the municipality is a village district then to the board of selectmen of the town or towns within which the village district is situated, to have the same laid out and the damages determined and proceedings thereon shall be as upon a petition for the laying out of a highway.

38:17 Supply Contracts. Any such municipality may contract with individuals, corporations, and other municipalities and the citizens of such other municipalities for supplying them with electricity, gas, or water for any of the purposes named or contemplated in this chapter, and make such contracts, and establish such regulations and such reasonable rates for the use thereof, as may from time to time be authorized by the commission.

38:18 Commissioners. For the more convenient management of any such electric, gas, or water works system, any such municipality may vest the construction, management, control and direction of the same in a board of commissioners to consist of 3 or more citizens of such municipality, the commissioners to have such powers and duties as the municipality may prescribe. Their term of office shall be for 3 years and until their successors are elected and qualified. The first board of commissioners may be chosen for terms of one, 2, and 3 years, respectively, by the legal voters of the municipality at any legal meeting or election at which the provisions of this chapter are accepted, or at any special meeting or election thereafter called for that purpose, and their successors shall be elected at each annual meeting or election thereafter in the manner or form as the municipality may determine.

38:19 Appointment. The commissioners may be appointed by the mayor and board of aldermen or city council, by the selectmen of the town, or by the commissioners of the district if the municipality fails to elect or votes to allow appointments.

38:20 Compensation and Organization. The compensation of the commissioners shall be fixed by the municipality. They shall be sworn to the faithful discharge of their duties. They shall annually organize by choosing one of their number as chairperson of their board. They shall appoint a clerk and a superintendent of the works and such other officers as they may deem necessary, and shall thereupon furnish a certificate of such organization to the clerk of the municipality, who shall record the same in the clerk's records. The commissioners shall fix the compensation of all officers and agents appointed by them, and all officers and agents shall be sworn to the faithful discharge of their duties.

38:21 Reports. The commissioners shall annually, at the time other city, town, or district officers report, make a report to the municipality of the condition of the plant financially and otherwise, showing the funds of the department, the expenses and income of the department, and all other material facts. This report shall be published in the annual report of the municipality.

38:22 Liens and Collection of Charges.

I. All charges for services furnished to patrons by a municipally owned electric, gas, or water works shall create a lien upon the real estate where such services are furnished.

II. A municipality may use any of the following collection procedures for charges and the use of one collection procedure for one service shall not preclude the use of a different collection procedure for another service:

(a) A municipality may commit bills for charges to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. The tax collector shall have the same rights and remedies, including a lien on the real estate, and be subject to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80; provided, however, that the real estate lien shall continue for 18 months from the date of the last unpaid bill.

(b) The official or board responsible for administering the municipal utility may collect charges for services by direct billing on any periodic basis it may choose. All charges which are delinquent may be committed to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. The tax collector shall have the same rights and remedies, including a lien on the real estate, and be subject to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80; provided, however, that the real estate lien shall continue for 18 months from the date of the last unpaid bill.

(c) If the official or board responsible for administering the municipal utility has not committed the charges to the collector of taxes, the municipality shall have a lien upon the real estate where the services were furnished and the lien shall continue for 18 months from the date of the last unpaid bill, unless the municipality records in the registry of deeds for the county in which the land is situated a notice of lien, in which case the lien shall continue for 6 years from the date of the last unpaid bill. The lien may be enforced in a suit by the municipality against the owner of the real estate. In such a suit, the municipality shall have the right to a judgment for per year charges, interest at the rate of 12 percent from the date of the last unpaid bill to the date of judgment, and costs. The records in the municipal

department which furnished the services shall be sufficient notice to maintain suit upon the lien against subsequent purchasers or attaching creditors of the real estate.

(d) When the services were furnished to some person or legal entity other than the owner of the real estate, the liens provided for in this paragraph shall be effective against the owner of the real estate only for charges of which the owner of the real estate was notified by the municipality within 120 days of the date the charges became delinquent; provided, however, that a municipality may meet these notice requirements by mailing to the owner of the real estate copies of the bills for services at the same time bills are furnished to the person or legal entity which received the services.

38:23 Security Deposits from Tenants. Notwithstanding any other provision of law, any public utility, including any municipal corporation, providing electricity or gas services other than for resale to a customer who is not the owner of the premises serviced by the utility and who has a separate electric or gas meter, for the premises serviced, may obtain a security deposit from the customer only, and shall not obtain a security deposit from the owner of the premises. The owner of the premises shall not be liable for the failure of a tenant to pay the utility bill when such tenant's premises has a separate meter, and the utility shall not have any lien on the property of the landlord under RSA 38:22 for the tenant's failure to pay the utility bill.

38:24 Effect on City Charters. Nothing contained in this chapter shall affect, alter or change the provisions of any city charter with respect to the management, control, and direction of electric, gas, or water works.

Additional Provisions for Water Systems

38:25 Water Control. Any municipality which shall have received an order from the department of environmental services under the provisions of RSA 147, 485 or 485-A shall proceed forthwith, after a majority vote in favor of such action, by the governing body, to acquire whatever easements and lands as are necessary to comply with the order and may enter upon, for the purpose of survey leading to land description, any land within the municipality. In so proceeding, the selectmen of the town, commissioners of the district, county commissioners, or mayor and aldermen of a city shall institute any necessary land taking in accordance with the provisions of RSA 38:15 and 38:16, and anything contained in RSA 231 or in the statutes generally notwithstanding, the decision of the officials authorized by this section to institute proceedings shall not be vacated and any subsequent appeal or other action by the owner or owners shall be based solely on the amount of damages assessed, and the duly authorized agents of the municipality shall have full right of immediate entry for the purposes of detailed surveys, borings, or the conduct of any and all other actions necessary or desirable to aid the municipality in the implementation of the order of the department.

38:26 Bylaws and Ordinances.

I. In municipalities with public water systems the governing body, or the board of water commissioners, if any, may adopt such ordinances and bylaws relating to the system or structures as required for proper maintenance and operation.

II. Any person who violates any ordinance or bylaw adopted pursuant to paragraph I of this section shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

38:27 Assessment for Water Supply. The governing body, or board of water commissioners if any, may assess upon the persons who are served by the water system, or whose lands receive special benefit from the water system, their just share of the expense of constructing, acquiring, and operating the system or paying any capital debt or interest incurred for the system.

38:28 Water Rates. For the defraying of the cost of acquisition, construction, payment of the interest on any debt incurred, management, maintenance, operation and repair of water systems, or construction, enlargement, or improvement of such systems, the governing body, or the board of water commissioners, if any, may establish a scale of rates to be called water rates, may prescribe the manner in which and the time at which such rates are to be

paid and may change such scale from time to time as may be deemed advisable. The amount of such rates may be based upon the consumption of water on the premises connected to the water system, or the number of persons served on the premises, or upon some other equitable basis.

38:29 Water Funds.

I. The funds received from the collection of water rates shall be kept as a separate and distinct fund to be known as the water fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund may be expended only for the purposes specified in RSA 38:28, or for the previous expansion or replacement of water lines or water systems.

II. Except when a capital reserve fund is established pursuant to paragraph III, all water funds shall be held in the custody of the municipal treasurer. Estimates of anticipated water rate revenues and anticipated expenditures from the water fund shall be prepared and submitted to the governing body as set forth in RSA 32:3, if applicable, and shall be included as part of the municipal budget submitted to the local legislative body for approval. If the municipality has a properly established board of water commissioners, then notwithstanding RSA 41:29 or RSA 48:16, the treasurer shall pay out amounts from the water fund only upon order of the board of water commissioners. Expenditures shall be within amounts appropriated by the local legislative body.

III. At the option of the local governing body, or of the board of water commissioners, if any, all or part of any surplus in the water fund may be placed in one or more capital reserve funds held in the custody of the trustees of trust funds pursuant to RSA 35:7. If such a reserve fund is created, then the governing body, or board of water commissioners, if any, may expend such funds pursuant to RSA 35:15 without prior approval or appropriation by the local legislative body, but all such expenditures shall be reported to the municipality pursuant to RSA 38:21. This paragraph shall not be construed to prohibit the establishment of other capital reserve funds for any lawful purpose relating to municipal water systems.

38:30 Protection of Water Supply. Any municipality or municipal water company supplying water to the public for domestic use shall have the power to take by the exercise of the right of eminent domain any property needed to protect the purity of the water so supplied, upon petition to the superior court or in the case of a village district to the board of selectmen of the town or towns within which the district is situated and proceedings thereon as in case of a petition for the laying out of a highway.

38:31 Discontinuance of Service.

I. Notwithstanding any other provision of law to the contrary, except as provided in paragraph V of this section, no municipal water company shall disconnect service to a customer if any part of the service provided accrues to the benefit of one or more parties known by company to be residential tenants, unless the company gives written notice to the tenants. Such notice shall set forth:

- (a) The date on or after which the company proposes to disconnect service.
- (b) A statement that the reason for disconnection is a dispute between the company and the landlord.
- (c) A statement that the tenant should contact the landlord for more information.
- (d) An address and telephone at which the tenant may contact the utility in order to make arrangements to maintain service.

II. A municipal water company shall refrain from terminating service to the affected premises if so requested by the tenant, provided that the tenant agrees to be responsible for service provided as of the date of the tenant's request. However, the water company may continue to list the landlord's past due balance on the tenant's bill, and the lien

created pursuant to RSA 38:22 shall include any past due charges which accrue after the company begins billing the tenant. The utility shall provide direct service to the person requesting it on terms and conditions applicable to all residential customers. Such service may include other charges, such as sewer and fire protection service, if customarily included with water service billing.

III. Immediately upon learning that a tenant has been disconnected without the notice required in paragraph I, the water company shall reconnect service and may charge a reasonable reconnection fee which may be added to the existing arrearage.

IV. The notice required by paragraph I shall be provided to the tenant no less than 7 days in advance of the proposed disconnection, by posting a conspicuously lettered notice on the main entrance door to each building in which service is being terminated. In addition, the company shall post the notice on a back door or side door to which the company has reasonable access, or in a common area of each building. The company, at its option, may notify the tenants in the affected property by mail rather than by posting.

V. The notice to tenants required by paragraph I of this section shall not be required when necessary to avoid danger to life or property, and upon the order of a duly constituted public authority such as police, firefighters, public health officer, and building inspectors.

Additional Provisions for Electric Systems

38:32 Exemption for Municipal Small Scale Power Facility. Except in municipalities which have acquired, expanded, or established a plant under this chapter, the development by a municipality of any small scale power facility, as defined in RSA 374-D:1, IV shall not be subject to the provisions of this chapter. Nothing in this section shall be construed as exempting municipalities from the provisions of this chapter with respect to the acquisition of a utility plant and equipment if there exists a dispute between the municipality and the utility.

38:33 Consequential Damages. To the extent that the Federal Energy Regulatory Commission does not have jurisdiction, the commission shall determine, to a just and reasonable extent, the consequential damages such as stranded investment in generation, storage, or supply arrangements resulting from the purchase of plant and property from a utility and shall establish an appropriate recovery mechanism for such damages. The commission need not make such a determination when the municipality and utility agree upon the sale of utility plant and property.

38:34 Unbundling Rates and Open Access. Municipal electric utilities established after July 1, 1997, shall unbundle their rates and allow for open access to competitive retail electric supply markets as soon as retail electric competition is certified to exist anywhere in the state pursuant to RSA 38:36. Municipal electric utilities established prior to July 1, 1997, may voluntarily unbundle their rates and allow open access to competitive retail electric supply markets.

38:35 Financial Responsibility.

I. Any retail electric customer located within a municipality that has established a municipal electric utility after July 1, 1997, but who is not within the service area of such utility, shall not be responsible for, and no entity may require the customer to pay, through taxes or otherwise, any costs associated with such utility except for electric power and services consumed directly by the municipality, and any electric power and services sold by the utility to the customer.

II. Any retail electric customer located within the service area of a municipal electric utility established after July 1, 1997, who does not purchase generation services by or acquired through such municipal electric utility, as allowed by RSA 38:34, shall not be responsible for, and no entity may require the customer to pay, through taxes or otherwise, any costs of generation services from such municipal electric utility, except for electric power consumed directly by the municipality. Nothing in this paragraph shall prevent any property owners or retail electric customers from signing contracts of any duration with such municipal electric utility after retail electric competition is certified to exist pursuant to RSA 38:36, and being bound by their terms, including damages for termination.

III. If any municipal electric utility acquires existing plant and equipment used for the generation of electric power, the municipal electric utility shall make payments in lieu of property taxes in the amount that the plant and equipment would have paid taxes if they had been owned by a private owner. Such payments in lieu of taxes shall be included in "costs of generation services" as provided in paragraph II.

38:36 Certification. The chairman of the public utilities commission shall certify to the secretary of state the date that retail electric competition exists in each portion of the state.

2 Definition; Revenue-Producing Facilities. Amend RSA 33-B:1, VI to read as follows:

VI. "Revenue-producing facilities" means water works, sewerage systems, sewage treatment or disposal facilities, solid waste disposal or resource recovery facilities, parking facilities, **facilities for the production, generation, transmission, or distribution of electricity or gas** and any other real or personal property or interests in a municipality owned or controlled by the municipality, from the operation of which revenues are or are expected to be derived by the municipality.

3 New Subdivision; Redundant Electric Lines. Amend RSA 374 by inserting after section 57 the following new subdivision:

Redundant Electric Lines

374:58 Redundant Lines. No public utility or municipal utility shall construct redundant parallel electric utility lines. Such duplication of lines shall be deemed contrary to sound economic policy and contrary to the public interest. This section shall not apply until retail electric competition is certified to exist pursuant to RSA 38:36.

4 Reference Change. Amend RSA 374-B:1, III to read as follows:

III. "Municipality" means a city, town or village district engaged in the generation and sale or the purchase and sale of electricity or the ~~[transmission]~~ **distribution** thereof, for ultimate consumption by the public under provisions of RSA 38, RSA 52 or any special laws. Except where otherwise specifically provided, a municipality may exercise any of its powers or authority contained in this chapter through its municipal officers or members of the board of commissioners in whom the management of its electric system is vested.

5 Reference Change. Amend RSA 374-B:15, II to read as follows:

II. The determinations of the commission required under RSA 38:9 or [10] **38:10** have been made not more than [24] **12** months following the initial vote taken under RSA [38:4 or 5] **38:3, RSA 38:4 or RSA 38:5**, except that this provision shall not apply to any vote taken prior to June 24, 1975.

6 Reference Change. Amend RSA 485:4 and 485:5 to read as follows:

485:4 Power to Require Improvements. The department is empowered to investigate the sanitary conditions and methods pertaining to the source, treatment, and distribution of all public water supplies for domestic use, and to require the application of any treatment or improvement in conditions and methods as it may deem necessary to insure fitness and safety and adequate protection of the public health. If the department determines that improvements are necessary, the municipality, corporation, or person shall be so notified in writing and the requirements so ordered shall be effected pursuant to RSA [38:14 a] **38:25** within a reasonable time to be fixed by the department. Appeals of actions of the department may be made as provided in RSA 485:59. The department may set intermediate goals and time frames to assist municipalities, corporations, or persons to abide by an order of the department under this section.

485:5 Power to Require Acquisition of Land. The acquisition of adjacent or marginal lands necessary to provide reasonable sanitary control over the quality of a public water supply shall be deemed an improvement in sanitary

conditions which is within the power of the department to require under the provisions of RSA 485:4. Municipalities shall comply with such order pursuant to RSA ~~[38:14-a]~~ **38:25**.

7 Reference Change. Amend RSA 485:28 to read as follows:

485:28 Power to Require the Installation of Sewage Facilities. The department is hereby empowered to investigate the conditions and methods relating to the disposal of sewage in any municipality, as set forth in RSA 486:1, and to require the installation of public sewers, as defined in RSA 147:8, whenever such investigation demonstrates that individual sewage disposal systems are inadequate or incapable of protecting the health and welfare of the citizens of the affected municipality or preventing pollution of the surface waters of the state, as defined in RSA 485-A. Before issuing an order requiring the installation of public sewer facilities, the department shall notify the municipality of its findings and shall give the municipality an opportunity to be heard. After such hearing if it shall be determined that said facilities are necessary, the municipality shall be so notified in writing and the requirements so ordered shall be effected pursuant to RSA ~~[38:14-a]~~ **38:25** within a reasonable time to be fixed by the department. If any municipality whose duty it is to act shall fail or refuse for a period of 10 days after the expiration of the time fixed by said order, or, in the case of appeal for a period of 10 days after final judgment shall have been entered, to obey the same or in good faith to begin to make the installation as ordered, such municipality so failing shall be fined not more than \$1,000 for each day of failure to comply with the order of the department. Said fine shall be paid to the state and may be recovered in an action of debt brought by the attorney general in the name of the state treasurer.

8 Reference Change. Amend RSA 485-A:22, III to read as follows:

III. The department shall issue a written cease and desist order against any discharge or act in violation of this subdivision or RSA 485-A:5 or lawful regulation of the department made under them or any condition of any permit lawfully issued by the department, and any such discharge or act may be enjoined by the superior court upon application of the attorney general, whether the court is in term time or vacation. Municipalities shall comply with such orders pursuant to RSA ~~[38:14-a]~~ **38:25**.

9 Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or the application of such provision to other persons or circumstances, and to this and the provisions of this act are severable.

10 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill revises RSA 38, relative to municipal lighting and water systems, to apply to the establishment and operation of municipal electric, gas, or water systems.

Adopted.

Report adopted and ordered to third reading.

Rep. Joseph Foster declared a conflict of interest and did not participate.

HB 716, relative to economic development and retention rates and special contracts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeb E. Bradley & Rep. Harold V. Lynde for Science, Technology and Energy: Legislation passed in 1996 created economic development and business retention electric rates for those businesses that could leave the state, or would not move to, or expand within New Hampshire due to our extremely high electric rates. This bill modifies that policy so that it is consistent with competition in the

electric industry. The committee believes it is critically important to attract new businesses to the state as well as retain existing businesses so that stranded costs will be recovered from the largest possible customer base. Passage of this bill will not effect any economic development and business retention rates or special contract agreements entered into prior to the date upon which the Chairman of the Public Utilities Commission certifies that retail electric competition exists within New Hampshire. Vote 18-0.

Amendment (0712h)

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

1 Findings. The general court finds that for electric service:

I. When retail electric competition exists, economic development discounts and retention discounts for stranded cost recovery charges will be useful tools in assisting the state's economy if their use is limited to cases which benefit all ratepayers.

II. It is in the public interest to establish both discounts as expeditiously as possible.

III. Tariffed economic development discounts and tariffed retention discounts should be preferred to individually negotiated special contracts, but special contracts may be necessary in some circumstances.

IV. In order to limit the possible impact on other ratepayers, economic development discounts, retention discounts, and special contract discounts should be specific discounted rates that are discounts from the tariffed stranded cost recovery charge rates, not percentage discounts from future variations in tariffed stranded cost recovery charges.

V. Use of discounts will increase employment, avoid the loss of employment, or decrease the cost of electricity to other ratepayers.

2 New Paragraph; Availability of Economic Development and Retention Rates. Amend RSA 378:11-a by inserting after paragraph V the following new paragraph:

VI. The rates established in this section shall not be granted to new applicants in any portion of the state after retail electric competition is certified to exist in that portion of the state pursuant to RSA 378:11-b, VIII. Customers receiving service under existing rates established in this section shall be allowed to continue under those rates for the remainder of the agreed-upon term.

3 New Section; Economic Development Discounts and Retention Discounts. Amend RSA 378 by inserting after section 11-a the following new section:

378:11-b Economic Development Discounts and Retention Discounts

I. In this section, "stranded cost region" means a region of the state in which a stranded cost recovery charge (SCRC) has been imposed such that if the existing load were to decrease, the SCRCs collected from other ratepayers in that region would increase either in rate or in duration.

II. Notwithstanding any other provision of law to the contrary, the commission shall establish procedures for the review and approval of discounted SCRC rates that foster economic development and retention of existing load within the state. For the purposes of this section, "economic development discounts" means discounted SCRC rates, the purpose of which is to attract new industrial companies to the state and to encourage significant expansion of existing industrial load. For the purposes of this section, "retention discounts" means discounted SCRC rates, the purpose of which is to retain existing industrial load that would otherwise leave a stranded cost region. Such

procedures shall provide that all electric utilities serving retail customers may file with the commission generally available schedules of discounted SCRC rates for the provision of economic development discounts and/or retention discounts to industrial customers, for a fixed period of time not to exceed 5 years. Such procedures may limit eligibility based on standard industrial classification (SIC) codes, provided that most industrial load is eligible. Such discounts shall take into consideration the effect on the stranded cost recovery charge to other ratepayers, the amount of new demand and energy for electric service involved, the effect on employment within the state, material adverse competitive impact on existing in-state firms, and end-user participation in conservation programs and other state established economic development enhancement programs. The commission shall approve such tariffed discounts only within stranded cost regions.

III. These discounts shall be discounts of the stranded cost recovery charge only, and shall not provide for discounts of distribution, transmission, or system benefits charges.

IV. To ensure fairness in the application of these discounts, if the commission finds that it is in the public good, the retention discount or the economic development discount may also be offered to a direct competitor of a company that has qualified for such rate.

V. Any request that a retention discount be granted to a particular customer shall become effective 30 days after filing, unless the commission rejects the request. The commission shall approve granting a retention discount to a particular customer that meets the eligibility criteria only after the commission:

(a) Gives the office of the consumer advocate an opportunity to examine any confidential data submitted in support of the request and an opportunity to comment.

(b) Except as provided in paragraph IV, finds that there is a strong likelihood that the existing load would have left the stranded cost region, and that granting a discount to a particular customer will then result in a benefit to other ratepayers.

VI. In any rate proceeding or stranded cost recovery charge proceeding subsequent to approval of economic development discounts or retention discounts, the commission shall not impute to the test year revenues, revenue requirements, or SCRC requirements the amount of the economic development discount or the amount of the retention discount, provided that those customers have qualified for the discount.

VII. The discounts established in this section shall not be available until retail electric competition is certified to exist in that portion of the state pursuant to paragraph VIII, and shall not be available after December 31, 2005.

VIII. The chairman of the public utilities commission shall certify to the secretary of state the date that retail electric competition exists in each portion of the state.

4 New Paragraph; New Special Contracts. Amend RSA 378:18-a by inserting after paragraph IV the following new paragraph:

V. In any portion of the state in which retail electric competition is certified to exist pursuant to RSA 378:11-b, VIII, new special contracts, or modifications of existing contracts, designed to retain or attract load shall be available to a customer only if all the conditions of RSA 378:11-b for applicability and approval are met, except as provided in RSA 378:11-b, V; the contract is approved pursuant to RSA 378:18, the commission finds that unusual circumstances exist such that no tariffed rate or discounted stranded cost recovery charge rate is sufficient to retain or attract the load, the commission gives the office of the consumer advocate an opportunity to examine any confidential data submitted in support of the request and an opportunity to comment, and the commission finds that there is a strong likelihood that granting the special contract to a particular customer will then result in a benefit to other ratepayers. Such special contracts to retain or attract load shall provide for discounts of the stranded cost recovery charge only, and shall not provide for discounts of distribution, transmission, or system benefits charges.

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

AMENDED ANALYSIS

This bill establishes economic development discounts and retention discounts, which will be available to eligible industrial customers of electric utilities after retail electric competition is certified to exist.

Adopted.

Report adopted and ordered to third reading.

Rep. Joseph Foster declared a conflict of interest and did not participate.

HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and relative to the underground utility damage prevention system. **OUGHT TO PASS WITH AMENDMENT**

Reps. John H. Thomas and. Jeb E. Bradley for Science, Technology and Energy: This bill authorizes a 911 charge on wireless or cellular telephone service. Currently the 911 charge is accessed only on phone lines. Given the increasing demand for 911 service from cellular phones, the committee believes this new charge is entirely appropriate. The bill also creates a violation for deliberate misuse of the 911 system. Such misuse is significant in many regions of the country. This legislation also updates the digsafes program. Finally the bill authorizes the Public Utilities Commission to establish non-price requirements for competitive electric suppliers. These requirements include registration, registration fees, customer information, disclosure, standards of conduct, and customer protection. The pilot program has highlighted the need for the Commission to be involved with these specific aspects of electric industry restructuring relative to competitive electricity suppliers. Vote 19-0.

Amendment (0723h)

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

AN ACT relative to the jurisdiction and authority of the public utilities commission, the underground utility damage prevention system, and the 911 system.

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-18 to read as 116, respectively.

Amend RSA 362:4-b, I as inserted by section 1 of the bill by replacing it with the following:

I. The term "public utility" shall not include any corporation, company, association, joint stock association, partnership and person, their lessee, trustee or receiver appointed by any court, or assignee, which provides, sells, delivers, or stores liquefied petroleum gas in cylinders or tanks, or who distributes vaporized liquefied petroleum gas through underground distribution systems.

Amend RSA 369:8, II as inserted by section 2 of the bill by replacing it with the following:

II. To the extent that the approval of the commission is required by any other statute for any corporate restructuring, merger, acquisition, financing, change in long-term or short-term indebtedness, or issuance of stock involving parent companies of public utilities regulated by the commission, the approval of the commission shall not be required if the public utility represents to the commission in writing no less than 30 days prior to the anticipated completion of the transaction that the transaction will not adversely affect the rates, terms, service, or operation of the public utility within the state.

Amend RSA 374:51, IV and V as inserted by section 8 of the bill by replacing them with the following:

IV. Prior to complying with the notification requirements of paragraph II, an excavator shall identify the perimeter of the proposed site of the excavation by marking the perimeter in an appropriate manner in the color white or shall communicate the perimeter of the excavation by means of construction plans, an on-site meeting with affected operators, or other suitable means acceptable to the parties.

V. When making the notification required by this section, the excavator shall identify which of the methods described in paragraph IV will be used to identify the proposed excavation.

Amend the bill by replacing section 11 with the following:

11 Notice of Damage; Notification to Operator. Amend RSA 374:54 to read as follows:

374:54 Notice of Damage. When any underground ~~[utility]~~ facility is damaged, the excavator causing the damage shall immediately notify the affected ~~[company]~~ **operator**. The excavation shall not be backfilled without first receiving permission from the ~~[company]~~ **operator** whose facility was damaged.

Amend RSA 374:55, IV-c and IV-d as inserted by section 12 of the bill by replacing them with the following:

IV-c. Any excavator who does not identify the proposed excavation area in accordance with RSA 374:51, IV shall be subject to a civil penalty of up to \$500.

IV-d. The civil penalties provided for in this section may be increased to \$5,000 for any excavator who, in the prior 3 years, has been found to have violated RSA 374:51.

Amend the bill by replacing all after section 15 with the following:

16 Cellular or Wireless 911 Service. Amend RSA 106-H:8 to read as follows:

106-H:8 ~~[Telephone Utility]~~ Coordination **by Provider of Telephone Service**. Every telephone utility authorized to do business in the state pursuant to RSA 374:22 **and every entity which provides cellular mobile or 2-way wireless telecommunications service** shall make available the universal emergency telephone number 911 for use by the public in seeking assistance from fire, police and other related safety agencies through a single public safety answering point, ~~[no later than 3 years from the effective date of]~~ **for the purpose of implementing** this chapter. **Any provider of cellular mobile or 2-way wireless telecommunications services shall be entitled to reimbursement from the bureau of the reasonable expenses incurred to accomplish the provision of enhanced 911 service to the extent authorized by the Federal Communications Commission and approved by the enhanced 911 commission. The bureau may utilize the services of any other state agency or a consultant to assist in reviewing the requested reimbursement to insure that it is reasonable and may seek recovery of the expense of that review from the provider.**

17 Cellular or Wireless 911 Surcharge. Amend RSA 106-H:9, I to read as follows:

I. The enhanced 911 system shall be funded through a surcharge to be levied upon each residence and business telephone exchange line, including PBX trunks and Centrex lines, ~~[trunks and lines serving cellular communications towers in the state,]~~ **each individual cellular or 2-way wireless telephone number**, and **each** semi-public **and public** coin and public access line. No such surcharge shall be imposed upon more than 25 **business telephone exchange** lines, **including PBX trunks and Centrex lines**, per customer billing account. **In the case of local exchange telephone companies**, the surcharge shall be contained within tariffs **or rate schedules** filed with the public utilities commission and shall be billed on a monthly basis by each local exchange telephone company. **In the case of an entity which provides cellular mobile or 2-way wireless telecommunications services the surcharge shall be billed to each customer on a monthly basis.** Each local exchange telephone company **or entity which provides cellular**

mobile or 2-way wireless telecommunications services shall remit the surcharge amounts on a monthly basis to the enhanced 911 services bureau, which shall be forwarded to the state treasurer for deposit in the enhanced 911 system fund. Such fund shall be continually appropriated to the bureau and shall not lapse. The moneys in the account shall not be used for any purpose other than the development and operation of enhanced 911 services, in accordance with the terms of this chapter. Surcharge amounts shall be reviewed after the budget has been approved or modified, and if appropriate, new tariffs **or rate schedules** shall be filed with the public utilities commission reflecting the surcharge amount.

18 New Section; Misuse of 911 System. Amend RSA 106-H by inserting after section 14 the following new section:

106-H:15 Misuse of 911 System. Any deliberate use of the universal emergency telephone number 911 for any reason other than seeking emergency assistance from fire, police, or other safety related agencies shall constitute misuse of the 911 system. The third and any subsequent misuse of the 911 system in a calendar year shall constitute a violation.

19 New Section; Competitive Electricity Supplier Requirements. Amend RSA 374-F by inserting after section 6 the following new section:

374-F:7 Competitive Electricity Supplier Requirements. The commission is authorized to establish requirements, excluding price regulation, for competitive electricity suppliers, including registration, registration fees, customer information, disclosure, standards of conduct, and consumer protection and assistance requirements. These requirements shall be applied in a manner consistent with the restructuring principles of this chapter to promote competition among electricity suppliers. The commission is further authorized to assess fines against, to revoke the registration of, and prohibit from doing business in the state, any competitive electricity supplier which violates the requirements of this section. The commission shall adopt rules, under RSA 541-A, to implement this section. Aggregators of electricity load that do not take ownership of power and do not represent any supplier interest shall not be regulated by the commission.

20 Effective Date.

I. RSA 374:51, IV and V as inserted by section 8 of this act and RSA 374:55, IV-c as inserted by section 12 of this act shall take effect January 1, 1998.

II. Sections 17 and 18 of this act shall take effect July 1, 1997.

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

AMENDED ANALYSIS

This bill:

- (a) Exempts certain gas distributors from regulation as a public utility.
- (b) Makes misuse of the 911 system a violation.
- (c) Exempts from approval by the commission certain activities of parent companies of public utilities which do not adversely affect rates or services in state.
- (d) Makes various changes to the underground utility damage prevention system.
- (e) Allows the commission to waive submission requirements for certain least cost integrated resource plans.

(f) Expands the enhanced 911 system to include cellular or wireless providers.

(g) Authorizes the public utilities commission to establish and enforce requirements, excluding price regulation, for competitive electricity suppliers.

Adopted.

Report adopted and ordered to third reading.

, OUGHT TO PASS

Rep. for State-Federal Relations and Veterans Affairs: This convention reaffirms the policy of the United States that any form of discrimination against women is not acceptable. The resolution places the General Court on record in support of United States ratification of the convention. Vote .

Reps. Edwin Smith and Fuller Clark spoke against.

Rep. Cobbin spoke against and yielded to questions.

The report failed.

Rep. Edwin Smith moved Re-refer to Committee.

Rep. Murch spoke in favor.

Adopted.

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. James J. Fenton for the Majority of State-Federal Relations and Veterans Affairs: The committee recognized the value of family wood lots and the over-all importance of the timber industry to the economy of our state. Therefore, the majority of the members support the Congressional legislation introduced by Senator Gregg known as the Family Forestland Preservation Tax Act. This act offers heirs economical incentives to sustain proper management of these forest. Vote 10-4.

Rep. George R. Rubin for the Minority of State-Federal Relations and Veterans Affairs: The uses of preservation of forestlands has some merit, however, the thrust of this resolution is to change the tax codes for special interests. It forgives and reduces to pay capital gains and federal inheritance taxes for selected heirs.

Adopted and ordered to third reading.

HB 203, relative to driving after a revocation or suspension of license. OUGHT TO PASS

Rep. Philip M. Ackerman for Transportation: This bill makes a second and subsequent offense of driving after suspension of license a misdemeanor, regardless of whether the suspension was as a result of court-imposed penalty or administrative license suspension. Currently, first and second

Administrative License Suspension violations are violations. The committee felt that increasing the penalty would act as a deterrent and possibly increase the collection of defaulted fines. Vote 11-2.

Adopted and ordered to third reading.

HB 273-FN, increasing the age that child passenger restraints are required from 12 years of age to 18 years of age. OUGHT TO PASS WITH AMENDMENT

Rep. Ralph L. Akins for Transportation: Teens have the lowest usage rate of any age group when it comes to wearing a seat belt, yet the highest rate of accidents. The committee felt that it was logical to extend the child passenger restraint law age from 12 to 18 years of age since statistics show that the number of serious injuries and fatalities have dropped significantly since the original child passenger restraint law was enacted. Vote 14-0.

Amendment (0648h)

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

1 Age Increased. Amend RSA 265:107-a, I to read as follows:

I. No person shall drive a motor vehicle on any way while carrying as a passenger a ~~[child]~~ **person** less than ~~[12]~~ **18** years of age unless such ~~[child]~~ **person** is wearing a seat or safety belt which is properly adjusted and fastened or, if the ~~[child]~~ **person** is less than 4 years of age, unless such ~~[child]~~ **person** is properly fastened and secured by a child passenger restraint which is in accordance with the safety standards approved by the United States Department of Transportation in 49 C.F.R. section 571.213. No person shall drive a motor vehicle on any way while carrying as a passenger a ~~[child]~~ **person** less than ~~[12]~~ **18** years of age unless the motor vehicle was designed for and equipped with the ~~[child]~~ passenger restraints specified above.

2 New Paragraph; Safety Belt Required for Drivers Under 18. Amend RSA 265:107-a by inserting after paragraph I the following new paragraph:

I-a. No person who is less than 18 years of age shall drive a motor vehicle on any way unless such person is wearing a seat or safety belt which is properly adjusted and fastened.

3 Fines Established. Amend RSA 265:107-a, III to read as follows:

III. Any driver who violates the provisions of this section shall be guilty of a violation[-] , **and shall be subject to the following fines:**

(a) \$25 for a first offense.

(b) \$50 for a second or subsequent offense.

4 New Paragraphs; Relation to Other Offenses. Amend RSA 265:107-a by inserting after paragraph IV the following new paragraphs:

V. A conviction for violating the provisions of this section shall not preclude prosecution of any other offense for which violation of this section might constitute an element.

VI. Enforcement of this section by law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a violation or some other offense; provided, however, that

a motor vehicle may be stopped for failure to comply with this section if the seat belt violation for a person under 12 years of age.

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

AMENDED ANALYSIS

This bill modifies the child passenger restraint law by increasing the age that restraints are required from 12 years of age to 18 years of age, imposing a schedule of fines for violations of the law, and clarifying the enforcement of the law.

On a division vote, 283 members having voted in the affirmative and 54 in the negative, the amendment was adopted.

Reps. Vaillancourt and MacGillivray spoke against and yielded to questions.

Reps. Marsha Pelletier, Pilliod and Burling spoke in favor.

Rep. Packard spoke in favor and yielded to questions.

Rep. Cloutier requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 279 NAYS 66
YEAS 279
BELKNAP

Bartlett, Gordon Boriso, Thomas Boyce, Robert Clark, Charles

Golden, Paul Holbrook, Robert Laflam, Robert Lawton, David

Lawton, Robert Pilliod, James Rice, Thomas, Jr. Rosen, Ralph

Turner, Robert Ziegra, Alice

CARROLL

Bradley, Jeb Cooper, Kipp Foster, Robert Howard, Godfrey

Lyman, L. Randy MacDonald, Kenneth Mock, Henry Philbrick, Donald

CHESHIRE

Bonneau, Sarah Burnham, Daniel Champagne, Richard DePecol, Benjamin

Doucette, Richard Hunt, John Lynch, Margaret Lynott, Margaret

Meador, David Metzger, Katherine Pratt, John Richardson, Barbara

Riley, William Robertson, Timothy Royce, H. Charles Russell, Ronald

Smith, Edwin Steere, Myron, III Vogl, John

COOS

Bradley, Paula Coulombe, Henry Coulombe, Yvonne Davis, Perley

Guay, Lawrence Mears, Edgar Moynihan, Wayne Pratt, Leighton

Tholl, John, Jr.

GRAFTON

Akins, Ralph Alger, John Almy, Susan Below, Clifton

Chase, Paul, Jr. Copenhaver, Marion Guaraldi, Lawrence Guest, Robert

Hill, Richard Hinman, Harry LaMott, Paul Lovett, Sidney

Luker, Elsa MacNeil, Allen Nordgren, Sharon Trelfa, Richard

Williams, William, Jr.

HILLSBOROUGH

Ackerman, Philip Allen, W. Gordon Amidon, Eleanor Asselin, Robert

Barry, William, III Batula, Peter Belvin, William Bergin, Peter

Bernier, Shannon Briefs, Geoffrey Brundige, Robert Buckley, Raymond

Calawa, Leon, Jr. Cardin, Lori Carlson, Donald Carney, Lauren

Chabot, Robert Clay, Susan Cote, David Cote, Peter

D'Allesandro, Lou Daigle, Robert Dawe, Eileen Dokmo, Cynthia

Drabinowicz, A. Theresa Durham, Susan Dwyer, Paul, Sr. Dyer, Merton

Emerton, Lawrence, Sr. Ferguson, Charles Fields, Dennis Flora, Kathleen

Foster, Joseph Foster, Linda Gage, Ruth Gagnon, Eugene

Ginsburg, Ruth Golding, William Gosselin, Gerald Haettenschwiller, Alphonse

Haley, Robert Hall, Betty Hansen, Herbert Hart, Nick

Holden, Carol Holley, Sylvia Holt, David Hunter, Bruce

Jean, Claudette L'Heureux, Robert LaRose, Richard Lefebvre, Roland

Leonard, Peter Lozeau, Donnalee MacAuslan, Rita MacIntyre, Doris
McCarty, Winston McDonald, James, Sr. McGough, Tim Melcher, Harold
Mercer, Robert Messier, Irene Milligan, Robert Murphy, Robert
O'Hearn, Jane Perkins, Paul Peterson, Andrew Piteri, Dawn
Reidy, Frank Sargent, Maxwell Searles, Stanley, Sr. Turgeon, Roland
Wheeler, Robert Williams, Carol

MERRIMACK

Anderson, Eric Burney, Carol Colburn, Kathleen Crosby, Toni
Crowell, Peter Daneault, Gabriel DeStefano, Stephen Dunn, Miriam
Feuerstein, Martin Fraser, Marilyn French, Barbara Gile, Mary
Hager, Elizabeth Hess, David Hoadley, Elizabeth Jacobson, Alf
Lamach, Bernard Langer, Ray Leber, William Marshall, Kenneth
Maxfield, Roy Moore, Carol Morrill, Olive Owen, Derek
Pfaff, Terence Reardon, Tara Seldin, Gloria St. Cyr, Gerard
Wallin, Jean Wallner, Mary Jane Whalley, Michael Whittemore, James
Yeaton, Charles

ROCKINGHAM

Battles-Peirce, Marjorie Belanger, Ronald Bishop, Franklin Blanchard, MaryAnn
Carson, Gregory Case, Margaret Christie, Andrew, Jr. Clark, Martha
Coes, Betsy Cooney, Richard Cushing, Robert Dearborn, Bruce
Dowd, Sandra Downing, Michael Dube, LeRoy Dunham, Vivian
Fesh, Robert Flanders, David Flanders, John, Sr. Francoeur, Sheila
Frechette, Joseph Gleason, John Griffin, Mary Heath, John
Henderson, Warren Hutchinson, Rebecca Johnson, Robert Kane, Cecelia
Katsakiores, George Katsakiores, Phyllis Kelley, Jane Klemm, Arthur, Jr.

Kobel, Rudolph Langley, Jane Langone, John Letourneau, Robert
Lovejoy, Marian Major, Norman Malcolm, Kenneth McCarthy, John, Jr.
McGovern, Cynthia McKinney, Betsy Micklon, Stephanie Mikowski, Walter
Norelli, Terie Nowe, Ronald O'Keefe, Patricia Packard, Sherman
Pantelakos, Laura Raynowska, Bernard Reardon, Neil Sabella, Norma
Schanda, Frank Simmons, John Anthony Smith, Kevin Stickney, Nancy
Stone, Joseph Stritch, C. Donald Syracuse, Anthony Tufts, J. Arthur
Varrell, Thomas Vaughn, Charles Weatherspoon, Jackie Welch, David
Woods, Deborah

STRAFFORD

Berube, Roger Brennan, William Brown, Julie DeChane, Marlene
Dunlap, Patricia Estabrook, Iris Hemon, Roland Hilliard, Dana
Kaen, Naida Keans, Sandra Knowles, William Lundborn, Raymond
McCann, William, Jr. Merrill, Amanda Merritt, Deborah Pelletier, Arthur
Pelletier, Marsha Rogers, Rose Marie Rollo, Michael Smith, Marjorie
Snyder, Clair Spear, Barbara Sullivan, Henry Taylor, Kathleen
Torr, Ann Tsiros, William Twardus, Joseph Vachon, Dennis
Wall, Janet

SULLIVAN

Adler, Rudolf Allison, David Burling, Peter Cloutier, John
Donovan, Thomas Ferland, Brenda Flint, Gordon Leone, Richard
Lindblade, Eric Palmer, Lorraine Schotanus, Merle

NAYS 66 BELKNAP

Thomas, John

CARROLL

Babson, David, Jr. Dickinson, Howard, Jr. Kenney, Joseph Patten, Betsey

CHESHIRE

Avery, Stephen

COOS

Horton, Lynn Merrill, Gerald St. Hilaire, Paul

GRAFTON

Cobbin, Philip Eaton, Stephanie Ham, Bonnie Mirski, Paul

Phinney, William Root, John Teschner, Douglass Weber, Phil

HILLSBOROUGH

Alukonis, David Boutin, David Burke, M. Virginia Christiansen, Lars

Clegg, Robert, Jr. Clemons, Jane Daniels, Gary Desrosiers, William

Fenton, James Goulet, Maurice Herman, Keith Jean, Loren

Johnson, Lionel Kurk, Neal Leishman, Peter Lessard, Rudy

Letendre, Evelyn Luebker, Bernard MacGillivray, Jeffrey Marcinkowski, Michael

Martin, Mary McCarthy, William Mittelman, David Murch, George

Pepino, Leo Riley, Frances Thulander, O. Alan Vaillancourt, Steve

White, Donald Wright, George

MERRIMACK

Adams, Stephen Chandler, Earle Colburn, Thomas Krueger, Patricia

Larrabee, David Lavoie, Gerard Nichols, Avis

ROCKINGHAM

Beaulieu, Jon Camm, Kevin Dodge, Robert Dolan, Richard

Gibbons, Paul Guthrie, Joseph Morris, Debbie Noyes, Richard

Weyler, Kenneth

STRAFFORD

McKinley, Robert Torr, Franklin

SULLIVAN

Krueger, Richard

and the report was adopted.

Ordered to third reading.

HB 640, establishing a committee to examine the feasibility of establishing a state of the art meteorological center at the former Pease Air Force Base. INEXPEDIENT TO LEGISLATE

Rep. Eric N. Lindblade for Commerce: In view of the present financial restraints, the committee felt it was not the right time to study this problem. Vote 12-0.

Rep. Varrell spoke against.

Adopted.

HB 118-FN, relative to penalties for marijuana possession. INEXPEDIENT TO LEGISLATE

Rep. Yvonne Coulombe for Criminal Justice and Public Safety: This bill would reduce the penalties for possession of 1 1/2 ounces of marijuana from a class A misdemeanor to a violation. Our legislature has enacted a strong controlled drug law over the past 10 years. The committee feels that this proposal would be contrary to our clear public policy against the use of unlawful drugs by minimizing the penalties for possessing a substantial amount of marijuana. Vote 17-0.

Rep. Robertson spoke against.

Rep. Flora spoke in favor.

Adopted.

HB 329, repealing the fireman's rule. OUGHT TO PASS WITH AMENDMENT

Rep. Sandra B. Keans for Judiciary and Family Law: The original bill was a repeal of the fireman's rule. The committee could not support that because we believe the legislation agreed to in 1993 among all parties still makes good public policy. We believe that the amendment better clarifies just what that agreement was and tries to incorporate the committee report of SB 109 from 1993. Vote 13-0.

Amendment (0561h)

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

AN ACT clarifying the applicability of the fireman's rule.

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

1 Clarification of Applicability of Fireman's Rule. Amend RSA 507:8-h, I to read as follows:

I. Firefighters, emergency medical technicians (E.M.T.'s), police officers and other public safety officers shall have no cause of action for injuries arising from negligent conduct which created the particular occasion for the officer's official engagement. However, this section does not affect such officer's causes of action ***for negligent acts which take place on the scene of the incident which created the particular occasion for the officer's official engagement but which are subsequent to the incident and are unrelated to the incident***, or for other negligent conduct, or for reckless, wanton or willful acts of misconduct.

2 Effective Date. This act shall take effect January 1, 1998.

AMENDED ANALYSIS

This bill clarifies the applicability of the fireman's rule.

Adopted.

Rep. Keans yielded to questions.

Report adopted and ordered to third reading.

HB 439-FN, establishing a procedure for reporting on abortions. INEXPEDIENT TO LEGISLATE

Rep. Marjorie K. Smith for Judiciary and Family Law: The Center for Disease Control has regularly collected information on abortions which is published in CDC Surveillance Summaries, Morbidity and Mortality Weekly Report, and includes by state, number, ratio, rate, age, race, weeks of gestation, type and procedure, ethnic background, marital status, previous number of pregnancies and abortions, and fatalities. The report includes additional detailed information on teenagers. In addition, the New Hampshire Department of Health and Human Services has authority under RSA 120:25 II to collect such information and intends to do so. There is no need for this bill. Vote 12-0.

Adopted.

HB 549, relative to service-connected military or coast guard disability compensation in the determination of alimony or separate maintenance. INEXPEDIENT TO LEGISLATE

Rep. Deborah L. Woods for Judiciary and Family Law: Federal law adequately provides the prohibition of service-connected disability payments from being garnished for an alimony award. This bill would create havoc in the courts with the onslaught of divorce cases which might possibly be re-opened by a simple request from someone who believes they fall under this law. There is also the question of how appropriate it is to single out one specific federal anti-garnishment provision and how many others would be brought forward. Vote 12-0.

Rep. Varrell spoke against.

Adopted.

HB 550, relative to certain social security disability compensation in the determination of alimony or separate maintenance. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: Since 1975, the Social Security Act has authorized the use of payments for alimony and support. New Hampshire would be in conflict with

federal law if we passed this. There is currently nothing that prevents spouses from returning to court in order to get a modification of support payments when circumstances change. Vote 12-0.

Rep. Varrell spoke against.

Adopted.

HB 568-FN, relative to the oath of office for attorneys and the penalty for failure to fulfill the oath.
INEXPEDIENT TO LEGISLATE

Rep. David C. Allison for Judiciary and Family Law: The committee finds that the oath of office, as the amended version would read, will add only confusion, rather than clarity, to the true purpose of the oath. Vote 12-1.

Rep. Hemon spoke against.

Rep. Moynihan spoke in favor.

Adopted.

PROTEST

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. Cobbin requested that his protest be entered on the Journal.

I never took an oath to the Judiciary. I took an oath to uphold the Constitution of the State of New Hampshire and the Constitution of the United States of America.

SPECIAL ORDERS (Cont'd.)

HB 635, relative to a limitation on liability for emergency medical care providers. RE-REFER TO COMMITTEE

Rep. David A. Bickford for Judiciary and Family Law: This bill requires further study, along with another limited liability bill which was heard by the Judiciary Committee and also recommended for HB 793. Vote 16-0.

Adopted.

HR 13, recognizing Bob Dole's many years of public service and dedication to our country.
INEXPEDIENT TO LEGISLATE

Rep. Peter F. Bergin for State-Federal Relations and Veterans Affairs: The committee recognized that Bob Dole had many years of public service and dedication to our country, however, it was felt that Bob Dole has been recognized recently with the Medal of Freedom from President Clinton. In addition, the only person to be recognized since 1985 in a house resolution was Senator Paul Tsongas who was memorialized on January 19, 1997. Vote 14-1

Rep. Buckley spoke against and yielded to questions.

Rep. Cobbin spoke against.

Rep. Bergin spoke in favor.

Rep. Vaillancourt requested a roll call; sufficiently seconded.

The question being the adoption of the report.

**YEAS 191 NAYS 131
YEAS 191
BELKNAP**

Boyce, Robert Golden, Paul Holbrook, Robert Hurt, George

Lawton, David Thomas, John Turner, Robert Ziegra, Alice

CARROLL

Babson, David, Jr. Cooper, Kipp Foster, Robert Howard, Godfrey

Kenney, Joseph Lyman, L. Randy MacDonald, Kenneth Patten, Betsey

Philbrick, Donald

CHESHIRE

DePecol, Benjamin Hunt, John Lynott, Margaret Metzger, Katherine

Pratt, John Robertson, Timothy Royce, H. Charles Russell, Ronald

Smith, Edwin Steere, Myron, III Vogl, John

COOS

Bradley, Paula Coulombe, Yvonne Guay, Lawrence Horton, Lynn

Merrill, Gerald

GRAFTON

Alger, John Eaton, Stephanie Guaraldi, Lawrence LaMott, Paul

MacNeil, Allen Root, John Teschner, Douglass Trelfa, Richard

HILLSBOROUGH

Alukonis, David Amidon, Eleanor Barry, William, III Batula, Peter

Belvin, William Bergin, Peter Briefs, Geoffrey Brundige, Robert

Burke, M. Virginia Calawa, Leon, Jr. Cardin, Lori Chabot, Robert

Christiansen, Lars Clay, Susan Daniels, Gary Dawe, Eileen

Dokmo, Cynthia Drabinowicz, A. Theresa Durham, Susan Dyer, Merton
Emerton, Lawrence, Sr. Fenton, James Ferguson, Charles Fields, Dennis
Gagnon, Eugene Ginsburg, Ruth Golding, William Herman, Keith
Holden, Carol Holley, Sylvia Hunter, Bruce Jean, Claudette
Johnson, Lionel Kurk, Neal L'Heureux, Robert LaRose, Richard
Leishman, Peter Leonard, Peter Lessard, Rudy Letendre, Evelyn
Lozeau, DonnaLee Luebkert, Bernard MacAuslan, Rita MacGillivray, Jeffrey
MacIntyre, Doris Martin, Mary McCarthy, William McCarty, Winston
Mercer, Robert Mittelman, David Murch, George O'Hearn, Jane
Perkins, Paul Peterson, Andrew Reidy, Frank Riley, Frances
Sargent, Maxwell Thulander, O. Alan Turgeon, Roland Welch, Donald
Wheeler, Robert

MERRIMACK

Adams, Stephen Anderson, Eric Burney, Carol Colburn, Kathleen
Colburn, Thomas Crosby, Toni Crowell, Peter Dunn, Miriam
Feuerstein, Martin Gile, Mary Krueger, Patricia Lamach, Bernard
Larrabee, David Maxfield, Roy Morrill, Olive Nichols, Avis
Pfaff, Terence Reardon, Tara Seldin, Gloria St. Cyr, Gerard
Whalley, Michael

ROCKINGHAM

Beaulieu, Jon Belanger, Ronald Blanchard, MaryAnn Camm, Kevin
Carson, Gregory Case, Margaret Christie, Andrew, Jr. Dearborn, Bruce
Dodge, Robert Dolan, Richard Dowd, Sandra Dunham, Vivian
Flanders, John, Sr. Francoeur, Sheila Gibbons, Paul Griffin, Mary
Guthrie, Joseph Heath, John Henderson, Warren Kelley, Jane

Klemm, Arthur, Jr. Langley, Jane Langone, John Letourneau, Robert
Lovejoy, Marian Major, Norman Malcolm, Kenneth McCarthy, John, Jr.
McGovern, Cynthia McKinney, Betsy Micklon, Stephanie Mikowski, Walter
Morris, Debbie Nowe, Ronald Noyes, Richard O'Keefe, Patricia
Packard, Sherman Raynowska, Bernard Simmons, John Anthony Stickney, Nancy
Stone, Joseph Tufts, J. Arthur Varrell, Thomas Weatherspoon, Jackie
Welch, David Weyler, Kenneth

STRAFFORD

Brennan, William DeChane, Marlene Estabrook, Iris Hemon, Roland
Kaen, Naida Lundborn, Raymond McKinley, Robert Merritt, Deborah
Pelletier, Arthur Pelletier, Marsha Snyder, Clair Spear, Barbara
Sullivan, Henry Torr, Franklin Tsiros, William Wall, Janet

SULLIVAN

Adler, Rudolf Ferland, Brenda Leone, Richard Lindblade, Eric
Palmer, Lorraine Schotanus, Merle

NAYS 131 BELKNAP

Bartlett, Gordon Boriso, Thomas Clark, Charles Laflam, Robert
Lawton, Robert Pilliod, James Rice, Thomas, Jr. Rosen, Ralph

CARROLL

Bradley, Jeb Dickinson, Howard, Jr.

CHESHIRE

Avery, Stephen Burnham, Daniel Doucette, Richard McGuirk, Paul
Meader, David Richardson, Barbara Riley, William

COOS

Coulombe, Henry Davis, Perley Mears, Edgar Moynihan, Wayne

Pratt, Leighton St. Hilaire, Paul Tholl, John, Jr.

GRAFTON

Almy, Susan Below, Clifton Chase, Paul, Jr. Cobbin, Philip

Copenhaver, Marion Ham, Bonnie Hill, Richard Hinman, Harry

Lovett, Sidney Mirski, Paul Phinney, William Weber, Phil

Williams, William, Jr.

HILLSBOROUGH

Ackerman, Philip Asselin, Robert Barody, Benjamin Bernier, Shannon

Boutin, David Buckley, Raymond Carlson, Donald Clegg, Robert, Jr.

Cote, Peter D'Allesandro, Lou Daigle, Robert Dwyer, Paul, Sr.

Flora, Kathleen Foster, Joseph Foster, Linda Gage, Ruth

Gosselin, Gerald Goulet, Maurice Haettenschwiller, Alphonse Haley, Robert

Hall, Betty Hansen, Herbert Hart, Nick Jean, Loren

Lefebvre, Roland McDonald, James, Sr. McGough, Tim Melcher, Harold

Messier, Irene Milligan, Robert Murphy, Robert Pepino, Leo

Searles, Stanley, Sr. Vaillancourt, Steve White, Donald Williams, Carol

MERRIMACK

Chandler, Earle Daneault, Gabriel DeStefano, Stephen French, Barbara

Hager, Elizabeth Hoadley, Elizabeth Jacobson, Alf Langer, Ray

Lavoie, Gerard Leber, William Marshall, Kenneth Moore, Carol

Owen, Derek Wallin, Jean Wallner, Mary Jane Whittemore, James

Yeaton, Charles

ROCKINGHAM

Battles-Peirce, Marjorie Bishop, Franklin Clark, Martha Cooney, Richard

Cushing, Robert Downing, Michael Dube, LeRoy Fesh, Robert

Flanders, David Frechette, Joseph Gleason, John Johnson, Robert

Kane, Cecelia Katsakiores, George Katsakiores, Phyllis Kobel, Rudolph

Norelli, Terie Pantelakos, Laura Reardon, Neil Sabella, Norma

Schanda, Frank Smith, Kevin Stritch, C. Donald Vaughn, Charles

STRAFFORD

Brown, Julie Dunlap, Patricia Hilliard, Dana Keans, Sandra

Knowles, William McCann, William, Jr. Merrill, Amanda Rollo, Michael

Smith, Marjorie Taylor, Kathleen Torr, Ann Twardus, Joseph

Vachon, Dennis

SULLIVAN

Burling, Peter Cloutier, John Donovan, Thomas Krueger, Richard

and the report was adopted.

HCR 11, relative to the preservation and revitalization of New Hampshire's rail-based corridors of commerce. OUGHT TO PASS

Rep. George N. Katsakiores for Transportation: This resolution urges the rail based "corridors of commerce" be revitalized and preserved in order to put railways on an even competitive playing field with other modes of transportation. Vote 12-0.

Rep. George Katsakiores spoke against.

The report failed.

Rep. George Katsakiores moved Ought to Pass with Amendment.

Rep. Below offered a floor amendment.

Floor Amendment (0758h

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

That the state's economically viable rail-based "Corridors of Commerce" and their associated Industrial and Commercial Opportunities be revitalized; and

That stimulation of private investment by state acquisition of complete unencumbered operable interchange-to-interchange rail corridors capable of economic development occur; and

That our remaining public and private rail infrastructure, to the full provisions and intent of RSA 228:60-a, be preserved; and

That mutually beneficial track and corridor-sharing agreements between owners and operators which maximize the utilization of New Hampshire's rail corridors be urged; and

That transportation policies which will eventually put railways on an even competitive playing field with airways, highways, and waterways be introduced; and

That the house clerk send copies of this resolution to the governor, the speaker of the house, the senate president, the commissioner of the department of transportation, and the state library.

Rep. Below spoke in favor.

Adopted.

Report adopted and ordered to third reading.

RESOLUTION

Rep. Wheeler the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, March 26, 1997 at 1:00 p.m.

Adopted.

LATE SESSION **Third reading and final passage**

HB 365, providing that communications made during family mediation shall be privileged.

HB 421, amending the law against discrimination to prohibit discrimination on account of a person's sexual orientation.

HB 495, prohibiting registered lobbyists from serving on the legislative ethics committee.

HB 622-FN, relative to legislative approval of settlements of court claims against the state.

HB 653-L, relative to address numbers on streets and highways and relative to penalties for violations of certain planning and zoning laws.

HB 294-L, relative to the placement of off-premises business directional signs in municipalities which prohibit such advertising devices.

HB 544, relative to dwellings which extend over public waters.

HB 628, relative to an agreement or contract for the Mount Sunapee or Cannon Mountain ski area operations, or both, establishing a committee to develop a proposal and review responses, and requiring review of any agreement or contract by the capital budget overview committee.

HB 693, establishing a house committee to examine water quality issues.

HB 528-L, relative to municipal water, gas and electric utilities.

HB 716-FN, relative to economic development and retention rates and special contracts.

HB 726-FN, relative to the jurisdiction and authority of the public utilities commission, and the underground utility damage prevention system and the 911 system.

HJR 2, urging the members of Congress to support and pass the Family Forestland Preservation Tax Act.

HB 203, relative to driving after a revocation or suspension of license.

HB 273-FN, increasing the age that child passenger restraints are required from 12 years of age to 18 years of age.

HB 329, clarifying the applicability of the fireman's rule.

HCR 11, relative to the preservation and revitalization of New Hampshire's rail-based corridors of commerce.

UNANIMOUS CONSENT

Rep. Sabella addressed the House.

RECESS MOTION

Rep. Wheeler moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments and enrolled bill reports only.

Adopted.

The House recessed at 5:10 p.m.

RECESS (Rep. Ann Torr in the Chair) RESOLUTION

Rep. Dickinson offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 1, 20, 25, 38, 40, 56, 74, 79, 81, 84, 85, 96, 101, 105, 106, 109, 112, 119, 124, 125, 131, 143, 151, 179, 189, 190 and 198 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF SENATE BILLS First, second reading and referral

SB 1, relative to exclusive arrangements with managed care insurers. (Commerce)

SB 20, establishing a committee to study presumptive sentencing. (Corrections and Criminal Justice)

SB 25, establishing employer immunity from civil liability for good faith disclosure of information regarding current and former employees to prospective employers. (Judiciary and Family Law)

SB 38, relative to certain activities under the workers' compensation law. (Labor, Industrial and Rehabilitative Services)

SB 40, relative to the payment of wages by employers. (Labor, Industrial and Rehabilitative Services)

SB 56, establishing a method for repurchase of tax-deeded property by the former owner of the property and limiting the recovery by municipalities of proceeds from sales of tax-deeded property. (Municipal and County Government)

SB 74, allowing holders of retail wine and combination wine and beverage licenses to sell fortified wines. (Local and Regulated Revenues)

SB 79, prohibiting the sale of gift certificates containing an expiration date, relative to unclaimed and abandoned property, and relative to liens on personal property. (Commerce)

SB 81, relative to the administration of estates. (Judiciary and Family Law)

SB 84, revising the uniform simultaneous death act. (Judiciary and Family Law)

SB 85, making technical changes in laws relative to the probate courts. (Judiciary and Family Law)

SB 96, relative to the priority of charges in probate of estates. (Judiciary and Family Law)

SB 101, requiring certain hospitals to file certain forms with the director of charitable trusts. (Commerce)

SB 105, relative to rent collection upon delinquency in payment of common expenses by condominium unit owners. (Commerce)

SB 106, establishing a committee to study the regulation of gas burner technicians and oil burner technicians. (Executive Departments and Administration)

SB 109, relative to the official ballot voting option. (Municipal and County Government)

SB 112, establishing a commission on environmental programs. (State-Federal Relations and Veterans Affairs)

SB 119, prohibiting a person convicted of any sexual offense, felony, or DWI offense from obtaining a waiver to remove the person's driver's license image from department of safety records. (Transportation)

SB 124, relative to the imposition of fines by the state board of licensure for land surveyors. (Executive Departments and Administration)

SB 125, relative to the right of entry upon lands for surveying. (Judiciary and Family Law)

SB 131-FN, allowing certain state employees to take paid leave to participate in disaster relief service work. (Executive Departments and Administration)

SB 143, authorizing a municipality to change the date for filing for an elderly exemption. (Local and Regulated Revenues)

SB 151, relative to final orders on appeals of decisions of zoning boards of adjustment. (Municipal and County Government)

SB 179, establishing a committee to study creating a New Hampshire local government records management improvement fund. (Municipal and County Government)

SB 189-FN-L, authorizing the department of safety to issue resident driver's licenses to certain aliens. (Transportation)

SB 190, exempting insurance companies newly located in New Hampshire from having to make payments to the administration fund during their first 3 years in the state and relative to investments by insurance companies in mutual funds. (Commerce)

SB 198-FN-L, relative to the standard for granting of variances by zoning boards of adjustment from dimensional requirements. (Municipal and County Government)

RECESS
(Rep. Gleason in the Chair)
RESOLUTION

Rep. Wheeler offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 810 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL
First, second reading and referral

HB 810-FN-A, appropriating certain funds from the highway surplus account to the department of Transportation. (G. Chandler, Carr 1, Schotanus, Sull 3; LaMott, Graf 5; Pfaff, Merr 11; K. Rogers, Merr 22; Pignatelli, Dist 13; Gordon, Dist 2: Finance)

RECESS
(Rep. Teschner in the Chair)
RESOLUTION

Rep. Alukonis offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 53 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL
First, second reading and referral

HB 53-FN-A, relative to the meals and rooms tax and tourism promotion and making appropriations therefor. (Burling, Sull 1; Avery, Ches 8: Finance)

RECESS