HOUSE RECORD

Second Year of the 155th Session of the General Court

Calendar and Journal of the 1998 Session

Vol. 20 Concord N.H. Thursday, January 15, 1998 No. 6

(HOUSE JOURNAL No. 1cont.)

Wednesday, January 7, 1998

Rep. Lozeau moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 2

Thursday, January 15, 1998

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker Pro Tem.

Her Excellency, Governor Jeanne Shaheen, joined the Speaker Pro Tem on the rostrum for the day's opening ceremonies.

Prayer was offered by Guest Chaplain, Rep. Eric N. Lindblade.

Our heavenly Father, age after age our prayers have come before Thee in this hall. What are these prayers? A part of history, a pleasant custom handed down from colonial days? A moment of silence in which to gather our thoughts? Nay, far more. As we lift our petitions on high for Thy guidance we also exhort those assembled here. Let the better self prevail. Let reason temper emotion. Let the special interest be the interest of all the people. Let no myopia of the mind blind us to the opportunities of the wider horizon. And above all, may we be ever mindful that for good or ill, that which we do here has consequences far beyond our ken and understanding. And so we pray, imbue us with Thy spirit, to the furtherance of every good and proper work. Amen.

Reps. Ackerman and Lynde led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Champagne, Earle Chandler, David Cote, Ferguson, Robert Foster, Gibbons, Healy, Howard, LaMott, Owen, Palmer, Pepino, Frances Riley, Sargent, Paul Taylor and Turner, the day, illness.

Reps. Adams, Boutin, Patricia Cote, Crosby, Gagnon, Golden, Hart, Robert Kelley, Lavoie, Kenneth MacDonald, Merritt, Nowe, Packard, Piteri, Rice and Simmons, the day, important business.

INTRODUCTION OF GUESTS

Stanley Stoncius and guests from the Baltic states, guests of Rep. Loren Jean. Chris Stawasz, guest of Rep. McGough. Susie Fawcett, guest of Rep. Kevin Smith.

SPECIAL GUESTS

Members of state 4-H clubs from 22 towns and cities who participated in the 1997 Eastern States Exposition, guests of the House.

The Moultonborough Girls' Varsity Class S championship softball team, guests of the House.

COMMITTEE ASSIGNMENTS

Rep. Peter F. Bergin on Judiciary and Family Law.

Rep. Jacqueline A. Pitts on Science, Technology and Energy; off State-Federal Relations and Veterans Affairs.

Rep. Jay T. White on State-Federal Relations and Veterans Affairs; off Science, Technology and Energy.

COMMITTEE REPORTS

CONSENT CALENDAR

Rep. Wheeler moved that the Consent Calendar as printed in the day's House Record be adopted.

Consent Calendar adopted.

HCR 21, encouraging the designation of the Connecticut River as an American Heritage River OUGHT TO PASS

Rep. Peter F. Bergin for State-Federal Relations and Veterans Affairs**:** The American Heritage Rivers Initiative application process for the Connecticut River has been an extensive one. Over 125 rivers throughout the United States have applied. Only 10 rivers will be nominated as American Heritage Rivers. The committee feels that the resolution will show President Clinton that the people of New Hampshire are supportive of this initiative . In ten months of the application process no one has stepped forward in opposition of this process. This does not affect any regulation or enact any regulation or affect any local or state regulations. Vote 13-0.

BILLS REMOVED FROM CONSENT CALENDAR ON JANUARY 7, 1998

HB 721, prohibiting certain tobacco or alcohol advertising within drug-free school zones. OUGHT TO PASS WITH AMENDMENT

Rep. Gregory G. Carson for Commerce**:** This legislation, as amended, is the epitome of the New Hampshire legislative process and local control. As amended, the bill authorizes municipalities to restrict the advertising of alcohol and tobacco products through the exercise of zoning powers. The committee does not make this recommendation lightly in the context of the First Amendment and freedom of speech considerations. This legislation allows communities to determine to what extent they wish to limit such advertisement. However, limitations are considered in the intent section of this legislation. Specifically, such limitation is to be no more extensive than is necessary to advance the communities' interest in reducing the exposure of youth to such advertising with the ultimate goal of reducing the incidence of youth consumption of tobacco and alcohol. Vote 12-2.

Amendment (0144h)

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

AN ACT authorizing municipalities to restrict the advertising of alcohol and tobacco through the exercise of zoning powers.

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

1 Findings; Intent.

I. The general court finds that there is a substantial governmental interest in permitting municipalities to regulate certain advertising of alcohol and tobacco in order to allow those municipalities which choose to do so to reduce the exposure of their young people, who are prohibited by state law from purchasing or using those substances, to the pernicious effects of such advertising.

II. The general court further finds that any municipality with an interest in reducing the incidence of youth exposure to certain tobacco and alcohol advertising, which is in turn

ultimately aimed at reducing illegal youth consumption of those substances, will be able to directly advance that interest by enacting zoning provisions aimed at restricting the advertising of tobacco and alcohol.

III. The general court further finds that the United States Supreme Court in the case of *Packer Corp. v. State of Utah,* 285 U.S. 105 (1932), as well as the United States Court of Appeals for the Fourth Circuit in the cases of *Penn Advertising v. Mayor and City Council of Baltimore*, 63 F. 3d. 318 (4th Cir. 1995), and *Anheuser-Busch, Inc. v. Schmoke*, 63 F. 3d. 1305 (4th Cir. 1995), have upheld the constitutionality of restrictions on advertising of tobacco and alcohol, including for the purpose of ultimately reducing the incidence of youth consumption of tobacco and alcohol.

IV. The general court intends by enacting this legislation to enable municipalities to restrict certain advertising of tobacco and alcohol in a manner which is no more extensive than is necessary to advance the government interest in reducing the exposure of youth to such advertising.

2 New Paragraph; Tobacco and Alcohol Advertising Restrictions. Amend RSA 674:16 by inserting after paragraph II the following new paragraph:

II-a. The power to adopt a zoning ordinance under this subdivision expressly includes the power to restrict certain means of advertising tobacco and alcohol as provided by RSA 674:23-a.

3 New Section; Authority to Restrict Advertising of Tobacco and Alcohol. Amend RSA 674 by inserting after section 23 the following new section:

674:23-a Authority to Ban or Restrict Certain Means of Advertising Tobacco and Alcohol.

I. The local legislative body of any city, town, or county in which there are located unincorporated towns or unorganized places is authorized to adopt or amend a zoning ordinance which includes a ban or restrictions on tobacco or alcohol advertisements within any area or zone within the boundaries of the city, town, or unincorporated town, or unincorporated place, including drug-free school zones as provided by RSA 193-B. Such ordinance shall be designed to further the public health interest and reduce illegal youth consumption of alcohol and tobacco.

II. As used in this section, "tobacco or alcohol advertisements" mean any stationary promotional display for tobacco or alcohol products designed to attract public attention which is visible from a public way including, but not limited to, signs, billboards, window displays, banners or permanent trailers. It shall not include in-store displays which are incidentally visible through a window.

III. The commissioner of transportation shall not grant a permit under RSA 236:72 for any tobacco or alcohol advertisements which would violate any ordinance adopted under this section.

4 Effective Date. This bill shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill permits a city, town, or unincorporated town or place to restrict by zoning ordinance alcohol and tobacco advertising within its boundaries.

Adopted.

Report adopted by the necessary two-thirds and ordered to third reading.

HB 353, establishing a committee to study issues regarding prosecutions and sentencing of, and incarceration treatment for, persons convicted of sex-related crimes. INEXPEDIENT TO LEGISLATE

Rep. William V. Knowles for Criminal Justice and Public Safety: This bill would have established a study committee regarding prosecution and sentencing of, and incarceration treatment for, persons convicted of sex-related crimes in New Hampshire. After hearing testimony from a county attorney and a superior court judge that there are significant protections for defendants, and twelve jurors must be convinced beyond a reasonable doubt that the accused is guilty, there didn't appear to be much to study. As for availability of treatment for sex offenders, the Department of Corrections would be happy to expand the program if the financing and space were available. The existing program is very successful for those they are able to treat. Follow-up treatment is also important. The Department of Corrections is working to get grants to expand the program. Vote 13-0.

Reps. William McCarthy and Vaillancourt spoke against.

Rep. Knowles spoke in favor.

On a division vote, 160 members having voted in the affirmative and 156 in the negative, the report was adopted.

(Speaker Sytek in the Chair)

SB 66, allowing a state resident to obtain a license for a pistol or revolver for life. INEXPEDIENT TO LEGISLATE

Rep. Richard F. Doucette for Criminal Justice and Public Safety**:** This bill would allow for a concealed weapons permit to be granted to a New Hampshire resident for life rather than the current four-year term. Testimony was overwhelming in opposition from law enforcement and many gun proponents. A persons mental and physical circumstances may change radically with age or other infirmity and for these reasons the committee felt that this was not a good idea. It was mentioned during testimony that Vermont had no permit requirements at all and there seemed to be no more firearm related problems in Vermont than any other state with a variety of firearm restrictions. One police chief was heard to say that he would rather have no law than to have a lifetime carry law, indicating the Vermont experience. Such a measure may be introduced in the Senate for the next session. This bill is not in the best interests of the firearm owners of this state and the committee voted to kill the measure. Vote 15-1.

Rep. David Welch moved Re-commit to Committee and spoke in favor.

Rep. McRae spoke in favor.

YEAS 188 NAYS 132

YEAS 188

BELKNAP

Bartlett, Gordon Boyce, Robert Clark, Charles Laflam, Robert

Lawton, David Pilliod, James Rosen, Ralph Salatiello, Thomas

Thomas, John Veazey, John

CARROLL

Babson, David, Jr. Bradley, Jeb Chandler, Gene Cooper, Kipp
Dickinson, Howard, Jr. Lyman, L. Randy Mock, Henry Patten, Betsey
Philbrick, Donald

CHESHIRE

Avery, Stephen DePecol, Benjamin Hunt, John McNamara, Wanda
Metzger, Katherine O'Connell, John Royce, H. Charles Smith, Edwin
Steere, Myron, III

COOS

Coulombe, Henry Coulombe, Yvonne Davis, Perley Horton, Lynn
Merrill, Gerald Pratt, Leighton Tholl, John, Jr.

GRAFTON

Akins, Ralph Alger, John Brown, Channing Chase, Paul, Jr.
Cobbin, Philip Eaton, Stephanie Guaraldi, Lawrence Hill, Richard
Hinman, Harry MacNeil, Allen Mirski, Paul Phinney, William
Trelfa, Richard Weber, Phil Williams, William, Jr

.

HILLSBOROUGH

Ackerman, Philip Alukonis, David Amidon, Eleanor Arnold, Thomas, Jr.
Baroody, Benjamin Batula, Peter Belvin, William Bergin, Peter
Buckley, Raymond Burke, M. Virginia Calawa, Leon, Jr. Carlson, Donald
Christiansen, Lars Clay, Susan Clegg, Robert, Jr. Daniels, Gary
Dawe, Eileen Dokmo, Cynthia Durham, Susan Dyer, Merton

Emerton, Lawrence, Sr.	Fenton, James	Flora, Kathleen	Franks, Suzan
Golding, William	Gosselin, Gerald	Goulet, Maurice	Hansen, Herbert
Herman, Keith	Holley, Sylvia	Hunter, Bruce	Jean, Loren
Johnson, Lionel	Kurk, Neal	L'Heureux, Robert	LaRose, Richard
Lessard, Rudy	Letendre, Evelyn	Lozeau, Donnalee	Luebkert, Bernard
MacGillivray, Jeffrey	MacIntyre, Doris	Marcinkowski, Michael	McCarthy, William
McCarty, Winston	McGough, Tim	McRae, Karen	Mercer, Robert
O'Hearn, Jane	Peterson, Andrew	Reidy, Frank	Rowe, Robert
Searles, Stanley, Sr.	Thulander, O. Alan	Wheeler, Robert	White, Donald
Wright, George			

MERRIMACK

Anderson, Eric	Brown, Mary	Colburn, Thomas	Crowell, Peter
Hager, Elizabeth	Krueger, Patricia	Lamach, Bernard	Larrabee, David
Leber, William	Lockwood, Robert	Marshall, Kenneth	Maxfield, Roy
Morrill, Olive	Nichols, Avis	Pfaff, Terence	Seldin, Gloria
Whalley, Michael	Whittemore, James		

ROCKINGHAM

Arndt, Janet	Beaulieu, Jon	Belanger, Ronald	Bishop, Franklin
Camm, Kevin	Carson, Gregory	Case, Margaret	Cooney, Richard
Dearborn, Bruce	Dodge, Robert	Dowd, Sandra	Dunham, Vivian
Felch, Charles, Sr.	Fesh, Robert	Flanagan, Natalie	Flanders, John, Sr.
Francoeur, Sheila	Griffin, Mary	Guthrie, Joseph	Henderson, Warren
Katsakiores, George	Katsakiores, Phyllis	Klemm, Arthur, Jr.	Langley, Jane
Langone, John	Letourneau, Robert	Major, Norman	Malcolm, Kenneth
McKinney, Betsy	Mikowlski, Walter	Morris, Debbie	Noyes, Richard
Pitts, Jacqueline	Rabideau, Marie	Raynowska, Bernard	Smith, Kevin
Stickney, Nancy	Stone, Joseph	Stritch, C. Donald	Tufts, J. Arthur
Varrell, Thomas	Verani, Giovanni	Welch, David	Weyler, Kenneth

STRAFFORD

Berube, Roger	Brown, Julie	Cossette, Larry	McKinley, Robert
Merrill, Amanda	Musler, George	Spear, Barbara	Sullivan, Henry
Torr, Ann	Torr, Franklin	Tsiros, William	Wall, Janet

SULLIVAN

Adler, Rudolf	Burling, Peter	Flint, Gordon	Kibbey, David
Leone, Richard	Lindblade, Eric	Schotanus, Merle	

NAYS 132

BELKNAP

Boriso, Thomas	Calvert, Alice	Holbrook, Robert	Lawton, Robert

CARROLL

None

CHESHIRE

Bonneau, Sarah	Burnham, Daniel	Doucette, Richard	Lynch, Margaret
Lynott, Margaret	Manning, Joseph	McGuirk, Paul	Meader, David
Pratt, Irene	Pratt, John	Richardson, Barbara	Riley, William
Robertson, Timothy	Russell, Ronald	Vogl, John	

COOS

Bradley, Paula	Hawkinson, Marie	Mears, Edgar	Moynihan, Wayne

GRAFTON

Almy, Susan	Below, Clifton	Copenhaver, Marion	Lovett, Sidney
Luker, Elsa	Nordgren, Sharon	Root, John	

HILLSBOROUGH

Allen, W. Gordon	Ameen, W.	Barry, William, III	Briefs, Geoffrey
Brundige, Robert	Cardin, Lori	Chabot, Robert	Clemons, Jane
Cote, Peter	D'Allesandro, Lou	Daigle, Robert	Desrosiers, William
Drabinowicz, A. Theresa	Dwyer, Paul, Sr.	Foster, Joseph	Foster, Linda
Ginsburg, Ruth	Haettenschwiller, Alphonse Hall, Betty	Jean, Claudette	
Konys, Christine	Leonard, Peter	Lynde, Harold	MacAuslan, Rita
McDonald, James, Sr.	Melcher, Harold	Messier, Irene	Milligan, Robert
Murphy, Robert	O'Rourke, Thomas	Perkins, Paul	Turgeon, Roland
Vaillancourt, Steve	White, Jay	Williams, Carol	

MERRIMACK

Daneault, Gabriel	DeStefano, Stephen	Dunn, Miriam	Feuerstein, Martin
Fraser, Marilyn	Gile, Mary	Hoadley, Elizabeth	Jacobson, Alf
Langer, Ray	Moore, Carol	Reardon, Tara	Rogers, Katherine
Wallin, Jean	Wallner, Mary Jane	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Battles-Peirce, Marjorie	Blanchard, MaryAnn	Clark, Martha
Coes, Betsy	Cushing, Robert	Dalrymple, Janeen	Dolan, Richard
Downing, Michael	Frechette, Joseph	Heath, John	Hutchinson, Rebecca
Kane, Cecelia	Kelley, Jane	Kobel, Rudolph	Lovejoy, Marian
McCarthy, John, Jr.	Norelli, Terie	O'Keefe, Patricia	Pantelakos, Laura
Sabella, Norma	Sapareto, Frank	Schanda, Frank	Syracusa, Anthony
Vaughn, Charles	Weatherspoon, Jackie		

STRAFFORD

Brennan, William	Brown, George	Callaghan, Frank	DeChane, Marlene
Dunlap, Patricia	Estabrook, Iris	Grassie, Anne	Hemon, Roland
Kaen, Naida	Keans, Sandra	Knowles, William	Lundborn, Raymond
Pelletier, Arthur	Rogers, Rose Marie	Rollo, Michael	Smith, Marjorie
Snyder, Clair	Taylor, Kathleen	Twardus, Joseph	Vachon, Dennis

SULLIVAN

Allison, DavidRobb-Theroux, Amy	Wiggins, Celestine

and the motion was adopted.

Reps. Cegelis and Guay did not vote and wished to be recorded in favor.

CACR 9, relating to requiring that the attorney general be elected by the legislature. Providing that the attorney general be chosen by joint ballot of the senators and representatives. INEXPEDIENT TO LEGISLATE

Rep. Janet S. Arndt for Election Law**:** The committee felt that election by the Legislature would not serve to "de-politicize" the Attorney General's Office. Vote 11-0.

Reps. Mirski and Cobbin spoke against and yielded to questions.

Rep. Arnold spoke in favor and yielded to questions.

Rep. Buckley spoke against.

Reps. William Riley and Joseph Foster spoke in favor.

Rep. Cobbin requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 268 NAYS 67

YEAS 268

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Calvert, Alice	Clark, Charles
Holbrook, Robert	Lawton, Robert	Pilliod, James	Thomas, John
Veazey, John			

CARROLL

Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Cooper, Kipp
Dickinson, Howard, Jr.	Kenney, Joseph	Lyman, L. Randy	Mock, Henry
Patten, Betsey	Philbrick, Donald		

CHESHIRE

Avery, Stephen	Bonneau, Sarah	Burnham, Daniel	Hunt, John
Lynch, Margaret	Lynott, Margaret	Manning, Joseph	McGuirk, Paul
McNamara, Wanda	Meader, David	Metzger, Katherine	Pratt, Irene
Pratt, John	Richardson, Barbara	Riley, William	Robertson, Timothy
Royce, H. Charles	Smith, Edwin	Steere, Myron, III	Vogl, John

COOS

Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Davis, Perley
Guay, Lawrence	Hawkinson, Marie	Horton, Lynn	Merrill, Gerald
Moynihan, Wayne	Pratt, Leighton	Tholl, John, Jr.	

GRAFTON

Akins, Ralph	Almy, Susan	Below, Clifton	Brown, Channing
Chase, Paul, Jr.	Copenhaver, Marion	Eaton, Stephanie	Guaraldi, Lawrence
Guest, Robert	Hill, Richard	Luker, Elsa	MacNeil, Allen

Nordgren, Sharon	Phinney, William	Root, John	Teschner, Douglass
Trelfa, Richard	Williams, William, Jr.		

HILLSBOROUGH

Ackerman, Philip	Allen, W. Gordon	Alukonis, David	Ameen, W.
Amidon, Eleanor	Arnold, Thomas, Jr.	Baroody, Benjamin	Barry, William, III
Batula, Peter	Belvin, William	Bergin, Peter	Briefs, Geoffrey
Brundige, Robert	Burke, M. Virginia	Calawa, Leon, Jr.	Cardin, Lori
Carney, Lauren	Chabot, Robert	Clay, Susan	Clegg, Robert, Jr.
Cote, Peter	Daniels, Gary	Dawe, Eileen	Desrosiers, William
Dokmo, Cynthia	Drabinowicz, A. Theresa	Durham, Susan	Dwyer, Paul, Sr.
Emerton, Lawrence, Sr.	Flora, Kathleen	Foster, Joseph	Foster, Linda
Franks, Suzan	Ginsburg, Ruth	Golding, William	Gosselin, Gerald
Goulet, Maurice	Haettenschwiller, Alphonse Hall, Betty	Hansen, Herbert	
Herman, Keith	Holley, Sylvia	Holt, David	Hunter, Bruce
Jean, Claudette	Jean, Loren	Johnson, Lionel	Konys, Christine
Kurk, Neal	L'Heureux, Robert	LaRose, Richard	Leonard, Peter
Lessard, Rudy	Lozeau, Donnalee	Lynde, Harold	MacAuslan, Rita
MacGillivray, Jeffrey	MacIntyre, Doris	Marcinkowski, Michael	McCarthy, William
McCarty, Winston	McDonald, James, Sr.	McGough, Tim	Melcher, Harold
Mercer, Robert	Messier, Irene	Milligan, Robert	Mittelman, David
Morello, Michael	Murphy, Robert	O'Hearn, Jane	O'Rourke, Thomas
Perkins, Paul	Peterson, Andrew	Reidy, Frank	Rowe, Robert
Searles, Stanley, Sr.	Thulander, O. Alan	Turgeon, Roland	Vaillancourt, Steve
Wheeler, Robert	White, Jay	Wright, George	

MERRIMACK

Anderson, Eric	Daneault, Gabriel	DeStefano, Stephen	Dunn, Miriam
Feuerstein, Martin	Fraser, Marilyn	French, Barbara	Gile, Mary
Hager, Elizabeth	Hess, David	Hoadley, Elizabeth	Jacobson, Alf
Lamach, Bernard	Larrabee, David	Lockwood, Robert	Marshall, Kenneth

Maxfield, Roy	Morrill, Olive	Nichols, Avis	Pfaff, Terence
Reardon, Tara	Seldin, Gloria	St. Cyr, Gerard	Wallin, Jean
Whalley, Michael	Whittemore, James	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Arndt, Janet	Battles-Peirce, Marjorie	Belanger, Ronald
Bishop, Franklin	Blanchard, MaryAnn	Case, Margaret	Coes, Betsy
Cooney, Richard	Dearborn, Bruce	Dolan, Richard	Dowd, Sandra
Downing, Michael	Dunham, Vivian	Felch, Charles, Sr.	Fesh, Robert
Flanagan, Natalie	Flanders, John, Sr.	Francoeur, Sheila	Frechette, Joseph
Gleason, John	Griffin, Mary	Guthrie, Joseph	Heath, John
Henderson, Warren	Hutchinson, Rebecca	Katsakiores, George	Katsakiores, Phyllis
Kelley, Jane	Klemm, Arthur, Jr.	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Lovejoy, Marian	Major, Norman
McCarthy, John, Jr.	McKinney, Betsy	Micklon, Stephanie	Norelli, Terie
Noyes, Richard	Pantelakos, Laura	Pitts, Jacqueline	Sabella, Norma
Schanda, Frank	Stickney, Nancy	Stone, Joseph	Stritch, C. Donald
Syracusa, Anthony	Tufts, J. Arthur	Varrell, Thomas	Vaughn, Charles
Weatherspoon, Jackie	Welch, David		

STRAFFORD

Berube, Roger	Brown, George	Brown, Julie	Callaghan, Frank
Cossette, Larry	Dunlap, Patricia	Estabrook, Iris	Grassie, Anne
Kaen, Naida	Keans, Sandra	Knowles, William	Lundborn, Raymond
McKinley, Robert	Merrill, Amanda	Musler, George	Pelletier, Arthur
Rogers, Rose Marie	Rollo, Michael	Smith, Marjorie	Snyder, Clair
Spear, Barbara	Sullivan, Henry	Taylor, Kathleen	Torr, Ann
Torr, Franklin	Tsiros, William	Twardus, Joseph	Wall, Janet

SULLIVAN

Adler, Rudolf	Donovan, Thomas	Ferland, Brenda	Leone, Richard
Lindblade, Eric	Robb-Theroux, Amy	Schotanus, Merle	Wiggins, Celestine

NAYS 67

BELKNAP

Boyce, Robert	Laflam, Robert	Lawton, David	Rosen, Ralph
Salatiello, Thomas			

CARROLL

None

CHESHIRE

DePecol, Benjamin	Doucette, Richard	O'Connell, John	Russell, Ronald

COOS

Mears, Edgar

GRAFTON

Alger, John	Cobbin, Philip	Hinman, Harry	Lovett, Sidney
Mirski, Paul	Weber, Phil		

HILLSBOROUGH

Buckley, Raymond	Carlson, Donald	Christiansen, Lars	Clemons, Jane
D'Allesandro, Lou	Daigle, Robert	Dyer, Merton	Fenton, James
Letendre, Evelyn	Luebkert, Bernard	Martin, Mary	McRae, Karen
White, Donald	Williams, Carol		

MERRIMACK

Brown, Mary	Colburn, Thomas	Crowell, Peter	Krueger, Patricia
Langer, Ray	Leber, William	Moore, Carol	Rogers, Katherine
Wallner, Mary Jane			

ROCKINGHAM

Beaulieu, Jon	Camm, Kevin	Carson, Gregory	Clark, Martha
Cushing, Robert	Dalrymple, Janeen	Dodge, Robert	Kane, Cecelia
Malcolm, Kenneth	Mikowlski, Walter	Moore, Benjamin	Morris, Debbie
O'Keefe, Patricia	Rabideau, Marie	Raynowska, Bernard	Sapareto, Frank
Smith, Kevin	Verani, Giovanni	Weyler, Kenneth	

STRAFFORD

Bickford, David	Brennan, William	DeChane, Marlene	Hemon, Roland

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Flint, Gordon
Kibbey, David			

and the report was adopted.

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

. **HB 535,** relative to the regulation of architects. OUGHT TO PASS WITH AMENDMENT

Rep. Kipp A. Cooper for Executive Departments and Administration: This bill slightly modifies the definition of architecture, changes the board's authority and to adopt administrative rules, gives the board authority to assess administrative fines, and establishes requirements for administrative hearings. As amended, this bill has the support of the Architects Board and the Board of Professional Engineers. Vote 18-0

Amendment (0183h)

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

1 Definition Modified. Amend RSA 310-A:28, II to read as follows:

II. "Architecture" means any professional service or creative work requiring the application of advanced knowledge of architectural design, building construction and standards, and involving the constant exercise of discretion and judgment in such activities as ***design of, or*** consultation, investigation, evaluation, planning, [~~design~~] or responsible [~~supervision~~] ***observation*** of construction in connection with***,*** any public or private buildings wherein the safeguarding of life, health***, welfare,*** or property is concerned.

2 Sentence Structure Corrected. Amend RSA 310-A:29, II to read as follows:

II. Each member of the board shall be a citizen of the United States and a resident of this state. Each architect member shall have actively practiced architecture [~~for~~] ***as*** the ***member's*** chief means of livelihood for at least 10 years prior to appointment and shall have held a responsible position in charge of such work for at least 5 years prior to appointment, which may include the teaching of architecture.

3 Reference to Architects' Fund Removed. Amend RSA 310-A:29, IV to read as follows:

IV. [~~In addition to any moneys received under RSA 310-A:34,~~] Members of the board shall receive $25 for each day actually engaged in the duties of their office and shall be reimbursed for all actual travel, incidental and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

4 Board Secretary's Duties Regarding Roster. Amend RSA 310-A:29, VII as follows:

VII. The secretary of the board shall [~~publish~~] ***maintain*** a roster listing the names and places of business of all architects licensed under this subdivision by the board [~~during February of each even numbered year~~]. Copies of this roster shall be mailed ***upon request*** to each person so licensed, placed on file with the secretary of state, and furnished to the public upon request at a fee to be established by the board. The board may include in such roster any other information it deems appropriate.

5 Rulemaking Authority, Fee Requirements, and Receipts and Disbursements Accounting. Amend RSA 310-A:32-34 to read as follows:

310-A:32 Rulemaking Authority.

I. The board shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The application procedure for a license to practice under this subdivision[~~;~~]**.**

(b) The qualifications of applicants in addition to those requirements set by statute, and including the qualifications for satisfactory evidence of good professional character[~~;~~]**.**

(c) How an applicant shall be examined, including the time and place of the examination[~~;~~]**.**

(d) How a license to practice under this subdivision shall be renewed ***or reinstated, including any requirements for continuing education***[~~;~~]**.**

(e) The establishment of all fees required under this subdivision[~~;~~]**.**

(f) Ethical and professional standards required to be met by each holder of a license under this subdivision and how disciplinary actions by the board shall be implemented for violations of these standards[~~;~~]**.**

(g) Matters related to the proper administration of this subdivision[~~;~~]**.**

(h) Procedures for the conduct of hearings consistent with the requirements of due process[~~;~~]**.**

(i) The design of an official seal[~~;~~]**.**

[~~(j) The salary of the board secretary; and~~

~~(k) Application procedures of and issuance of corporate engineering certificates.~~]

II. In adopting any rule under this section, the board may consult with the joint board established under RSA 310-A:1.

III. [~~At least 40 days prior to~~] Any hearing to be held pursuant to RSA 541-A:11[~~, the board shall furnish a copy of any proposed rules of professional conduct, or amendments thereto, to all affected professionals licensed by the board~~] ***shall be advertised as specified under RSA 541-A***.

310-A:33 Fees. The board shall establish fees for examination of applicants, for licenses, for certificates of authorization, for reissuance of licenses, for renewal of licenses and certificates to practice under this subdivision, and for transcribing and transferring records and other services. ***The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.***

310-A:34 Receipts and Disbursements. [~~There shall be a board secretary who shall receive and~~] ***A staff administrator appointed by the joint board shall*** account for all moneys derived under the provisions of this subdivision and shall pay the same to the state treasurer [~~who shall keep such moneys in a separate fund to be known as the "Architects' Fund." Such fund shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only for purposes of this subdivision. All moneys in the fund are hereby specifically appropriated for the use of the board. The secretary of the board shall receive such salary as the board shall determine. The board may employ such clerical and other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which is reasonably necessary for the proper performance of its duties under this subdivision. Under no circumstances shall the total amount of payments made under this section exceed the amount of the fees collected~~].

6 Licensure Requirement. Amend RSA 310-A:37 to read as follows:

310-A:37 Licensure Required. No person shall practice architecture in this state[~~, except as permitted in RSA 310-A:52,~~] without an architect's license issued under this subdivision. ***The scope of architectural practice is defined in RSA 310-A:28, II and 310-A:52.***

7 Certificates and Interstate Licensure Requirements. Amend RSA 310-A:44-46 to read as follows:

310-A:44 Certificates; Seals. The board shall issue a license upon payment of the registration fee established by the board, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this subdivision. Licenses shall show the full name of the licensee, have a serial number, and be signed by the chairperson and the secretary of the board under seal of the board. The issuance of a license by the board shall be prima facie evidence that the person named in the license is entitled to all the rights and privileges of a licensed architect while the license remains valid. Each licensee shall upon licensure obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "Licensed Architect." All papers or documents involving the practice of [~~a profession~~] ***architecture*** under this subdivision, when issued or filed for public record, shall be dated and bear the signature and seal of the licensed [~~professional~~] ***architect*** who prepared or had responsibility for and approved them ***in accordance with the rules of conduct adopted by the board pursuant to RSA 310-A:32, I(f)***. It shall be a class B misdemeanor for the licensee to stamp or seal any documents with such seal after the license of the licensee has expired or has been revoked, unless such license shall have been renewed or reissued. ***This section shall not apply to those persons exempted under RSA 310-A:52, III and IV.***

310-A:45 Interstate Licensure.

I. The board in its discretion may, upon application and the payment of a fee, issue an architect's license to any person who holds a National Council of Architectural Registration Board certificate[~~, or to any person who holds an unexpired license or certificate of registration issued by any state, territory or possession of the United States, provided that the applicant's qualifications meet the requirements of this subdivision and the rules established by the board~~].

II. The board may grant an architect's license to any applicant who [~~is similarly licensed in any other state, provided the other state's licensing requirements are substantially equivalent to or higher than those of this state~~] ***holds an unexpired license or certificate of registration issued by any state, territory or possession of the United States, or a province of Canada, provided that the applicant's qualifications for initial licensure in that jurisdiction were substantially similar to those in New Hampshire at the time the license was granted, and provided that the applicant has continued to maintain the same level of professional character and competence required of persons licensed under this subdivision and the rules of the board.***

III. A nonresident architect seeking to render architectural services ***or to participate in a competition*** in this state, who holds an unexpired license or certificate of registration issued by the state in which such person's principal office is located, and such other certification as the board deems necessary, ***after having given notice to the board and prospective clients in writing,*** shall be permitted to offer to render such architectural services in this state without first having been licensed by this state, but shall not practice architecture until licensed in this state.

310-A:46 Expiration and Renewals. All licenses issued by the board shall expire on the last day of the month of the licensee's birth in the year 2 years following the year of issuance. The board shall cause notification of the impending license expiration to be sent to each licensee at least one

month prior to the expiration date of the license. If the renewal fee is not submitted [~~within 12~~] ***on time, a late fee shall be charged as established by the board, and after 6*** months [~~after the expiration date of the license~~], the [~~licensee's name shall be removed from the mailing list and roster~~] ***the licensee shall file an application for reinstatement. The board shall establish reinstatement procedures pursuant to RSA 541-A.***

8 Board's Authority in Disciplinary Actions. RSA 310-A:47 is repealed and reenacted to read as follows:

310-A:47 Disciplinary Action.

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

(b) Upon written complaint of any person which charges that a person licensed by the board has committed misconduct as set forth in paragraph II of this section and which specifies the ground therefor.

II. The board, after notice and opportunity for hearing, may take disciplinary action against any person licensed by it upon finding that the person:

(a) Has knowingly provided false information during any application for professional licensure, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.

(b) Is a habitual user of drugs or intoxicants or is afflicted with physical disability, insanity, psychiatric disorders, or other disease deemed dangerous to the public health.

(c) Dishonest or unprofessional conduct related to the practice of the profession or any particular aspect or specialty thereof, including, but not limited to: violation of state or federal laws pertaining to the practice of the profession; nationally recognized ethical code or set of ethical principles pertaining to the profession; or violation of any ethical code or principles identified in rules adopted by the board.

(d) Unfitness or incompetence to practice any particular aspect of the profession, as evidenced by, in a context related to the practice of the profession, gross or repeated negligence; or a pattern of conduct inconsistent with the basic skills, knowledge, or professional character expected of licensed practitioners.

(e) Has included in advertising any statement of a character tending to deceive or mislead the public or any statement claiming professional superiority.

(f) Has violated any provision of this chapter or any substantive rule of the board.

(g) Has been convicted of a felony under the laws of the United States or any state.

III. The board may take disciplinary action in any one or more of the following ways:

(a) By reprimand.

(b) By suspension, limitation, or restriction of a license, or probation for a period of time as determined reasonable by the board.

(c) By revocation of license.

(d) By requiring the person to submit to the care, treatment, or observation of a physician, counseling service, health care facility, professional assistance program, or any combination thereof which is acceptable to the board.

(e) By requiring the person to participate in a program of continuing professional education in the area or areas of which the person has been found deficient.

(f) By assessing administrative fines in amounts established by the board which shall not exceed $2,000 per offense, or, in the case of continuing offenses, $500 for each day that the violation continues, whichever is greater.

IV. The board may issue a nondisciplinary reprimand to licensees when the conduct in question does not violate RSA 310-A:47, II but would be likely to do so if it were repeated or if it differed only in some matter of degree, or if the public health and safety clearly warrants the elimination of the practice. Such letters may be publicly released as a public reprimand, or may be

kept confidential as a private reprimand, in the board's discretion. In either case, nondisciplinary actions shall not constitute disciplinary action, and shall not be subject to judicial review. Such action may, however, be introduced as evidence in any subsequent disciplinary proceeding against the licensee to the extent it may be relevant to any issue of prior notice, repetition, or licensee cooperation.

V. No civil action shall be maintained against the board or any member of the board or its agents or employees with regard to any action or activity taken in the performance of any duty or authority established by this chapter. No civil action shall be maintained against any organization or its members or against any other person for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

VI. Allegations of professional misconduct or other violations of this chapter enforceable by the board shall be brought within 6 years from the time the board could reasonably have discovered the act, omission or failure complained of, except that conduct which resulted in a criminal conviction or in a disciplinary action by a relevant licensing authority in another jurisdiction may be considered by the board without time limitation in making licensing or disciplinary decisions if the conduct would otherwise be grounds for discipline under this chapter. The board may also consider licensee conduct without time limitation when the ultimate issue before the board involves a pattern of conduct or the cumulative effect of conduct which becomes apparent as a result of conduct which has occurred within the 6 year limitation period prescribed by this paragraph.

9 New Sections; Disciplinary Actions. Amend RSA 310-A by inserting after section 47 the following new sections:

310-A:47-b Investigations.

I. The board may investigate possible misconduct by licensees and applicants, and other matters within the scope of this chapter, including unauthorized practice. Investigations shall be conducted with the issuance of a board order setting forth the general scope of the investigation.

II. The board may commence a formal or informal investigation, or an adjudicative hearing, concerning allegations of misconduct and other matters within the scope of this chapter on its own motion whenever it has a reasonable basis for doing so, and the type of procedure chosen shall be a matter reserved to the discretion of the board. Formal or informal investigations may be conducted on an ex parte basis. The conclusion reached in all investigations shall be reduced to writing and served upon the parties. Such conclusions shall not be public until they are served upon the parties.

III. The board may administer oaths or affirmations, preserve testimony, and issue subpoenas for witnesses and for documents during any formal investigation or adjudicatory hearing, and as provided by paragraph IV of this section. The board may issue subpoenas with the approval of the office of the attorney general. Any subpoena issued by the board shall first be approved by the office of the attorney general. Subpoenas not covered by paragraph IV shall be served in accordance with the procedures and fee schedules established by the superior court, except that:

(a) Board licensees shall not be entitled to a witness fee or mileage expenses for travel within the state.

(b) Witness fees and mileage expenses need not be tendered in advance if the subpoena is annotated "Fees Guaranteed by the New Hampshire Joint Board."

(c) The respondent shall be allowed at least 48 hours to comply.

IV. The board may at any time subpoena the professional records of its licensees. Such subpoenas shall be served by certified mail or by personal delivery to the address provided to the board pursuant to the application and licensure requirements established by the board, and no witness or other fee shall be necessary for valid service. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena duces tecum issued under this chapter.

V. Persons holding or applying for licenses or other privileges granted by the board shall keep the board informed of their current business and residence addresses, and shall furnish written notice to the board of any change in such addresses within 30 days from the date the change occurs. A licensee or applicant shall receive adequate notice of any hearing or other action taken by the board under this chapter if notice is mailed in a timely fashion to the most recent home or business address furnished under this paragraph.

VI.(a) Complaints of licensee misconduct shall be in writing, and shall be treated as requests for the commencement of a disciplinary hearing to which the time limitations of RSA 541-A:29 shall not apply.

(b) A complaint which fails to state a cause of action may be dismissed or summarily denied in whole or in part.

(c) The board shall investigate all complaints to the extent warranted by the allegations and the resources available to the board. Following an investigation, the board shall have discretion to decline to prosecute or to defer prosecution on allegations made in any complaint based upon the board's assessment of the seriousness of the alleged misconduct and the resources and

priorities of the board. Board decisions deferring misconduct prosecutions shall be final and shall be subject to judicial review.

(d) Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the board wishes to investigate or hear on its own motion.

(e) The board may at any time settle misconduct allegations made in a complaint without the consent of the complainant, provided that material facts are not in dispute and the complainant is given an opportunity to comment in writing upon the terms of the proposed settlement.

VII. At the commencement of an adjudicatory proceeding, or at any time during a formal or informal investigation, and without issuing a subpoena, the board, or a person to whom the board has delegated appropriate authority, may mail a statement of the allegations being investigated to a licensee and order that person to provide a detailed and good faith written response. In such circumstances, the board may also require a licensee to furnish complete copies of appropriate professional records concerning matters relevant to allegations at issue. In both instances, the licensee shall respond within a reasonable time period of not less than 15 days, as the board may specify in its written order.

10 Hearings. RSA 310-A:48 and 49 are repealed and reenacted to read as follows:

310-A:48 Hearings.

I. Except as otherwise provided by this section, adjudicative proceedings shall be open to the public. The board's public docket file for each such proceeding shall include a taped or written record of all oral hearings and shall be retained for public inspection for at least 6 years from the issuance of the board's final decision.

II.(a) Any member of the board, or any other qualified person appointed by the board, may act as the presiding officer in an adjudicative proceeding any may issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and prepare a proposal for decision as provided by RSA 541-A:34, without regard to any quorum requirements otherwise applicable to board action or activities.

(b) If the person acting as a presiding officer prepares a recommended decision, that person shall not participate in the board's deliberations or otherwise assist the board in he preparation of its final decision.

(c) If a nonboard member acts as a presiding officer and no recommended decision is prepared, that person may participate in board deliberations to the extent of providing technical assistance to the board in preparing its final decision.

III.(a) Except as otherwise provided by this chapter or RSA 541-A:30, respondents in adjudicative proceedings shall receive at least 15 days' written notice of the date, time, and place of a hearing. Hearing notices shall include an itemization of the issues to be hear and shall be public documents.

(b) When the board issues a hearing notice after investigating allegations contained in a written compliant, the hearing notice shall constitute a final determination of the complainant's request for the commencement of a disciplinary proceeding on each of the allegations raised in the complaint. The hearing notice shall be served upon the complainant as well as the

licensee, and provide the complainant with an opportunity to intervene subject to restrictions which reasonably advance the public interest objectives of this chapter.

(c) Any person appearing as a party or witness in an adjudicatory proceeding, or any person who is the subject of an investigation, or who is questioned in an investigation, may be represented by legal counsel, but the board shall have no obligation or authority to appoint or provide an attorney to any such person.

IV. In adjudicative proceeding, the presiding officer may hold prehearing conferences which are closed to the public and exempt from provisions of RSA 91-A until such time as the first session of the public evidentiary hearing is convened. In all instances, however, any settlement discussions engaged in at prehearing conferences may be conducted off the record.

V. The board may dispose of issues or allegations at any time during an investigation or adjudicative proceeding by issuing a settlement agreement or consent order; an order of dismissal for default or failure to state a proper basis for disciplinary action; or a summary judgment order based upon undisputed material facts, provided, however, that disciplinary action taken by the board at any time and in any context, and any dispositive action taken after the issuance of a public hearing notice, shall be reduced to writing and made available to the public.

VI. Final decisions in adjudicative proceedings shall be made by a majority of the board members eligible to participate in the decision, and the board's deliberative processes in such cases shall be privileged, confidential, and exempt from the public disclosure provisions of RSA 91-A. Decisions and orders in adjudicatory proceedings, including prehearing orders required by RSA 541-A:31, V(d), shall be publicly available, but only after they have been reduced to writing, signed by a representative of the board, and served upon the parties.

VII. Final decisions in adjudicative proceedings may be appealed to the supreme court pursuant to RSA 541. Disciplinary actions taken by the board shall not be subject to stay pending appeal.

310-A:49 License Reinstatement. Persons whose licensees have expired, been surrendered, or been revoked may apply to the board for reinstatement upon such forms and in accordance with such requirements as the board may impose through the adoption of Rules under RSA 541-A.

11 Violations. Amend the introductory paragraph of RSA 310-A:50, I to read as follows:

I. It shall be a class B misdemeanor for any natural person or a felony for any [~~business organization~~] ***other person*** to:

12 Exemptions. Amend RSA 310-A:52, IV to read as follows:

IV. The preparation of drawings and specifications for, and the supervision [~~and~~] ***of the construction or*** alteration of, any structure which does not have as its principal structural members reinforced concrete or structural steel [~~and~~]***;*** is 2-1/2 stories or less[~~, and~~]***; is*** 4,000 square feet ***of total building area*** or less[~~,~~]***;*** and is not a building of assembly, which includes schools, churches, auditoriums, theaters, hospitals and any building for the elderly.

V. The practice of engineering by a duly licensed engineer.

13 Repeal. RSA 310-A:28, IV, relative to the definition of business organizations, is repealed.

14 Effective Date. This act shall take effect July 1, 1998.

AMENDED ANALYSIS

This bill:

I. Changes the definition of "architecture."

II. Changes the duties of the secretary of the board of architects.

III. Changes the board's authority and duty to adopt administrative rules and to provide copies of proposed rules to certain persons.

IV. Requires that fees collected by the board reach a certain minimum amount.

V. Changes examination requirements, certificates, and interstate licensure requirements for acting as an architect.

VI. Changes the board's authority to undertake disciplinary proceedings.

VII. Gives the board authority to assess administrative fines for unauthorized practice and to conduct certain investigations.

VIII. Establishes requirements for administrative hearings and gives the board specific authority in conducting such hearings.

IX. Changes the board's hearings process.

X. Changes the requirements for the reissuance of licenses.

XI. Repeals the law defining "business organization" for the purposes of the subdivision on architecture.

Rep. Mirski spoke against.

Rep. Cooper spoke in favor.

Adopted.

Report adopted and ordered to third reading.

HB 108-FN-A, relative to the rate of the legacies and successions tax as it applies to siblings of the decedent together with their spouses and lineal ascendants and descendants of siblings of the decedent together with their spouses. REFER FOR INTERIM STUDY

Rep. David J. Alukonis for Finance**:** The sponsors and supporters of this bill urged that the state reform the legacies and successions tax in order to bring a greater level of equity to the application of

the tax. Currently, lineal descendants and ascendants (parents, grandparents, children, grandchildren, etc.) are exempt from paying the tax, while non-lineal heirs (brothers, sisters, cousins, nieces, nephews, friends, etc.) are required to pay to the state a tax of 18% of all inheritances received.

In general, the committee agreed with the sponsors. However, in order to achieve a more equitable plan, it became clear that the legacies and successions tax would have to be scrapped in favor of a new inheritance tax which would be similar to the federal inheritance tax. The policy changes required by such a change, as well as the possible ramifications, will require significant additional review prior to any final action. Additionally, at this time, the Department of Revenue Administration has neither the ability nor the resources to expediently or accurately prognosticate the fiscal impact of such changes which are acknowledged to be significant. Vote 20-0.

Rep. McGuirk spoke against.

Rep. Alukonis spoke in favor.

Adopted.

HB 529, relative to excluding from the definition of subdivision the placement and maintenance of wireless communication facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph E. Stone for Municipal and County Government**:** This bill relates to excluding from the definition of subdivision the placement and maintenance of wireless communication facilities. The amendment added the word "unstaffed" to structure and changed the square footage from 200 sq. ft. to 500 sq. ft. A new paragraph was added that stated clearly this bill does not affect zoning regulations for this use. Vote 17-0.

Rep. Dokmo moved Re-commit to Committee and spoke in favor.

Adopted.

Reps. Boutin and Joseph Foster declared conflicts of interest and did not participate.

HB 676-FN-L, establishing procedures for the distribution of proceeds from the sale of tax-deeded property by a municipality. OUGHT TO PASS WITH AMENDMENT

Rep. Kathleen N. Taylor for Municipal and County Government**:** The committee felt this bill would address the concerns of the courts relative to "taking" by municipalities, and at the same time offer the community protection by imposing a reasonable penalty coupled with recouping back taxes, interest and associated costs. Vote 17-2.

Amendment (0096h)

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

AN ACT relative to distribution of proceeds from the sale of tax-deeded property and repurchase of tax-deeded property by a former owner.

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

1 Statement of Intent. The purpose of this act is to prevent unjust enrichment of a municipality when property which a municipality has acquired by tax deed is sold for substantially more than the amount of taxes, costs and interest owed, while at the same time retaining a sufficient incentive for a taxpayer to redeem property prior to tax deeding. The accumulation of interest on unpaid taxes does not by itself provide such an incentive, because at the time the owner gets notice of the impending tax deed under RSA 80:77, such interest is already owed. This act therefore provides for an additional penalty, as set forth in RSA 80:90, I(f), of 15 percent of the equalized assessed value of the property. This amount can be thought of as a sort of brokerage commission paid by the taxpayer to the municipality for its marketing and disposal of the property, but one which is sufficiently higher than typical commissions charged by private brokers, so as to dissuade a taxpayer from voluntarily opting to let the municipality market the property.

2 New Sections; Proceeds From Sale of Tax-Deeded Property; Repurchase of Property. Amend RSA 80 by inserting after section 87 the following new sections:

80:88 Distribution of Proceeds from the Sale of Tax-Deeded Property.

I. Notwithstanding any other provision of law, for any sale by a municipality of property which is acquired by tax deed on or after the effective date of this section, the municipality's recovery of proceeds from the sale shall be limited to back taxes, interest, costs and penalty, as defined in RSA 80:90.

II. If there are excess proceeds over and above the amount of municipal recovery permitted under paragraph I, then within 60 days of settlement by the purchaser or purchasers of the property sold, the municipality shall file a bill of interpleader with the superior court for the county in which the property is located, naming the former owner or owners, and all persons having a recorded interest in the property as defendants, and paying to the court all amounts over and above those entitled to be retained. The municipality shall also be entitled to retain its reasonable costs and attorney's fees for the preparation and filing of the petition. The court shall issue such orders of notice as are necessary, and shall make such disposition of the funds as it finds appropriate, based upon ownership and lienholder interests at the time of the tax deed. The municipality shall be deemed to have a continuing interest in said funds, and in default of valid claims made by other parties, such funds shall be decreed to be the property of the municipality, free and clear of any remaining liability. No bill of interpleader shall be necessary if, at the time of the tax deed execution, there were no record lienholders, and only one record owner or joint owners, and such former owner or owners are easily identified and located, in which case the excess proceeds shall be paid to such owner or owners.

80:89 Notice to Former Owner and Opportunity for Repurchase.

I. At least 45 days prior to any sale or conveyance by a municipality of property which is acquired by tax deed on or after the effective date of this section, the municipal governing body or its designee shall send notice by certified mail, return receipt requested, to the last known post office address of the owner of the property at the time of the tax deed, if known, or to the person to whom notice of the pending tax deed was given under RSA 80:77. At least one such notice shall be given not more than 90 days prior to a municipality's sale or conveyance. The notice shall set forth the right of the former owner or owners to repurchase the property, as set forth in paragraph II. Copies of any such notice shall also be sent by certified mail, return receipt requested, to any mortgagee to whom notice of the impending tax deed was sent under RSA 80:77-a. For any notice sent pursuant to this paragraph, $10 may be added to the municipality's "costs" as defined in RSA 80:90.

II. Within 30 days after the notice required by paragraph I, any former owner of the property may give notice by certified mail, return receipt requested, of intent to repurchase the property from the municipality, and stating that such owner is ready, willing and able to pay all back taxes, interest, costs and penalty, as defined in RSA 80:90. If all such back taxes, interest, costs and penalty have not been actually tendered within 15 days of such notice of intent to repurchase, the municipality may otherwise dispose of the property.

III. The deed from the municipality upon such repurchase shall convey the municipality's interest in the property, or such portion as has not been previously disposed of by the municipality, to all record former owners in the same proportional undivided interests as the former owners of record.

IV. The former owners' title upon repurchase shall be subject to any liens of record against the property as of the time of the tax deed to the municipality, and subject to any leases, easements, or other encumbrances as may have been granted or placed on the property by the municipality. In the case of multiple former owners, any owner paying more than a proportional share of the purchase price to the municipality shall have a lien against the other owners for the amount of the excess paid.

V. A notice of intent to repurchase under this section may also be filed by the holder of any recorded mortgage interest in the property which was unredeemed as of the date of the tax deed. Upon payment the property shall be deeded as provided in paragraph III, but the mortgagee shall be entitled to add the amount paid to the municipality to the amount due under the mortgage.

VI. Conveyances under this section shall not be subject to the real estate transfer tax under RSA 78-B.

VII. For purposes of this section, the date of sale or conveyance of the property shall mean the date the municipality enters into a binding contract to convey the property to a third party buyer, whether or not such contract is subject to any contingencies.

80:90 Definitions.

I. For purposes of RSA 80:88 and 80:89, the phrase "back taxes, interest, costs and penalty" shall include all of the following:

(a) All taxes assessed but unpaid as of the date of the tax deed, together with all taxes which would thereafter otherwise have been assessed against such property based on its valuation, but for its ownership by the municipality.

(b) All statutory interest actually accrued on all back taxes as of the date of the tax deed, together with all statutory interest which would otherwise thereafter have accrued on all taxes listed in subparagraph (a), but for the property's ownership by the municipality.

(c) All allowable statutory fees charged for notice and recording in connection with the tax collection process.

(d) All legal costs incurred by the municipality in connection with the property, including those connected with the municipality's sale or the former owner's repurchase.

(e) All incidental and consequential costs as are reasonably incurred or estimated to be incurred by the municipality in connection with its ownership and disposition of the property, including but not limited to insurance, maintenance, repairs or improvements, and marketing expenses.

(f) An additional penalty equal in amount to 15 percent of the assessed value of the property as of the date of the tax deed, adjusted by the most recently available equalization ratio.

II. For purposes of RSA 80:88 and 80:89, "former owner" shall mean any person in whom title to the property, or partial interest therein, was vested at the time of the tax deed, and shall include any heir, successor, or assign of any former owner, provided, however, that any person to whom a former owner has attempted to convey or assign any interest, lien or expectancy in the property subsequent to the date of the tax deed shall not be deemed a former owner.

80:91 Liability and Obligations Limited. With respect to actions of a municipality under RSA 80:88 and 80:89, if the municipality has complied with the provisions of this chapter it shall not have any liability whatsoever to any former owner or lienholder in connection with its management of the property or for the amount of consideration received upon disposition of the property. After the execution of a tax deed, the municipality may treat the property in all respects as the fee owner thereof, including leasing or encumbering all or any portion of the property, without any accountability to former owners, except that the proceeds of any sale must be accounted for as provided in RSA 80:88. Nothing in this chapter shall obligate a municipality to dispose of property acquired by tax deed, except as provided in RSA 80:89.

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

AMENDED ANALYSIS

This bill establishes procedures for the distribution of proceeds from the sale of tax-deeded property and for the repurchase of tax-deeded property by a former owner.

Adopted.

Rep. Kibbey and Wiggins spoke against.

Rep. Leone spoke in favor.

Rep. McGuirk spoke in favor and yielded to questions.

Report adopted and ordered to third reading.

HB 371, relative to the authority of the department of fish and game to regulate the management, preservation, propagation and taking of state fish, game and wildlife resources. OUGHT TO PASS WITH AMENDMENT

Rep. Charles H. Felch, Sr. for Wildlife and Marine Resources**:** This legislation is designed to send a clear signal to our towns and cities that the authority and jurisdiction over the management, preservation, protection, propagation and taking of our wildlife resources rests exclusively with the state. Nothing in this bill can be construed as affecting a political subdivisions property rights concerning land owned and controlled by that entity. Vote 13-0.

Amendment (0014h)

Amend the bill by replacing section 1 with the following:

1 New Subdivision; State Authority and Jurisdiction over Wildlife. Amend RSA 207 by inserting after section 57 the following new subdivision:

State Jurisdiction

207:58 Purpose. The legislature finds it is in the best interests of the state and its citizens to regulate, protect, restore, and conserve the wildlife resources of the state under a uniform scheme of management through the fish and game department. It is the intent of the general court to explicitly reaffirm the state's long-standing exclusive authority and jurisdiction over the wildlife of the state as established by title XVIII.

207:59 Exclusive Authority of the State. The state of New Hampshire shall have exclusive authority and jurisdiction over the management, preservation, protection, propagation and taking of wildlife in the state. Except as otherwise specifically provided by statute, no ordinance or regulation of a political subdivision may regulate the management, preservation, protection, propagation and taking of wildlife. Nothing in this section shall be construed as affecting a political subdivision's property rights concerning land owned and controlled by that entity.

AMENDED ANALYSIS

This bill provides that the state has exclusive authority concerning the management, preservation, protection, propagation, and taking of wildlife, and prohibits political subdivisions from regulating fish, game, or wildlife without express authority in the fish and game laws.

Adopted.

Report adopted and ordered to third reading.

UNANIMOUS CONSENT

Rep. Hall moved that the remarks made by Rep. Burling be printed in the Journal.

On a division vote, 139 members having voted in the affirmative and 127 in the negative, the motion was adopted.

Rep. Burling addressed the House.

Thank you Madam Speaker. I would my ask colleagues for their attention just for a minute, if I may. I make a rule not to come between legislators and their lunch so I will be quick. I have just a couple of things I would like to say about our state constitution and the way it is being used these days. First, let me say that I believe our New Hampshire Constitution is a living, vital document. It connects us to our past, to the likes of Langdon and Bass and Peterson. It shapes our futures. It is the ark of our communal dreams and expectations. It is the protector of our children's rights. The word I want to emphasize here is "our." The New Hampshire Constitution belongs to New Hampshire. It is not a ball to be batted around the infield of presidential politics. I think it is wrong

for Mr. Forbes and Mr. Alexander to come here to buy our opinions with their bucks. We will have, we will have, a chance to debate the wisdom of changing our constitution. We will know what we should do. We do not need the advice or money of presidential candidates shaping our deliberations. We can send the message to national politicians, you and I. They pay attention to us here in New Hampshire. I don't know whether or not you have noticed that but they do. If they want to amend a state constitution they can do so in New Jersey or Tennessee. I understand both places have a state capitol. They do not need to do it here in New Hampshire. I hope you will join me in saying "no" to the money and the sound bites these out-of-state politicians mean to throw around the airwaves of New Hampshire. Our people will thank you as I thank you for your kind attention. Have a good lunch.

RECESS

(Speaker Sytek in the Chair)

REGULAR CALENDAR PART II

HB 410, allowing mental health counselors and marriage and family therapists to obtain third party payments for services rendered which would otherwise qualify for such payments. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce**:** This partisan issue was debated thoroughly over the summer. This bill would have mandated certain reimbursements by indemnity insurers in New Hampshire. The committee feels, since New Hampshire is recognized as the leading state in mental health care, and since consumer access to mental health care in New Hampshire is greater than most other states, the only reaction to this legislation would be higher costs to premium payers. Since indemnity plans are cost sensitive, there would be a greater shift to managed care plans. Managed care plans limit access to mental health services. A compromise proposal was discussed but rejected by the proponents of this bill. The proponents of this bill appear insensitive to the costs and to who pays the costs of mental health services in New Hampshire. Vote 10-7.

Adopted.

SB 1, relative to exclusive arrangements with managed care insurers. INEXPEDIENT TO LEGISLATE

Rep. Gregory G. Carson for Commerce**:** The intent of this legislation is covered in an amendment to HB 451 which this committee strongly urges passage of this session. Vote 10-4.

Adopted.

HB 143-L, requiring that SAU budgets be approved by vote at school district meetings. INEXPEDIENT TO LEGISLATE

Rep. Richard L. Champagne for Education**:** This bill is well intended. However, it mandates a change in governance for SAU budget adoption, preempting local control. Many SAUs function well under current law and have no desire to change governance. Any school district not satisfied with current practices may use RSA 194-C to withdraw and form a single district with direct budget and voting. Time line considerations in light of SB 2, Chapter 164 from 1995 Municipal Budget Finance Committee and open district meetings make the voting provision of this bill nearly impossible to implement. A clear one person-one vote constitutional issue exists in SAUs where co-op high school

and village school districts share SAU management for its current form. This bill does not accomplish its intended objectives. Vote 14-5.

Reps. Fenton and Jacobson spoke against.

Reps. Belvin and O'Hearn spoke in favor and yielded to questions.

On a division vote, 231 members having voted in the affirmative and 90 in the negative, the report was adopted.

HB 612-FN, requiring the state board of education and the department of education to establish suitable tests of academic knowledge to be administered as a prerequisite for certification of new teachers in New Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Susan B. Dunham for Education**:** This bill is not necessary because the state Board of Education and the Department of Education are in the process of instituting such a test at this time. The committee will continue to follow this process to ensure that it is completed and will meet with the state board for that purpose. Vote 14-5.

Rep. Durham yielded to questions.

Adopted.

CACR 8, relating to increasing the executive council membership and the number of executive council districts. Providing that the executive council shall be increased from 5 to 10 members, and the number of executive council districts shall be increased from 5 to 10. INEXPEDIENT TO LEGISLATE

Rep. Lynn C. Horton for Election Law**:** The intent of this resolution is to increase the membership and number of executive councilor districts from 5 to 10. The committee found no compelling need to do this. We considered the increased expense of government. It is felt that the present system is working well. Vote 9-4.

Adopted.

HB 443, relative to push-polling. OUGHT TO PASS WITH AMENDMENT

Rep. C. Donald Stritch for Election Law**:** Anonymous "push polling" is a deceitful campaign practice having an adverse impact on the political process. This bill requires candidates and others engaging in this practice to be accountable for the statements made in push polls. Vote 11-0.

Amendment (0196h)

Amend the bill by replacing section 1 with the following:

1 Findings and Purpose. The general court finds that anonymous "push-polling" is a deceitful practice having an adverse impact on the political process. While the general court affirms the rights of candidates for public office to engage in free speech, it finds that candidates should be fully accountable for the statements and messages generated by their campaigns. This act is intended to insure that the public is fully informed when candidates engage in push-polling.

Amend the bill by replacing section 3 and 4 with the following:

3 Push-polling; Submission of Information Required. Amend RSA 664 by inserting after section 16 the following new section:

664:16-a Identification Required.

I. Any person who engages in push-polling, as defined in RSA 664:2, XVII, shall inform any person contacted that the telephone call is being made on behalf of, in support of, or in opposition to a particular candidate for public office, identify that candidate by name, and provide a telephone number from where the push-polling is conducted.

II. Any person or entity who violates paragraph I shall be subject to penalty under RSA 664:21, V.

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

Adopted.

Report adopted and ordered to third reading.

HB 484, relative to registration of certain voters who vote by absentee ballot. INEXPEDIENT TO LEGISLATE

Rep. John M. Root for Election Law**:** While sympathetic to the plight of individuals who might be unable to vote by absentee ballot if not registered to do so 10 days in advance of an election (as required by present law), the committee felt that to try to accommodate all potential absentee voters as proposed in this bill would place an impossible burden on city and town clerks and supervisors of checklists. The subcommittee noted that New Hampshire's same-day registration and voting system provided ample opportunity for the overwhelming majority of citizens to exercise their franchise. Vote 10-3.

Adopted.

HB 659, modifying restrictions on televised political advertising. OUGHT TO PASS WITH AMENDMENT

Rep. Natalie S. Flanagan for Election Law**:** This bill tightens the practices in political television advertising (by both candidates and independent organizations) by requiring that the candidate's or organization's payments for the ad to be clearly identified at the end of the political advertisement. Vote 13-0.

Amendment (0137h)

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

1 Findings and Purpose. The general court finds that in the interest of maintaining the integrity of the election process, candidates for public office should clearly identify their authorization and payment for any political advertising broadcast on television. To further clarify which advertisements have been authorized by a candidate, any advertisement that is not

authorized by any candidate shall contain a statement to that effect. Such disclosure shall reduce the amount of confusing or misleading statements issued during campaigns for public office.

2 Section Heading Modified. Amend the section heading of RSA 664:14 to read as follows:

664:14 Signature, ***Identification, and Lack of Authorization.***

3 Restrictions on Candidate's Political Advertising Modified. Amend RSA 664:14, IV to read as follows:

IV.***(a)*** In the case of political advertising broadcast on radio, television***,*** or any public address system, the name and address of the signer shall be clearly identified.

(b) All political advertising broadcast on television shall identify the name of the candidate who pays for the advertisement or whose advertisement is paid for by a campaign committee. Such identification shall be made both aurally and visually. The visual presentation shall be clearly legible and shall use letters equal or greater than 12 percent of the vertical picture height and shall air for not less than 4 seconds at the conclusion of the broadcast. For the purpose of this section, "campaign committee" means any committee established to elect a particular candidate to office, including raising funds for that purpose.

4 Restrictions on Unauthorized Political Advertising. Amend RSA 664:14, VI to read as follows:

VI. Notwithstanding any other provision of this section, any advertising in support of or in opposition to a candidate by a political committee not authorized by the candidate or candidate committee shall so state ***and shall identify the sponsor of the advertisement. All such political advertising broadcast on television shall include the statement: "This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate." Such statement shall be made both aurally and visually. The visual presentation shall be clearly legible and shall use letters equal or greater than 12 percent of the vertical picture height and shall be broadcast for not less than 4 seconds at the conclusion of the advertisement.***

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

AMENDED ANALYSIS

This bill:

I. Requires that all political advertising broadcast on television shall end with a display of a photographic image sufficient to identify the candidate who pays for the advertisement or whose advertisement is paid for by a campaign committee.

II. Requires that all political advertising broadcast on television that is not paid for by a candidate, or by a campaign committee, shall identify, aurally and visually, the sponsor of the advertisement.

Adopted.

Report adopted and ordered to third reading.

HB 418, prohibiting the land application of sludge or biosolids containing amounts of heavy metals over certain limits. INEXPEDIENT TO LEGISLATE

Rep. Karen K. McRae for Environment and Agriculture**:** The confusion about the numbers, the percentiles, of the heavy metals in relation to the Environmental Protection Agency standards as submitted by the Department of Environmental Services made the bill unworkable and therefore, it was voted inexpedient to legislate. Vote 17-2.

Adopted.

HB 497, excluding domestic septage from regulation as sludge or biosolids. OUGHT TO PASS

Rep. Karen K. McRae for Environment and Agriculture**:**. This bill separates the regulation of domestic septage and the regulation of sludge and bio-solids. Further definitions may be needed. Vote 14-1.

Adopted and ordered to third reading.

HB 762-FN, relative to the regulation of naturopathic medicine. REFER FOR INTERIM STUDY

Rep. Merton S. Dyer for Executive Departments and Administration**:** The bill as introduced would require licensure of doctors of naturopathy and registration of naturopaths or natural healers. The subcommittee recommended inexpedient to legislate and the full committee agreed by a 12 to 7 vote. Reconsideration was requested and voted affirmatively and the bill was voted to send to interim study. The committed voted for interim study so that we could work with those wishing to practice naturopathic medicine either as doctors of naturopathy or in the traditional method of practice. The present board is working very hard to get the program that the Legislature approved in 1993 running smoothly. One area that needs to be addressed is the terminology now in use by those in the field. With the oversight of the Executive Departments and Administration Committee, we feel we can resolve the questions and problems that have arisen in the course of implementation. The complexities of this program require additional work on the part of the Legislature, the Board of Naturopathic Doctors and the traditional naturopaths. A majority of the committee feels this would be a positive approach. Vote 12-7.

Adopted.

SB 131-FN, allowing certain state employees to take paid leave to participate in disaster relief service work. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Executive Departments and Administration**:** The purpose of the bill is to allow certain state employees to take annual leave to participate in disaster relief at Red Cross designated disasters. The subcommittee studied various options and presented an amendment that would restrict the amount of time to 15 working days and to level III disasters within the state. After a lengthy discussion, the amendment was rejected and the bill was voted inexpedient to legislate. Among the concerns expressed by the committee was the limitation to the state only and the fact that the Governor could implement this type of program now without legislation. Another concern of the committee dealt with liability to the state if employees were injured. There were concerns about the collective bargaining agreement as leave time and sick leave are included in the state contract and awarding extra time to certain individuals might conflict with the contract. This is a laudable idea but the committee felt that given the many concerns that this should not pass. Vote 9-6.

Adopted.

CACR 21, relating to a balanced budget. Providing that the governor be prohibited from proposing and the general court be prohibited from approving, an operating budget in which expenditures exceed estimated revenue. INEXPEDIENT TO LEGISLATE

Rep. Arthur P. Klemm, Jr. for Finance**:** The committee believes that CACR 21 though well-intentioned may have the effect of tying our hands too tightly in coming forth with a balanced budget. The committee believes it more appropriate to put into statute the current House practice of approving a balanced budget. The committee will file a bill to this effect for the 1998 session. Vote 16-2.

Adopted.

HB 195-FN-A, increasing the exemption amount under the interest and dividends tax. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance**:** Division II of the Committee on Finance debated the merits of increasing the exemption under the interest and dividends tax, holding several public and executive sessions. The Finance Committee, after due deliberations, concurred with the Division's findings: keeping the exemption at $2400 for a payer under 65 years, with an additional amount of $1200 for persons over that age. A couple over 65 years thus receives a $7200 exemption.

The elderly are not the largest percentage of payers. Revenue Administration (DRA) figures tell us persons over 65 comprise 46% of filers out of a total of 52,000 filers, and pay 41% of tax revenues. New Hampshire residents with adjusted gross income over $75,000 paid 32% of the revenue increases.

Sharp increases in tax revenues for 1996 and 1997 are due in large measure to positive market forces and increased compliance activity due to publicity around the 1995 law eliminating the exemption on interest earned in New Hampshire and Vermont banks. This fact is substantiated by federal increases in interest and dividends revenues which mimics New Hampshire - 1993 to 1995 -- federal 20%, state 17%.

To determine the amount of interest persons over 65 earned from New Hampshire and Vermont banks as opposed to that earned from other stock dividends, would require a man-year's work reviewing over 100 IRS computer reels on 52,000 New Hampshire filers.

The Department of Revenue Administration indicates this bill will decrease state general fund unrestricted revenue by $17.5 million over the biennium. Vote 17-3.

Rep. Jacobson spoke against.

Rep. Vaughn spoke in favor.

On a division vote, 196 members having voted in the affirmative and 118 in the negative, the report was adopted.

Rep. DePecol wished to be recorded against.

Rep. Noyes declared a conflict of interest and did not participate.

HB 223-FN-L, providing that catastrophic aid for special education shall be fully funded. INEXPEDIENT TO LEGISLATE

Reps. Kenneth L. Weyler and Sandra K. Dowd for Finance**:** The premise of this bill is that new additions to special education spending are putting school districts in dire financial straits. The committee discovered the following: (a) the maximum exposure of a school district for any one student is $26,500, because of catastrophic aid; (b) the legislature has fully funded the catastrophic aid budget as presented, and has held harmless the districts for previous years' overspending, as in HB 50, Chapter 348, Laws of 1997; (c) districts may borrow for overexpeditures on special education that occur after budget is set. The state pays the interest; thus, no new taxes need be levied for current budget.

In examining reasons for such large increases in catastrophic aid over the last few years, the committee discovered that New Hampshire leads the nation in per capita coding of students, we lead the nation in litigation over individual education programs, we place special education learning disabled-students in private residential programs at ten times the national rate.

For all of the above reasons we recommend Inexpedient on this bill, but are requesting a performance audit by the Performance Audit and Oversight Joint Committee of the special education program. Our goal is to get a handle on what the cost of the program is compared to what we are spending. We want to continue fully funding catastrophic aid without deficit spending or supplemental budgets to cover these costs. The bewildering cloud of contradictions we had in testimony cries out for facts Vote 15-3.

Adopted.

HB 563-FN-A, relative to a tax on telecommunications easements. INEXPEDIENT TO LEGISLATE

Rep. Kenneth L. Weyler for Finance**:** This bill would establish a special fund for the maintenance of trails along the 223 miles of abandoned railroad corridor which the state now owns. These trails are currently maintained by state supervision of a large group of volunteers. The tax created by this bill would be payable by the owners of the utility easements which the state did not buy when it bought the railroad corridor rights-of-way. The easements are used mainly for fiber-optic cable owned by telephone companies. The bill would give 25% of the tax collected to the municipality where the easement was located.

The committee had problems with the creation of yet another dedicated fund. The committee also concluded that this tax on telephone company transmission lines violated the spirit of the RSA on the telecommunications tax. Finally, both the Department of Revenue Administration and the bill's prime sponsor felt that litigation would likely use up any revenue for the first few years. Vote 12-8.

Rep. Weyler spoke in favor.

Adopted.

REMARKS

Rep. Below moved that the remarks made by Rep. Weyler regarding House Bill 563 be printed in the Journal.

Adopted.

Rep. Weyler: Thank you Madam Speaker. I'd like to clarify the blurb on House Bill 563 with regard to the reference to the spirit of the telecommunications tax. There was no intent by the committee to express a position on whether or not these easements can be taxed by the municipalities as real estate. Thank you and I would like to urge your adoption of the committee report of Inexpedient to Legislate.

REGULAR CALENDAR PART II **(Cont'd.)**

HB 717-FN-A, relative to the taxation of venture capital firms under the business profits tax.
OUGHT TO PASS WITH AMENDMENT

Rep. David J. Alukonis for Finance**:** The amendment, which replaces the original bill in its entirety, revises and improves upon those incentives found in current law which were intended to encourage the development of investment capital funds in New Hampshire. To date, these incentives have not been exercised, and there continue to be difficulties in the ability of local firms to raise much-needed equity capital.

Some of the problems with the current law are: (1) the requirements failed to allow for traditional venture capital fund investment cycles; (2) the requirements failed to recognize traditional venture capital fund investment structures; (3) the requirements unnecessarily limited the investment marketplace solely to New Hampshire; (4) interest and dividends tax rules required taxation of investors even when they received no actual dividends; and (5) the tax incentives were limited only to persons that were subject to the BPT.

The amendment addresses these concerns in a manner which the Department of Revenue Administration finds structurally acceptable. Additionally, the amendment: (1) requires additional reporting requirements which will allow for the legislature to determine whether or not the venture capital funds are being reinvested in New Hampshire, and in which industries; (2) allows for a credit to the Interest and Dividends tax for monies invested in a venture capital fund (this joins already existing credits allowed against the BPT and BET; and (3) changes the point of taxation from "deemed distributions" to "cash or actual distributions."

The Department of Revenue Administration is unable to estimate the impact to tax revenues that the proposed changes and additional tax credit will have. The Department is equally unable to assess the additional tax revenues that this bill will generate from increased business activities which will result from the increased investment opportunities that venture capital funds will provide to New Hampshire businesses.

The committee estimates that the worst case negative impact to the general fund (resultant of the three tax credits) could be $750,000; but unfortunately, is unable to quantify the additional tax receipts that would result from increased business activities in the state.

It should also be noted that venture capital funds take significant time to be developed and become active in soliciting investments. Thus, it is very unlikely that there will be <u>any</u> sizable impact to the general fund during the current biennium. Vote 20-0.

Amendment (0134h)

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

AN ACT relative to taxation of qualified investment capital companies.

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

1 No Current Taxation of Qualified Investment Capital Companies. Amend RSA 77:4, V to read as follows:

V. For each holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI ***which is not a qualified investment capital company as defined in RSA 77-A:1, XXIV***, which holder is subject to tax under RSA 77, the holder's proportional share of the income, less any income attributable to United States government notes or bonds, of such qualified investment company shall be treated as a dividend; however, notwithstanding any other provision of RSA 77, no actual distribution made to such holder by such qualified investment company shall be taxable under RSA 77.

VI. For each holder of an ownership interest in a qualified investment capital company, as defined in RSA 77-A:1, XXIV, which holder is subject to tax under RSA 77, any dividends, other than dividends paid in new or additional equity interests in the qualified investment capital company issuing the same, paid to the holder.

2 New Section; Adjustments for Contributions and Distributions with Respect to Qualified Investment Capital Companies. Amend RSA 77 by inserting after section 4-e the following new section:

77:4-f Adjustments for Contributions and Distributions With Respect to Qualified Investment Capital Companies. The following adjustments shall be made to the class of dividend and interest income taxable under this chapter:

I. A taxable person shall be allowed to deduct from the sum of the interest and dividends taxable under this chapter an amount equal to any cash contribution made to a qualified investment capital company during the applicable taxable period.

II. Notwithstanding RSA 77:7, a taxable person shall be required to report an additional taxable amount equal to any distribution or return of capital previously taken as a deduction pursuant to RSA 77:4-f, I as a capital contribution to a qualified investment capital fund if such return is received within 3 taxable periods after the taxable period in which it is deducted.

3 Definition Modification; Qualified Investment Company. Amend RSA 77-A:1, XXI to read as follow:

XXI.***(a)*** "Qualified investment company" means***:***

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-A:1, XX[~~,~~]***;***

(2) An organization that is an investment company under the Investment Company Act of 1940 as amended[~~, or~~]***;***

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act[~~, provided, however,~~]***; or***

(4) A qualified investment capital company as defined in RSA 77-A:1, XXIV.

(b) A qualified investment company shall limit its activities to investment ***or other*** activities ***consistent with its organizational purpose*** and those incidental to or in support of such activities and shall submit certification that it satisfies the requirements to be classified as a qualified investment company to the commissioner no later than 9 months subsequent to commencement of its investment activities, and provided further that any such exception from investment company status by reason of section 3(c)(7) is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) or any order, regulation or interpretation thereunder not to require protection under the provisions of the Investment Company Act by reason of their size, nature, status, or sophistication. Upon petition, the commissioner may accept an untimely submission of such certification, which acceptance shall not be unreasonably withheld.

4 Qualified Investment Capital Company; Investment Company Manager Definitions. RSA 77-A:1, XXIV and XXV are repealed and reenacted to read as follows:

XXIV.(a) "Qualified investment capital company" means with respect to any taxable year a business organization that satisfies the following criteria:

(1) The principal purpose of the qualified investment capital company is to provide investment capital to companies through investment in equity and debt securities or interests issued by such companies, including common and preferred stock, indebtedness and convertible securities, to provide such management oversight and business advice to such companies as is reasonably appropriate to protect the investment and to encourage the success of the company and the investment, and to take any and all actions that may become necessary to preserve and protect investments in accordance with the terms of the investment securities.

(2) At least 30 percent of the qualified investment capital company's outstanding equity, capital and profits interests is owned by at least one person who is not related to the qualified investment company's investment company manager or investment company managers.

(3) Each investment company manager of the qualified investment capital company is subject to tax under RSA 77-A and has a payroll apportionment factor, computed in accordance with RSA 77-A:3, I(b), on a separate company or combined group basis as the case may be, that exceeds 50 percent.

(4) The qualified investment capital company has filed an election with the commissioner to be a qualified investment capital company with respect to any taxable period on a form prescribed by the commissioner at any time on or before the fifteenth day of the third month of such taxable period. Such an election shall be effective for the taxable period of the qualified investment capital company for which it is made and for all succeeding taxable periods of the qualified investment capital company. Such election shall designate each of the investment company managers for such qualified investment company.

(b) For purposes of this paragraph, an investment company manager is related to a person if it owns or controls, directly or indirectly (not including ownership through the qualified investment capital company), more than 25 percent of the voting interests in such person.

XXV. "Investment company manager" means with respect to a qualified investment capital company the general partner or general partners, manager or managers, trustee or trustees, other business organizations or individuals who are directly authorized and vested with the responsibility for making decisions regarding the investment, management and divestiture of assets of the qualified investment capital company.

5 Replacing References to Qualifying Venture Capital Fund. Amend RSA 77-A:4, XVII and XVIII to read as follows:

XVII. A deduction equal to any ***cash*** contribution made to a [~~qualifying venture capital fund~~] ***qualified investment capital company*** during the applicable taxable period.

XVIII. An addition equal to any return of capital previously taken as a deduction pursuant to RSA 77-A:4, XVII as a capital contribution to a [~~qualifying venture capital fund~~] ***qualified investment capital company*** if such return is received within 3 taxable periods after the taxable period in which it was deducted.

6 New Section; Reporting Obligation. Amend RSA 77-A by inserting after section 5-a the following new section:

77-A:5-b Reporting for Qualified Investment Capital Companies. Every business organization that elects treatment as a qualified investment capital company shall with respect to each taxable period make a report, in accordance with such forms or regulations as the commissioner may prescribe, setting forth the aggregate amounts of funds invested in the qualified investment capital company and the aggregate amounts of investments made by the qualified investment capital company by industry and state or other location. The information provided in such report shall be included in the tax expenditure report required under RSA 77-A:5-a notwithstanding RSA 21-J:14, however, such report shall not require disclosure of the identity of individual investors or individual investments made by the qualified investment capital company.

7 Definition Modification; Qualified Investment Company. Amend RSA 77-E:1, XIV to read as follows:

XIV.***(a)*** "Qualified investment company" means***:***

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-E:1, XVII[,]***;***

(2) An organization that is an investment company under the Investment Company Act of 1940, as amended[, or]***;***

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act[, provided, however,]***; or***

(4) A qualified investment capital company as defined in RSA 77-A:1, XXIV.

(b) A qualified investment company shall limit its activities to investment ***or other*** activities ***consistent with its organizational purpose*** and those incidental to or in support of such activities and shall submit certification that it satisfies the requirements to be classified as a

qualified investment company to the commissioner no later than 9 months subsequent to commencement of its investment activities, and provided further that any such exception from investment company status by reason of section 3(c)(7) is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) or any order, regulation or interpretation thereunder not to require protection under the provisions of the Investment Company Act by reason of their size, nature, status, or sophistication. Upon petition, the commissioner may accept an untimely submission of such certification, which acceptance shall not be unreasonably withheld.

8 Repeal. The following are repealed:

I. RSA 77-A:1, XXVI-XXIX, relative to the definitions of "qualifying start-up firm," "affiliate," "affiliated," and "bank" for the purposes of qualified venture capital funds, are repealed.

II. RSA 77-A:2-c, relative to the tax on qualified venture capital funds.

9 Applicability. This act shall apply for all taxable periods ending after June 30, 1998.

10 Effective Date. This act shall take effect July 1, 1998.

AMENDED ANALYSIS

This bill expands the definition of qualified investment company to include qualified investment capital companies for the purposes of the business profits tax and the business enterprise tax. The bill also repeals the application of the business profits tax to qualified venture capital funds.

Adopted.

Report adopted and ordered to third reading.

HB 490, relative to the confidentiality of medical records. OUGHT TO PASS WITH AMENDMENT

Rep. Alphonse A. Haettenschwiller for Health, Human Services and Elderly Affairs**:** The amended bill is the result of many meetings over the summer of the subcommittee, the sponsors of the original bill and interested individuals and organizations including the Department of Health and Human Services. It is a consensus to which all parties agreed and which increases the confidentiality of medical records without creating barriers to necessary use. Vote 17-1.

Amendment (0150h)

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

AN ACT relative to the confidentiality of medical information.

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

1 Purpose. The general court recognizes that preserving the confidentiality of medical information is of great importance to the citizens of the state. The ability to communicate freely and privately with health care professionals fosters the provision of appropriate health care. Consequently, the general court recognizes that medical information should be used only in

connection with providing or paying for an individual's health care. Medical information that allows the identification of a patient should not be a commodity in the marketplace.

2 New Section; Confidentiality of Medical Information. Amend RSA 332-I by inserting after section 2 the following new section:

332-I:3 Confidentiality of Medical Information.

I. In this section:

(a) "Health care" includes examination, diagnosis, treatment including but not limited to dispensing pharmaceuticals, evaluation, rehabilitation or advice as may be permissible under the laws of this state regulating health care providers.

(b) "Health care payer" means an insurance company that offers health insurance to the public, a health service corporation, or a health maintenance organization and, to the extent permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care benefit plan offered by a public or private entity.

(c) "Health care provider" means any person regulated by this state to provide health care, or an officer, employee, or agent of that regulated person acting in the course and scope of employment, or agency related to health care.

(d) "Individual" means a human being, alive or dead, who is the subject of medical information and includes the individual's legal or other authorized representative.

(e) "Non-health care payer" means an insurance company that offers life, disability income, long-term care or other insurance coverages that have a medical payment component to the public.

(f) "Person" includes a human being, association, organization, trust, corporation, partnership, the state of New Hampshire, an agency of the state, and any political subdivision of the state.

(g) "Medical information" means personal or private information relating to an individual that is reported at or derived from a health care provider-patient encounter and which:

(1) Contains primary or obvious identifiers, such as the individual's name, address, telephone number, and social security number, or secondary identifiers through which a user could deduce the individual's identity; and

(2) Is under the control of a medical information holder.

(h) "Medical information holder" means any person in possession of or having access to medical information, other than the individual to whom it relates.

II. There is hereby recognized an individual's right of privacy in the content of the individual's medical information.

III. Except as provided under paragraph IV or otherwise provided by law or if the individual or the individual's authorized representative otherwise consents or waives confidentiality,

a medical information holder may disclose or use medical information only in connection with providing or paying for health care for an individual. No person to whom medical information is disclosed may use the information for any purpose other than the purpose for which it was disclosed.

IV.(a) A medical information holder may disclose medical information without the consent of the individual if the medical information is disclosed to:

(1) An agent, employee, or independent contractor of the medical information holder solely to carry out risk management, quality assurance, utilization review, and peer review activities.

(2) A person engaged in assessment, evaluation, or investigation of the quality of health care furnished by a health care provider pursuant to statutory, regulatory, or private accreditation standards or the requirements of a private or public program for the payment of health care.

(3) An employer, for the purposes of workers' compensation or employee drug-testing.

(4) A person authorized to receive such information pursuant to a valid order of a court of competent jurisdiction for good cause shown and after the individual whose medical information is the subject of the order has been notified of the proposed order in clear, conspicuous, and simple language, and has had an opportunity to contest the proposed order.

(5) A person, for the purpose of avoiding or minimizing a direct threat of imminent harm to the health or safety of any human being, as determined by a current health care provider to the individual based on reasonable professional judgment.

(6) The department of health and human services or any representative of the department to the extent required by law or rule or as otherwise necessary to enable the department to carry out its responsibilities.

(b) Any disclosure under paragraph IV shall provide only the minimum amount of medical information to the minimum number of persons necessary and in as confidential a manner as possible in order to effect the purpose for which it is being disclosed.

V. Any consent to the disclosure of medical information under paragraph III shall be valid only if it is fully informed, freely-given, and in writing. "Fully informed" means that the individual consenting knows the nature of what will be disclosed, to whom the information will be disclosed, and the purpose for which the disclosure will be made.

(a) Consent shall not be considered freely given if it is a condition of entering a contract, except:

(1) A health care provider may, as a condition of service, require an individual to consent to the release or use of medical information if the release or use is no broader than necessary to appropriately provide health care.

(2) A health care payer may, as a condition of service or coverage, require an insured person, enrollee, or prospective enrollee to consent to the release or use of medical information if the release or use is no broader than necessary to appropriately underwrite the risk,

conduct utilization review or quality assurance activities, or process claims with respect to health care, except as otherwise precluded under RSA 420-G.

(3) A non-health care payer may, as a condition of service or coverage, require an insured person, enrollee or prospective enrollee to consent to the release or use of medical information if the release or use is no broader than necessary to appropriately underwrite the risk, conduct utilization review or quality assurance activities, or process claims with respect to life, disability and long-term care insurance.

(b) Consent may be revoked prospectively at any time, subject to the rights of any person who acted in reliance thereon prior to revocation.

VI. Nothing in this section shall be deemed to affect a scientific research project that has been approved by an institutional review board, which, for the purposes of this section, means a board, committee, or other group formally designated by a health care facility or an educational institution of higher learning authorized under federal law to review, approve, or conduct periodic reviews of research programs.

VII.(a) The penalties for violating a provision of this section are as follows:

(1) An aggrieved individual may bring a civil action under this section if a medical information holder knew or should have known that medical information was being used in violation of this section. In addition to compensatory damages, the aggrieved individual, if successful, shall be awarded special damages of not less than $1,000 for each violation as well as reasonable legal fees.

(2) An aggrieved individual may bring an action for injunctive relief for a violation of this section in addition to or instead of the penalties provided in this paragraph. The application for injunctive relief under this section shall not be required to give security as a condition upon the issuance of the injunction.

(3) Whenever the attorney general has reason to believe that a person has knowingly and willfully violated a provision of this section and that an action under this section is in the public interest, the attorney general may bring an action to enjoin the violations of this section.

(b) Notwithstanding anything to the contrary in this paragraph, subparagraphs (a)(1) and (2) shall not apply against:

(1) The department of health and human services or any representative of the department for the use or disclosure of medical information required by law or rule to enable the department to carry out its responsibilities; or

(2) Any person who discloses medical information to the department of health and human services or any representative of the department to enable the department to carry out its responsibilities required by law or rule.

3 Effective Date. This act shall take effect July 1, 1998.

AMENDED ANALYSIS

This bill declares that medical information is confidential and provides safeguards for the disclosure of medical information.

Adopted.

Report adopted and ordered to third reading.

SB 25, establishing employer immunity from civil liability for good faith disclosure of information regarding current and former employees to prospective employers. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Benjamin J. DePecol for the Majority of Judiciary and Family Law**:** This bill establishes immunity from civil liability for employers who disclose information regarding current and former employees' job performance and work histories to prospective employers, unless lack of good faith is shown. The committee believed that while there was some merit to this idea, little protection was left to employees. After much discussion and many attempts to compromise failed, the bill was voted Inexpedient to Legislate. Vote 10-4.

Rep. Paul M. Mirski for the Minority of Judiciary and Family Law**:** Employers are presently discouraged from being open to other prospective employers concerning the performance of present or past employees due to the potential for litigation over any critical comment which an employer might make. Passage of this bill would lend some equity to the present unsuitable equation by granting employers limited immunity for expressing candor and honesty on the subject of employee performance.

Majority report adopted.

HB 198-L, allowing municipalities to offer tax incentives to foster growth in new and existing industrial construction. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Stephen G. Avery for the Majority of Local and Regulated Revenues**:** This legislation allows municipalities to offer limited tax exemption to foster growth in new and existing industrial construction. There were constitutional questions on the bill and the Supreme Court has ruled that it is constitutional. The majority of the committee felt that cities and towns should have this option. Vote 10-8.Reps. Betsy McKinney, Laura C. Pantelakos, Francis C. Vincent, Raymond A. Lundborn, Linda T. Foster, Betsey A. Coes, Jean R. Wallin, Carol T. Burney for the Minority of Local and Regulated Revenues**:** The minority believes that this bill is simply bad tax policy for the following reasons: (1) It creates a new and distinct class of taxpayers; (2) study after study has failed to prove that tax credits attract industry; (3) the adoption of such policy pits town against town and becomes a "race to the bottom;" (4) towns that have the greatest need for a diversified tax base are those that can least afford the incentives; (5) incentives for new businesses may adversely affect existing businesses; and (6) tax breaks for some result in a tax shift to others, usually homeowners. The minority believes that attracting industry is best accomplished through innovative and cooperative planning and infrastructure improvements.

Rep. Linda Foster spoke against and yielded to questions.

Rep. Metzger spoke in favor.

Rep. Wallin spoke against.

Rep. Hess spoke in favor and yielded to questions.

Rep. Wheeler requested a roll call; sufficiently seconded.

The question being the adoption of the majority report.

YEAS 152 NAYS 179

YEAS 152

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Calvert, Alice
Holbrook, Robert	Laflam, Robert	Lawton, David	Lawton, Robert
Thomas, John			

CARROLL

Bradley, Jeb	Chandler, Gene	Cooper, Kipp	Dickinson, Howard, Jr.
Kenney, Joseph	Lyman, L. Randy	Mock, Henry	Patten, Betsey
Philbrick, Donald			

CHESHIRE

Avery, Stephen	Burnham, Daniel	Hunt, John	Lynott, Margaret
Metzger, Katherine	Royce, H. Charles	Smith, Edwin	Steere, Myron, III

COOS

Coulombe, Yvonne	Davis, Perley	Guay, Lawrence	Horton, Lynn
Merrill, Gerald	Tholl, John, Jr.		

GRAFTON

Akins, Ralph	Alger, John	Brown, Channing	Cobbin, Philip
Eaton, Stephanie	Guaraldi, Lawrence	Hill, Richard	Hinman, Harry
Phinney, William	Root, John	Teschner, Douglass	Trelfa, Richard
Weber, Phil	Williams, William, Jr.		

HILLSBOROUGH

Alukonis, David	Amidon, Eleanor	Arnold, Thomas, Jr.	Batula, Peter
Belvin, William	Brundige, Robert	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.	Fields, Dennis
Flora, Kathleen	Franks, Suzan	Gage, Ruth	Ginsburg, Ruth
Goulet, Maurice	Herman, Keith	Lefebvre, Roland	Leishman, Peter
Lozeau, Donnalee	McCarty, Winston	McDonald, James, Sr.	McGough, Tim
Mercer, Robert	Messier, Irene	Milligan, Robert	Mittelman, David
O'Hearn, Jane	Peterson, Andrew	Rowe, Robert	Searles, Stanley, Sr.
Wheeler, Robert	White, Donald		

MERRIMACK

Anderson, Eric	Colburn, Thomas	Crowell, Peter	Hager, Elizabeth
Hess, David	Hoadley, Elizabeth	Krueger, Patricia	Lamach, Bernard
Langer, Ray	Larrabee, David	Leber, William	Lockwood, Robert
Marshall, Kenneth	Pfaff, Terence	Whalley, Michael	Whittemore, James

ROCKINGHAM

Arndt, Janet	Battles-Peirce, Marjorie	Beaulieu, Jon	Case, Margaret
Christie, Andrew, Jr.	Dalrymple, Janeen	Dearborn, Bruce	Dodge, Robert
Dolan, Richard	Dowd, Sandra	Dowling, Patricia	Downing, Michael
Felch, Charles, Sr.	Fesh, Robert	Flanders, John, Sr.	Gleason, John
Griffin, Mary	Guthrie, Joseph	Henderson, Warren	Katsakiores, George

Katsakiores, Phyllis	Klemm, Arthur, Jr.	Langley, Jane	Langone, John
Letourneau, Robert	Lovejoy, Marian	Major, Norman	McCarthy, John, Jr.
Morris, Debbie	Noyes, Richard	Rabideau, Marie	Raynowska, Bernard
Sapareto, Frank	Stickney, Nancy	Stone, Joseph	Stritch, C. Donald
Varrell, Thomas	Welch, David	Weyler, Kenneth	

STRAFFORD

Cossette, Larry	Musler, George	Torr, Ann	Torr, Franklin
Tsiros, William			

SULLIVAN

Flint, Gordon	Kibbey, David	Lindblade, Eric	Schotanus, Merle

NAYS 179

BELKNAP

Clark, Charles	Pilliod, James	Salatiello, Thomas

CARROLL

Babson, David, Jr.

CHESHIRE

Bonneau, Sarah	DePecol, Benjamin	Doucette, Richard	Lynch, Margaret
Manning, Joseph	McGuirk, Paul	McNamara, Wanda	Meader, David
O'Connell, John	Pratt, Irene	Pratt, John	Richardson, Barbara
Riley, William	Robertson, Timothy	Russell, Ronald	Vogl, John

COOS

Bradley, Paula	Coulombe, Henry	Hawkinson, Marie	Mears, Edgar
Moynihan, Wayne	Pratt, Leighton	St. Hilaire, Paul	

GRAFTON

Almy, Susan	Below, Clifton	Copenhaver, Marion	Guest, Robert
Ham, Bonnie	Lovett, Sidney	Luker, Elsa	Mirski, Paul
Nordgren, Sharon			

HILLSBOROUGH

Ackerman, Philip	Allen, W. Gordon	Ameen, W.	Barry, William, III
Bergin, Peter	Buckley, Raymond	Burke, M. Virginia	Cardin, Lori
Carlson, Donald	Clemons, Jane	Cote, Peter	Daigle, Robert
Drabinowicz, A. Theresa	Dwyer, Paul, Sr.	Fenton, James	Foster, Joseph
Foster, Linda	Golding, William	Gosselin, Gerald	Haettenschwiller, Alphonse
Hall, Betty	Hansen, Herbert	Holley, Sylvia	Holt, David
Hunter, Bruce	Jean, Claudette	Jean, Loren	Johnson, Lionel
Konys, Christine	Kurk, Neal	L'Heureux, Robert	LaRose, Richard
Leonard, Peter	Lessard, Rudy	Letendre, Evelyn	Luebkert, Bernard
Lynde, Harold	MacAuslan, Rita	MacGillivray, Jeffrey	MacIntyre, Doris
Marcinkowski, Michael	Martin, Mary	McCarthy, William	McRae, Karen
Melcher, Harold	Morello, Michael	Murch, George	Murphy, Robert
O'Rourke, Thomas	Perkins, Paul	Reidy, Frank	Thulander, O. Alan
Turgeon, Roland	Vaillancourt, Steve	White, Jay	Wright, George

MERRIMACK

Burney, Carol	Daneault, Gabriel	Dunn, Miriam	Feuerstein, Martin
Fraser, Marilyn	French, Barbara	Gile, Mary	Jacobson, Alf
Moore, Carol	Morrill, Olive	Nichols, Avis	Reardon, Tara

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

ROCKINGHAM

Abbott, Dennis	Belanger, Ronald	Bishop, Franklin	Blanchard, MaryAnn
Camm, Kevin	Carson, Gregory	Cegelis, Mark	Clark, Martha
Coes, Betsy	Cooney, Richard	Dunham, Vivian	Flanagan, Natalie
Francoeur, Sheila	Frechette, Joseph	Heath, John	Hutchinson, Rebecca
Kane, Cecelia	Kelley, Jane	Kobel, Rudolph	Malcolm, Kenneth
McKinney, Betsy	Micklon, Stephanie	Mikowlski, Walter	Norelli, Terie
Pantelakos, Laura	Pitts, Jacqueline	Sabella, Norma	Schanda, Frank
Syracusa, Anthony	Tufts, J. Arthur	Vaughn, Charles	Weatherspoon, Jackie

STRAFFORD

Berube, Roger	Bickford, David	Brennan, William	Brown, George
Brown, Julie	Callaghan, Frank	DeChane, Marlene	Dunlap, Patricia
Estabrook, Iris	Grassie, Anne	Hemon, Roland	Kaen, Naida
Keans, Sandra	Knowles, William	Lundborn, Raymond	McCann, William, Jr.
McKinley, Robert	Merrill, Amanda	Pelletier, Arthur	Rogers, Rose Marie
Rollo, Michael	Smith, Marjorie	Snyder, Clair	Spear, Barbara
Sullivan, Henry	Taylor, Kathleen	Twardus, Joseph	Vachon, Dennis
Wall, Janet			

SULLIVAN

Adler, Rudolf	Allison, David	Burling, Peter	Cloutier, John
Donovan, Thomas	Ferland, Brenda	Leone, Richard	Robb-Theroux, Amy
Wiggins, Celestine			

and the majority report failed.

Rep. Wallin moved Inexpedient to Legislate.

Adopted.

HB 432, increasing the wager limit on games of chance from $1 to $5. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Douglass P. Teschner for the Majority of Local and Regulated Revenues**:** When testimony was first offered on this bill, the committee became concerned that current law is not apparently followed at some "Monte Carlo" nights. As a result, the committee voted unanimously to re-refer the bill to study charitable gaming. The committee solicited testimony from the Attorney General Charitable Trust Division, Sweepstakes Commission, and Department of Safety. As a result, a comprehensive amendment was developed to improve and clarify the statutes on charitable gaming. In the interest of ensuring adequate public process, the committee voted the bill Inexpedient to Legislate and will bring the amendment forward as a clean bill in the upcoming session. The majority of the committee is opposed to raising the minimum bet until the law has been amended to ensure that this practice is suitably regulated. Vote 10-8.

Rep. Stephen G. Avery for the Minority of Local and Regulated Revenues**:** This was a simple bill that would allow wagers on charitable organization casino nights to be raised from a $1 limit to $5. There was overwhelming testimony that this would greatly increase the monies that would actually get to the charities. The minority of the committee feels that while other aspects of charitable gaming need to be tightened up, this can be done in subsequent legislation.

Rep. Avery spoke against and yielded to questions.

Rep. Teschner spoke in favor.

Rep. Teschner requested a roll call; sufficiently seconded.

The question being the adoption of the majority report.

YEAS 200 NAYS 124

YEAS 200

BELKNAP

Bartlett, Gordon	Boyce, Robert	Calvert, Alice	Clark, Charles
Holbrook, Robert	Lawton, David	Lawton, Robert	Pilliod, James
Thomas, John			

CARROLL

Bradley, Jeb	Chandler, Gene	Kenney, Joseph	Lyman, L. Randy

Mock, Henry Patten, Betsey Philbrick, Donald

CHESHIRE

Bonneau, Sarah Burnham, Daniel Hunt, John McGuirk, Paul
Meader, David Metzger, Katherine Richardson, Barbara Riley, William
Royce, H. Charles Smith, Edwin Steere, Myron, III

COOS

Bradley, Paula Davis, Perley Guay, Lawrence Merrill, Gerald
Pratt, Leighton Tholl, John, Jr.

GRAFTON

Akins, Ralph Alger, John Almy, Susan Below, Clifton
Brown, Channing Eaton, Stephanie Guaraldi, Lawrence Hinman, Harry
Lovett, Sidney Phinney, William Teschner, Douglass Williams, William, Jr.

HILLSBOROUGH

Alukonis, David Amidon, Eleanor Arnold, Thomas, Jr. Batula, Peter
Belvin, William Bergin, Peter Brundige, Robert Burke, M. Virginia
Calawa, Leon, Jr. Carlson, Donald Carney, Lauren Chabot, Robert
Christiansen, Lars Clay, Susan Cote, Peter Daigle, Robert
Daniels, Gary Desrosiers, William Dokmo, Cynthia Durham, Susan
Dyer, Merton Emerton, Lawrence, Sr. Fields, Dennis Flora, Kathleen
Foster, Linda Golding, William Hansen, Herbert Herman, Keith
Holley, Sylvia Holt, David Jean, Loren Johnson, Lionel
Kurk, Neal L'Heureux, Robert LaRose, Richard Leishman, Peter
Leonard, Peter Letendre, Evelyn Lozeau, Donnalee MacIntyre, Doris
Marcinkowski, Michael McCarty, Winston McDonald, James, Sr. McGough, Tim

McRae, Karen	Melcher, Harold	Mercer, Robert	Messier, Irene
Mittelman, David	Morello, Michael	Murch, George	Murphy, Robert
O'Hearn, Jane	Peterson, Andrew	Rowe, Robert	Searles, Stanley, Sr.
Thulander, O. Alan	Wheeler, Robert	White, Donald	Wright, George

MERRIMACK

Anderson, Eric	Colburn, Thomas	Crowell, Peter	Daneault, Gabriel
Dunn, Miriam	Feuerstein, Martin	Fraser, Marilyn	French, Barbara
Hess, David	Hoadley, Elizabeth	Jacobson, Alf	Krueger, Patricia
Lamach, Bernard	Langer, Ray	Larrabee, David	Leber, William
Marshall, Kenneth	Morrill, Olive	Nichols, Avis	Pfaff, Terence
Reardon, Tara	St. Cyr, Gerard	Whalley, Michael	Whittemore, James

ROCKINGHAM

Abbott, Dennis	Arndt, Janet	Battles-Peirce, Marjorie	Beaulieu, Jon
Carson, Gregory	Case, Margaret	Christie, Andrew, Jr.	Coes, Betsy
Dalrymple, Janeen	Dolan, Richard	Dowling, Patricia	Downing, Michael
Fesh, Robert	Flanagan, Natalie	Flanders, John, Sr.	Francoeur, Sheila
Griffin, Mary	Henderson, Warren	Hutchinson, Rebecca	Katsakiores, George
Katsakiores, Phyllis	Kelley, Jane	Klemm, Arthur, Jr.	Kobel, Rudolph
Letourneau, Robert	Lovejoy, Marian	Major, Norman	Malcolm, Kenneth
McKinney, Betsy	Noyes, Richard	Pantelakos, Laura	Pitts, Jacqueline
Rabideau, Marie	Raynowska, Bernard	Sabella, Norma	Stickney, Nancy
Stone, Joseph	Stritch, C. Donald	Syracusa, Anthony	Tufts, J. Arthur
Varrell, Thomas	Vaughn, Charles	Welch, David	Weyler, Kenneth

STRAFFORD

Brown, Julie	Cossette, Larry	DeChane, Marlene	Dunlap, Patricia
Estabrook, Iris	Grassie, Anne	Hemon, Roland	McKinley, Robert
Musler, George	Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie

Smith, Marjorie	Spear, Barbara	Sullivan, Henry	Taylor, Kathleen
Torr, Ann	Tsiros, William	Wall, Janet	

SULLIVAN

Adler, Rudolf	Allison, David	Ferland, Brenda	Flint, Gordon
Kibbey, David	Leone, Richard	Lindblade, Eric	Schotanus, Merle

NAYS 124

BELKNAP

Boriso, Thomas	Salatiello, Thomas

CARROLL

Babson, David, Jr.	Cooper, Kipp	Dickinson, Howard, Jr.

CHESHIRE

Avery, Stephen	DePecol, Benjamin	Doucette, Richard	Lynch, Margaret
Lynott, Margaret	Manning, Joseph	McNamara, Wanda	Pratt, Irene
Pratt, John	Russell, Ronald	Vogl, John	

COOS

Coulombe, Henry	Coulombe, Yvonne	Hawkinson, Marie	Horton, Lynn
Mears, Edgar	Moynihan, Wayne		

GRAFTON

Cobbin, Philip	Copenhaver, Marion	Guest, Robert	Ham, Bonnie
Hill, Richard	Luker, Elsa	Nordgren, Sharon	Root, John
Trelfa, Richard	Weber, Phil		

HILLSBOROUGH

Ackerman, Philip	Allen, W. Gordon	Ameen, W.	Barry, William, III
Buckley, Raymond	Cardin, Lori	Clegg, Robert, Jr.	Clemons, Jane
Dawe, Eileen	Drabinowicz, A. Theresa	Dwyer, Paul, Sr.	Fenton, James
Foster, Joseph	Franks, Suzan	Gage, Ruth	Ginsburg, Ruth
Gosselin, Gerald	Goulet, Maurice	Hall, Betty	Hunter, Bruce
Jean, Claudette	Konys, Christine	Lefebvre, Roland	Lessard, Rudy
Luebkert, Bernard	Lynde, Harold	MacAuslan, Rita	MacGillivray, Jeffrey
McCarthy, William	Milligan, Robert	O'Rourke, Thomas	Perkins, Paul
Reidy, Frank	Turgeon, Roland	Vaillancourt, Steve	White, Jay

MERRIMACK

Burney, Carol	Gile, Mary	Lockwood, Robert	Moore, Carol
Seldin, Gloria	Wallin, Jean	Wallner, Mary Jane	Yeaton, Charles

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Blanchard, MaryAnn	Camm, Kevin
Cegelis, Mark	Clark, Martha	Cooney, Richard	Cushing, Robert
Dearborn, Bruce	Dodge, Robert	Dowd, Sandra	Dunham, Vivian
Felch, Charles, Sr.	Frechette, Joseph	Gleason, John	Guthrie, Joseph
Heath, John	Kane, Cecelia	Langley, Jane	Langone, John
Micklon, Stephanie	Mikowlski, Walter	Morris, Debbie	Norelli, Terie
Reardon, Neil	Sapareto, Frank	Schanda, Frank	Weatherspoon, Jackie

STRAFFORD

Berube, Roger	Bickford, David	Brennan, William	Brown, George
Callaghan, Frank	Kaen, Naida	Keans, Sandra	Knowles, William
Lundborn, Raymond	McCann, William, Jr.	Merrill, Amanda	Rollo, Michael
Snyder, Clair	Twardus, Joseph	Vachon, Dennis	

SULLIVAN

Burling, Peter	Cloutier, John	Donovan, Thomas	Robb-Theroux, Amy
Wiggins, Celestine			

and the majority report was adopted.

HB 126-FN-L, repealing road toll refunds for retail dealers. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Merle W. Schotanus for the Majority of Public Works and Highways**:** This is the second consecutive time this bill has been introduced in the House. The previous bill, after study, was voted inexpedient to legislate by the House. The voluntary road toll refund program was established in 1957. The program allows independent gasoline dealers to apply for a 1 percent rebate on state gasoline taxes paid as compensation for shrinkage which occurs before the gasoline is sold. Gasoline dealers pay the state tax on gasoline up-front based on gallons delivered from the wholesale terminal before any gasoline is sold to the public. Temperature shrinkage during storage reduces the number of gallons that can be sold to the public. Without the rebate, dealers will have paid a tax on gasoline that cannot be sold. Vermont, Maine and other cold-weather states allow rebates to gasoline dealers which range from 0.05 to 4 percent. The majority of the committee believes the 1 percent New Hampshire rebate is fair. The Department of Environmental Services (DES) took no position on this bill in 1997. However, DES did state that gasoline dealers can experience losses of gasoline as a result of shrinkage. New Hampshire dealers testified that shrinkage is the greatest contributor to loss of gasoline. The majority of the committee believes that it is unfair to tax a product that cannot be sold and thus recommends this bill is inexpedient to legislate Vote 14-7.

Rep. Katherine D. Rogers, Steve Vaillancourt, and Marlene M. DeChane for the Minority of Public Works and Highways**:** The amendment would decrease the rebate from 1 to 0.5 percent of the toll paid on gross gasoline purchases. The New Hampshire Department of Environmental Services reported in January of 1996 that the amount lost during delivery is 0.1-0.2 percent or less. Therefore, with the reduction to 0.5 percent, dealers would still be receiving approximately three times what they are in fact losing. During extensive meetings of the subcommittee dealing with this bill, no clear and compelling empirical evidence was presented that any significant amount of gasoline is lost in underground storage tanks. With New Hampshire's year-round temperature range, scientific evidence is that the amount of expansion and contraction offsets each other. If anything, dealers may be experiencing an increase of volume to sell. If this rebate was dropped to 0.5 percent, the state would realize an additional $325,000 a year into the highway fund. It should also be noted that there

is no refund to the federal gasoline tax, none in our neighboring New England states of Massachusetts, Rhode Island and Connecticut, and the 0.5 percent as proposed by the amendment in Maine.

Rep. Lamach spoke against.

Rep. Schotanus spoke in favor and yielded to questions.

Majority report adopted.

Rep. Meader declared a conflict of interest and did not participate.

HB 405-L, relative to standardizing the requirements for the design and specifications of septic systems. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Michael D. Whalley for the Majority of Resources, Recreation and Development**:** This bill would require that the design and specifications for sewage or waste disposal systems approved by the Department of Environmental Services be the standard for all systems in similar circumstances throughout the state. Although many on the committee felt regulations and standards should be based on science and not become a tool for local communities to restrict reasonable growth, most of the committee did not wish to upset the partnership that exists between the state and local communities with regard to the regulation of sewage disposal systems. Vote 12-5.

Rep. William E. Williams, Jr. for the Minority of Resources, Recreation and Development**:** The minority of the committee, being unable to agree with the majority, believes that this bill is a basic, simple bill which brings the entire state in line with the present technical standards as enforced by the New Hampshire Department of Environmental Services. This is not a "home rule" issue. Rather, it is an attempt to standardize septic statutes in a similar manner as we now treat clean air, clean water, etc.

Reps. Adler and William Williams spoke against.

Reps. Whalley and Metzger spoke in favor and yielded to questions.

On a division vote, 268 members having spoken in the affirmative and 42 in the negative, the majority report was adopted.

HB 560-FN, relative to penalties for introduction of boats and seaplanes from waters infested with milfoil or zebra mussels into clean lakes or ponds. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.

Rep. David M. Lawton for the Majority of Resources, Recreation and Development**:** While the majority of the committee believes that the problems associated with milfoil and zebra mussels are very serious concerns for our lake resources, we firmly believe that this legislation isn't needed at the present time. HB 181, Chapter 185 of 1997 was an important effort by this Legislature to address the issues of milfoil infestation. Chapter 185 already makes it illegal to sell, import, possess, distribute or transport exotic aquatic species (milfoil). Further, it provides for a $1.50 increase in boat registration fees to help control milfoil infestation. Until the results of our efforts of last session become clear, further action is unnecessary. Vote 10-7.

Rep. Sidney Lovett for the Minority of Resources, Recreation and Development**:** The exotic weed milfoil is contaminating the lakes of New Hampshire. It is currently in 30 lakes or ponds – an increase of 15% in 1997. The minority believes that this fact and the proximity of zebra mussels (Vermont) should require the legislature to maintain a committee for study and the development of appropriate strategies to preserve New Hampshire lakes. The minority recommends interim study.

Rep. Lovett spoke against.

Rep. David Lawton spoke in favor and yielded to questions.

Majority report adopted.

HB 485, relative to limited electrical energy producers. OUGHT TO PASS WITH AMENDMENT

Reps. Donald B. White, Anne C. Grassie and Jeb E. Bradley for Science, Technology and Energy**:** There are three major provisions of this bill. First there are legislative guidelines for net energy metering. This metering occurs when an extremely small generator of electricity, primarily using wind or solar power, uses less energy than such a system produces on an instantaneous basis. The excess energy flows into the distribution network and runs the homeowners' meter backwards, allowing an offset against consumption at other times. PSNH currently allows this practice for a handful of residences that can produce up to 25 kilowatts of power. The net impact in terms of cost to the electric system is extremely small, but the practical impact would be to encourage people to explore and install renewable energy technology. This amendment limits the total amount of kilowatts of such generating capacity that can use net energy metering. The second provision of the bill removes the requirement from state law that a utility must purchase new sources of independent power, such as hydro or wood energy, once competition in the electric industry actually commences. This requirement, as well as similar federal legislation enacted in the late 1970s, has led to the growth of renewable independent power but has proven to be very costly for N.H. customers. Much of the independent power cost problem for PSNH customers can be traced directly to projected costs of energy that PSNH and the Public Utilities Commission agreed to in a 1983 Commission docket. These high projected costs not only were used to justify continued Seabrook construction but also created an incentive for wood to energy plants to locate in PSNH's service territory. The committee believes it is time to end this practice of future mandatory power purchases, as all sources of power generation should be subject to competitive market forces. The third component of the bill involves existing purchases of independent power. In 1994 the legislature passed SB 790, which barred the buyout of any rate orders for the six remaining wood to energy plants. At the time, SB 790 was necessary to facilitate negotiations between PSNH and the six wood plants to lower their cost to ratepayers. Partial buydowns of these rate orders have been negotiated and are pending approval at the Commission. Even though there would be significant ratepayer savings with buydowns, greater savings might be achieved with rate order buyouts. The committee believes that it is appropriate to eliminate the prohibition on buyouts once competition exists, should any of the plants choose that as an option. Because a buyout could lead to a wood plant closure, there could be an impact on the forest products industry. The committee mitigated this possible impact by allowing only one potential buyout per year. Unlike 1994, once electric industry competition begins, these wood to energy plants as well as all other sources of renewable energy, both new and existing, will be able to sell to willing buyers. Results from the N.H. Pilot Program suggest at least some consumers will choose to purchase this type of power. Vote 17-0.

Amendment (0188h)

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

1 Limited Electrical Energy Producers Act; Declaration of Purpose. Amend RSA 362-A:1 to read as follows:

362-A:1 Declaration of Purpose. It is found to be in the public interest to provide for small scale and diversified sources of supplemental electrical power to lessen the state's dependence upon other sources which may, from time to time, be uncertain. It is also found to be in the public interest to encourage and support diversified electrical production that uses indigenous and renewable fuels and has beneficial impacts on the environment and public health. ***It is also found that these goals should be pursued in a competitive environment pursuant to the restructuring policy principles set forth in RSA 374-F:3. It is further found that net energy metering for eligible customer-generators may be one way to provide a reasonable opportunity for small customers to choose interconnected self generation, encourage private investment in renewable energy resources, stimulate in-state commercialization of innovative and beneficial new technology, enhance the future diversification of the state's energy resource mix, and reduce interconnection and administrative costs. However, due to uncertain cost and technical impacts to electric utilities and other ratepayers, the general court finds it appropriate to limit the availability of net energy metering to eligible customer-generators who are early adopters of small-scale renewable electric generating technologies.***

2 New Paragraphs; Limited Electrical Energy Producers Act; Definitions; "Eligible Customer-Generator" Added. Amend RSA 362-A:1-a by inserting after paragraph II the following new paragraphs:

II-a. "Electricity suppliers" has the same meaning as in RSA 374-F:2, II.

II-b. "Eligible customer-generator" means an electric utility customer who owns and operates electrical generating facilities powered by solar, wind, and/or hydro energy with a total peak generating capacity of not more than 25 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electricity requirements.

3 New Paragraph; Limited Electrical Energy Producers Act; Definitions; "Net Energy Metering" Added. Amend RSA 362-A:1-a by inserting after paragraph III the following new paragraph:

III-a. "Net energy metering" means measuring the difference between the electricity supplied over the electric distribution system and the electricity generated by an eligible customer-generator which is fed back into the electric distribution system over a billing period.

4 New Paragraph; Limited Electrical Energy Producers Act; Definitions; "Qualifying Facility" Added. Amend RSA 362-A:1-a by inserting after paragraph VII the following new paragraph:

VII-a. "Qualifying facility" means either or both of a qualifying small power production facility or qualifying cogeneration facility.

5 Limited Electrical Energy Producers Act; Purchase of Output by Private Sector; Additional Authority. Amend the introductory paragraph of RSA 362-A:2-a, I to read as follows:

I. A limited producer of electrical energy shall have the authority to sell its produced electrical energy to not more than 3 purchasers other than the franchise electric utility***, unless additional authority to sell is otherwise allowed by statute or commission order***. Such purchaser may be any individual, partnership, corporation***,*** or association. ***The commission may authorize a limited producer, including eligible customer-generators, to sell electricity at retail, either directly or indirectly through an electricity supplier, within a limited geographic area where the purchasers of electricity from the limited producer shall not be charged a transmission tariff or rate for such sales if transmission facilities or capacity under federal jurisdiction are not used or needed for the transaction.*** The public utilities commission shall review and approve all contracts concerning a retail sale of electricity pursuant to this section. The public utilities commission shall not set the terms of such contracts but may disapprove any contract which in its judgment:

6 Limited Electrical Energy Producers Act; Purchase of Output by Public Utilities; New Purchases Not Required After Competition Certified. Amend RSA 362-A:3 to read as follows:

362-A:3 Purchase of Output of Limited Electrical Energy Producers by Public Utilities.

I. The entire output of electric energy of such limited electrical energy producers, if offered for sale to the electric utility, shall be purchased by the electric public utility which serves the franchise area in which the installations of such producers are located.

II. No purchases and related transactions involving qualifying facilities shall take place under RSA 362-A:3 or RSA 362-A:4 in any location where retail electric competition is certified to exist pursuant to RSA 38:36, unless such purchase or related transaction is pursuant to:

(a) Commission orders or agreements providing for qualifying facility power sales existing prior to such certification;

(b) Negotiated qualifying facility power purchase contracts existing prior to such certification; or

(c) Commission orders or agreements resulting from the renegotiation of orders, agreements, or contracts referenced in subparagraphs (a) and (b).

7 Limited Electrical Energy Producers Act; Payment by Public Utilities for Purchase of Output; Payments After Competition Certified. Amend RSA 362-A:4 to read as follows:

362-A:4 Payment by Public Utilities for Purchase of Output. Public utilities purchasing electrical energy in accordance with the provisions of this chapter shall pay rates per kilowatt hour to be set from time to time by the commission. Such rates shall be based on the purchasing utility's avoided costs. The commission may set long term rates which shall, at the option of the qualifying small power producer or qualifying cogenerator, be based on the purchasing utility's avoided costs either calculated for the time of delivery or calculated for a specified term at the time the qualifying small power producer or qualifying cogenerator agrees to be obligated to deliver for the specified term. Nothing in this section shall limit the authority of any electric utility or any qualifying small power producer or qualifying cogenerator to agree to a rate for any purchase which differs from the rate or terms or conditions which would otherwise be required by the commission. ***No payments or rates shall be required by this section in locations where retail electric competition is certified to exist pursuant to RSA 38:36, unless such payments or rates are pursuant to an arrangement authorized by RSA 362-A:3.***

8 Limited Electrical Energy Producers Act; Consideration by the Commission; Existing Order or Agreement. Amend RSA 362-A:4-c to read as follows:

362-A:4-c Consideration by the Commission. The commission shall independently and expeditiously consider any mutually acceptable agreement ***for the buydown, buyout, or renegotiation of any existing commission order providing for qualifying facility power sales or power purchase agreement*** regardless of the status of ***any*** other ***such pending*** renegotiations. ***No complete buyout shall be approved until competition is certified to exist in at least 70 percent of the state pursuant to RSA 38:36, and provided that restrictions are not placed on selling the output of the qualifying facility in a competitive generation market pursuant to RSA 374-F. The commission shall not approve more than one complete buyout of a wood-fired qualifying facility in any 12-month period, unless the commission finds that such additional complete buyouts would cause no significant adverse impact on the forest products industry in New Hampshire.***

9 New Subparagraph; Limited Electrical Energy Producers Act; Payment Obligations; Commission Considerations; Electric Rates Added. Amend RSA 362-A:8, II(b) by inserting after subparagraph (4) the following new subparagraph:

(5) The impact on electric rates.

10 New Section; Limited Electrical Energy Producers Act; Net Energy Metering. Amend RSA 362-A by inserting after section 8 the following new section:

362-A:9 Net Energy Metering.

I. A standard contract or tariff providing for net energy metering shall be developed and made available to eligible customer-generators by each electric distribution utility within 6 months of the start of retail choice of electric suppliers. Such tariffs or contracts shall be available on a first-come, first-served basis within each electric utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned and operated by eligible customer-generators totals 0.05 percent of the annual peak energy demand distributed by each such utility as determined by the commission from time to time.

II. Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. However, an additional meter or meters to monitor the flow of electricity in each direction may be installed, provided that it is not at the expense of the customer-generator unless requested by the customer-generator, and provided that such metering shall be used only to provide the information necessary to accurately bill the customer-generator pursuant to the provisions of this section, or for research purposes. If an additional meter or meters are installed, the net energy metering calculation shall yield the same result as when a single meter is used. The net energy metering calculation shall be made by taking the difference between the electricity supplied over the electric distribution system and the electricity generated by the eligible customer-generator and fed back into the electric distribution system over the billing period.

III. Each net energy metering contract or tariff offered by an electric distribution utility shall be identical, with respect to rates, rate structure, and periodic charges, to the contract or tariff to which the same customer would be assigned if such customer was not an eligible customer-generator. Electricity suppliers may voluntarily determine the terms, conditions, and prices under which they will agree to provide generation supply to and purchase net generation output from eligible customer-generators; however, electricity suppliers who provide default service or transition

service to such a customer shall only bill for the net energy supplied as calculated in accordance with this section.

IV. The following rules shall apply to net energy measurement:

(a) The net energy produced or consumed on a monthly basis shall be measured in accordance with normal metering practices.

(b) Where the electricity supplied to the customer-generator over the electric distribution system exceeds the electricity generated by the customer-generator during the billing period, the customer-generator shall be billed based on the net energy supplied for distribution services and other charges in accordance with this section and standard applicable rates.

(c) Where the electricity generated by the customer-generator exceeds the electricity supplied by the electric grid, the customer-generator shall be credited during the next billing period for the excess kilowatt hours generated in accordance with this section.

V. The commission shall adopt rules, pursuant to RSA 541-A, to establish reasonable interconnection requirements for safety, reliability, and power quality as it determines the public interest requires.

VI. The commission, by order, may waive any of the limitations set forth in this chapter for targeted net energy metering arrangements that are part of a utility strategy to minimize distribution costs.

11 Report by Commission on Net Energy Metering. Within 6 months after the limit on the availability of net energy metering set forth in RSA 362-A:9, I, as inserted by section 10 of this act, is reached in one or more electric utility service areas, the commission shall submit a report to the legislative oversight committee on electric utility restructuring, the house science, technology and energy committee, and the senate executive departments and administration committee. The report shall concern the results and effects of net energy metering arrangements to date, including a summary of information available from participating utilities, electricity suppliers, and eligible customer-generators, and may recommend continuing or modifying the limits set forth in RSA 362:9, I and RSA 362-A:1-a, II-b.

12 Intent of Repeal of RSA 362-A:4-b. The repeal of RSA 362-A:4-b is intended to allow for mutually acceptable buyouts. However, the prospect of possible buyouts of existing commission orders providing for qualifying facility power sales as an alternative to the negotiated agreements for buydowns pending before the commission on or before the effective date of this act, or subsequent modifications of those negotiated agreements, shall not be considered by the commission as a factor in its determination of whether Northeast Utilities has used its "best efforts" to renegotiate existing commission orders providing for qualifying facility power sales pursuant to its obligations under the rate agreement referenced in RSA 362-C.

13 Repeal. RSA 362-A:4-b, relative to buyout of existing rate orders, is repealed.

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

AMENDED ANALYSIS

This bill provides for the buyout of public utility purchase obligations from limited electrical energy producers after competition is certified to exist. This bill also provides for net energy metering and agreements between eligible customer-generators and electric utilities. This bill also provides for additional selling authority by limited electrical energy producers and repeals the existing statute relative to buyout of existing rate orders.

Adopted.

Report adopted and ordered to third reading.

Rep. Crowell declared a conflict of interest and did not participate.

HCR 12, urging ratification of the Convention for the Elimination of All Forms of Discrimination Against Women. OUGHT TO PASS WITH AMENDMENT

Rep. Rita G. MacAuslan for State-Federal Relations and Veterans Affairs**:** The committee, with the approval of the sponsors, amended this resolution, which originally urged the US Senate to ratify the UN Convention on the Elimination of All Forms of Discrimination Against Women, to urge that the CEDAW be considered instead. The majority of the committee agrees with the amendment that CEDAW, which was signed by the US in 1980, passed from the Senate Foreign Relations Committee (13-5) to the full Senate in 1994, then referred back to committee due to its lateness, should be reconsidered and voted on by the Senate. Vote 10-6

.

Amendment (0165h)

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

A RESOLUTION urging the United States Senate to consider the Convention on the Elimination of All Forms of Discrimination Against Women.

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

Whereas, in 1980 the United States of America was a signatory to the Convention on the Elimination of All forms of Discrimination Against Women; and

Whereas, in 1994 the Senate Foreign Relations Committee voted 13-5 on the measure and it was sent to the floor but not considered because of lateness; and

Whereas, since the Senate Foreign Relations Committee has not reconsidered the treaty; and

Whereas, Legislatures issue rights of great significance to citizens and the world; now therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the general court of the state of New Hampshire strongly urges the United States Senate to consider the Convention on the Elimination of All Forms of Discrimination Against Women; and

That a copy of this resolution be sent by the clerk of the house of representatives to the President of the United States, with a copy to the Secretary of State, to each member of the United States Senate Foreign Relations Committee, and to each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This house concurrent resolution urges consideration by the United States Senate of the Convention for the Elimination of All Forms of Discrimination Against Women.

Adopted.

Rep. Luebkert spoke against.

Rep. Murch spoke against and yielded to questions.

Rep. Pfaff spoke in favor.

Rep. Luebkert requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 228 NAYS 76

YEAS 228

BELKNAP

Boriso, Thomas	Lawton, David	Lawton, Robert	Pilliod, James
Salatiello, Thomas			

CARROLL

Bradley, Jeb	Chandler, Gene	Dickinson, Howard, Jr.	Kenney, Joseph
Patten, Betsey	Philbrick, Donald		

CHESHIRE

Avery, Stephen	Bonneau, Sarah	DePecol, Benjamin	Doucette, Richard
Hunt, John	Lynch, Margaret	Lynott, Margaret	Manning, Joseph

McGuirk, Paul	Meader, David	Metzger, Katherine	Pratt, John
Richardson, Barbara	Riley, William	Robertson, Timothy	Royce, H. Charles
Russell, Ronald	Smith, Edwin	Vogl, John	

COOS

Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Davis, Perley
Guay, Lawrence	Horton, Lynn	Mears, Edgar	Moynihan, Wayne
Pratt, Leighton	Tholl, John, Jr.		

GRAFTON

Akins, Ralph	Almy, Susan	Below, Clifton	Brown, Channing
Eaton, Stephanie	Guaraldi, Lawrence	Guest, Robert	Ham, Bonnie
Hill, Richard	Lovett, Sidney	Luker, Elsa	Nordgren, Sharon
Phinney, William	Teschner, Douglass	Trelfa, Richard	Williams, William, Jr.

HILLSBOROUGH

Ackerman, Philip	Allen, W. Gordon	Alukonis, David	Ameen, W.
Amidon, Eleanor	Barry, William, III	Batula, Peter	Belvin, William
Bergin, Peter	Brundige, Robert	Buckley, Raymond	Calawa, Leon, Jr.
Cardin, Lori	Chabot, Robert	Christiansen, Lars	Clay, Susan
Clemons, Jane	Cote, Peter	Daigle, Robert	Dawe, Eileen
Desrosiers, William	Dokmo, Cynthia	Drabinowicz, A. Theresa	Durham, Susan
Dwyer, Paul, Sr.	Dyer, Merton	Emerton, Lawrence, Sr.	Fields, Dennis
Foster, Joseph	Foster, Linda	Franks, Suzan	Gage, Ruth
Ginsburg, Ruth	Golding, William	Hall, Betty	Holt, David
Jean, Claudette	Konys, Christine	Kurk, Neal	L'Heureux, Robert
LaRose, Richard	Leishman, Peter	Leonard, Peter	Lozeau, Donnalee
Lynde, Harold	MacAuslan, Rita	MacIntyre, Doris	Martin, Mary
McCarthy, William	McCarty, Winston	McDonald, James, Sr.	Melcher, Harold
Mercer, Robert	Messier, Irene	Milligan, Robert	O'Hearn, Jane

Perkins, Paul	Reidy, Frank	Searles, Stanley, Sr.	Thulander, O. Alan
Vaillancourt, Steve	Wheeler, Robert		

MERRIMACK

Anderson, Eric	Burney, Carol	Daneault, Gabriel	Dunn, Miriam
French, Barbara	Gile, Mary	Hess, David	Jacobson, Alf
Lamach, Bernard	Leber, William	Lockwood, Robert	Marshall, Kenneth
Moore, Carol	Morrill, Olive	Nichols, Avis	Pfaff, Terence
Seldin, Gloria	St. Cyr, Gerard	Wallin, Jean	Wallner, Mary Jane
Yeaton, Charles			

ROCKINGHAM

Abbott, Dennis	Case, Margaret	Christie, Andrew, Jr.	Clark, Martha
Coes, Betsy	Cooney, Richard	Dalrymple, Janeen	Dolan, Richard
Dowd, Sandra	Dowling, Patricia	Downing, Michael	Felch, Charles, Sr.
Fesh, Robert	Flanagan, Natalie	Flanders, John, Sr.	Francoeur, Sheila
Gleason, John	Griffin, Mary	Heath, John	Kane, Cecelia
Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane	Klemm, Arthur, Jr.
Kobel, Rudolph	Langley, Jane	Langone, John	Major, Norman
Malcolm, Kenneth	McKinney, Betsy	Micklon, Stephanie	Norelli, Terie
Noyes, Richard	O'Keefe, Patricia	Pantelakos, Laura	Pitts, Jacqueline
Rabideau, Marie	Raynowska, Bernard	Sabella, Norma	Sapareto, Frank
Schanda, Frank	Stone, Joseph	Stritch, C. Donald	Syracusa, Anthony
Tufts, J. Arthur	Weatherspoon, Jackie	Welch, David	Weyler, Kenneth

STRAFFORD

Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Grassie, Anne
Hemon, Roland	Kaen, Naida	Keans, Sandra	Knowles, William
Lundborn, Raymond	McCann, William, Jr.	Merrill, Amanda	Musler, George

Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Spear, Barbara	Sullivan, Henry
Taylor, Kathleen	Torr, Ann	Torr, Franklin	Tsiros, William
Twardus, Joseph	Vachon, Dennis	Wall, Janet	

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon	Kibbey, David	Leone, Richard
Schotanus, Merle	Wiggins, Celestine		

NAYS 76

BELKNAP

Bartlett, Gordon	Boyce, Robert	Clark, Charles	Holbrook, Robert
Laflam, Robert	Thomas, John		

CARROLL

Babson, David, Jr.	Lyman, L. Randy	Mock, Henry

CHESHIRE

McNamara, Wanda	Steere, Myron, III

COOS

Merrill, Gerald

GRAFTON

Alger, John Cobbin, Philip Hinman, Harry Root, John
Weber, Phil

HILLSBOROUGH

Arnold, Thomas, Jr.	Burke, M. Virginia	Carlson, Donald	Carney, Lauren
Clegg, Robert, Jr.	Daniels, Gary	Fenton, James	Flora, Kathleen
Gosselin, Gerald	Goulet, Maurice	Hansen, Herbert	Herman, Keith
Holley, Sylvia	Hunter, Bruce	Jean, Loren	Johnson, Lionel
Lefebvre, Roland	Lessard, Rudy	Letendre, Evelyn	Luebkert, Bernard
MacGillivray, Jeffrey	McGough, Tim	Morello, Michael	Murch, George
Murphy, Robert	O'Rourke, Thomas	Peterson, Andrew	Rowe, Robert
Turgeon, Roland	White, Donald	Wright, George	

MERRIMACK

Crowell, Peter Feuerstein, Martin Hoadley, Elizabeth Langer, Ray
Larrabee, David Whittemore, James

ROCKINGHAM

Arndt, Janet	Beaulieu, Jon	Belanger, Ronald	Bishop, Franklin
Camm, Kevin	Dearborn, Bruce	Dodge, Robert	Dunham, Vivian
Frechette, Joseph	Guthrie, Joseph	Henderson, Warren	Letourneau, Robert
Lovejoy, Marian	Mikowlski, Walter	Morris, Debbie	Reardon, Neil
Stickney, Nancy	Varrell, Thomas		

STRAFFORD

Bickford, David Cossette, Larry McKinley, Robert

SULLIVAN

Adler, Rudolf

and the report was adopted.

Ordered to third reading.

HB 712, relative to the purchase, preservation, and reactivation of abandoned railroad rights-of-way and limiting railroad liability for passenger rail service. INEXPEDIENT TO LEGISLATE

Rep. John W. Flanders for Transportation**:** It was the feeling of the committee that two prior decisions by the State Supreme Court finding it unconstitutional to implement medical liability caps and that this bill would not pass constitutional muster. Vote 13-2.

Adopted.

RESOLUTION

Rep. Wheeler offered 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 Thursday, January 29, 1998 at 10:00 a.m..

Adopted.

LATE SESSION

Third reading and final passage

HCR 21, encouraging the designation of the Connecticut River as an American Heritage River.

HB 721, authorizing municipalities to restrict the advertising of alcohol and tobacco through the exercise of zoning powers.

HB 535, relative to the regulation of architects.

HB 676-FN-L, relative to distribution of proceeds from the sale of tax-deeded property and repurchase of tax-deeded property by a former owner.

HB 371, relative to the authority of the department of fish and game to regulate the management, preservation, propagation, and taking of state fish, game, and wildlife resources.

HB 443, relative to push-polling.

HB 659, modifying restrictions on televised political advertising.

HB 497, excluding domestic septage from regulation as sludge or biosolids.

HB 717-FN-A, relative to taxation of qualified investment capital companies.

HB 490, relative to the confidentiality of medical information.

HB 485, relative to limited electrical energy producers.

HCR 12, urging the United States Senate to consider the Convention on the Elimination of All Forms of Discrimination Against Women.

UNANIMOUS CONSENT

Reps. L'Heureux, Rose Marie Rogers and Jacobson addressed the House.

RECONSIDERATON

Having voted with the prevailing side, Rep. Wallin moved that the House reconsider its action whereby it found ***HB 198-L,*** allowing municipalities to offer tax incentives to foster growth in new and existing industrial construction, Inexpedient to Legislate and spoke against.

Reconsideration failed.

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 4:20 p.m..

RECESS