

HOUSE RECORD

Second Year of the 155th Session of the General
Court

Calendar and Journal of the 1998 Session

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Concord N.H.

Thursday, March 5, 1998

No. 21

HOUSE JOURNAL No. 5 (cont.)

Wednesday, February 18, 1998

RECESS

(Rep. Amanda Merrill in the Chair)

Their introduction having been approved by the Rules Committee:

RESOLUTION

Rep. Wheeler offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1667 and 1668, shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 1667, to place a question concerning electronic gaming machines to the voters on the November 1998 state general election ballot. (Guay, Coos 6; Thomas, Belk 3; Cooper, Carr 2; Hill, Graf 1; Horton, Coos 3; F. King, Dist 1: Education)

HB 1668-FN-A-L, establishing a personal income tax and a statewide school property tax to fund public education and making an appropriation therefor. (Below, Graf 13; Hager, Merr 18; W. Williams, Graf 3; Feuerstein, Merr 13; Allen, Hills 1: Finance)

Rep. Wheeler offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 91, 140, 191, 210, 302, 303, 305, 307-309, 313, 320, 322, 324, 327, 328, 336-338, 340, 344, 348, 357, 365, 366, 370, 372, 377, 391, 399, 402, 403, 405, 412, 428, 431, 433, 447, 452, 462, 476, 483, 486 and 495 and SCR 6 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF SENATE BILLS AND SCR

First, second reading and referral

SB 91-FN, relative to the water well board. (Executive Departments and Administration)

SB 140, relative to the obligations of joint owners to the nuclear decommissioning finance fund. (Science, Technology and Energy)

SB 191, relative to mental health providers. (Executive Departments and Administration)

SB 210-FN, relative to an exemption from licensing for day care in private homes. (Health, Human Services and Elderly Affairs)

SB 302-FN-L, naming certain portions of U.S. Route 3 after Trooper Leslie Lord and Trooper Scott Phillips and naming a portion of New Hampshire Route 28 after Officer Jeremy Charron. (Public Works and Highways)

SB 303-FN-L, changing the name of Blue Mountain to Bunnell Mountain. (Public Works and Highways)

SB 305-FN, naming the bridge over the Souhegan River on the F.E. Everett turnpike in the town of Merrimack, New Hampshire, Merrill's Marauders bridge. (Public Works and Highways)

SB 307, relative to the display of the POW-MIA flag. (State-Federal Relations and Veterans Affairs)

SB 308, relative to the board of directors of Delta Dental Plan of New Hampshire, Inc. (Commerce)

SB 309, relative to distributors and suppliers of bingo equipment. (Local and Regulated Revenues)

SB 313, requiring compliance with the Military Selective Service Act as a condition to receiving certain state education and employment benefits. (State-Federal Relations and Veterans Affairs)

SB 320, relative to notice by a state agency to certain persons of proposed rulemaking activity. (Executive Departments and Administration)

SB 322, repealing the prospective repeal relative to an exemption for certain rules regarding the radiological health program from drafting and numbering requirements of the rulemaking process. (Executive Departments and Administration)

SB 324-FN, relative to entertainers on premises of an on-sale liquor licensee and relative to penalties for manufacture, sale, and possession of false identification. (Local and Regulated Revenues)

SB 327-L, allowing local political subdivisions to adopt biennial budgets. (Municipal and County Government)

SB 328, allowing liquor and beverage licensees and other liquor and beverage industry members not licensed in New Hampshire to furnish draft beer equipment and representatives to dispense and promote their beverages at licensed beer festivals. (Local and Regulated Revenues)

SB 336, relative to small group and individual insurance. (Commerce)

SB 337, relative to the order of distribution of claims from an insurer's estate. (Commerce)

SB 338, relative to special meetings. (Municipal and County Government)

SB 340, relative to the filing fee for securities in a combined prospectus offered for sale in New Hampshire by a mutual fund. (Commerce)

SB 344, clarifying requirements regarding certain trusts. (Commerce)

SB 348, relative to property left behind by tenants. (Judiciary and Family Law)

SB 357, establishing a committee to study insurance coverage for infertility. (Commerce)

SB 365, relative to including the upper and lower Merrimack Rivers, the Lamprey River, the Swift River, and the mainstream and north branch of the Contoocook River under the shoreland protection act and deleting the deadline for local approval of the designation of the Exeter River as a rural river. (Resources, Recreation and Development)

SB 366, establishing a study committee to examine the purging of archaic laws. (Legislative Administration)

SB 370-L, establishing an international trade corridor and border crossing planning and development advisory committee. (Commerce)

SB 372, relative to forms and rates for large scale commercial insurance policies. (Commerce)

SB 377, authorizing the organization of merchant banks to provide equity financing and related services to small businesses and exempting certain New Hampshire banks from the aging requirement of the interstate acquisition and merger laws. (Commerce)

SB 391-FN-A, exempting personal property which is subject to taxation under the legacies and successions tax from the 2 percent tax on transfers of personal property of nonresident decedents. (Finance)

SB 399, correcting a reference in the insurance laws. (Commerce)

SB 402, extending the reporting date for the pet overpopulation committee. (Environment and Agriculture)

SB 403, relative to mooring on Spofford Lake. (Resources, Recreation and Development)

SB 405-FN, relative to a specific time period by which the state is required to have an audited financial statement available to the public. (Finance)

SB 412, designating skiing as the official New Hampshire sport. (Resources, Recreation and Development)

SB 428-FN, relative to firearm lock boxes in state facilities. (Criminal Justice and Public Safety)

SB 431-FN-A, establishing a statewide database licensing program of the New Hampshire automated information system and making an appropriation therefor. (Executive Departments and Administration)

SB 433-FN, relative to computing average weekly wages for the purpose of determining workers' compensation benefits. (Labor, Industrial and Rehabilitative Services)

SB 447-FN, exempting siblings of a decedent who are unable to engage in substantial gainful employment from the legacies and successions tax. (Finance)

SB 452-FN-L, allowing students to choose alternatives to dissection as part of a course exercise. (Education)

SB 462-FN, relative to any general fund surplus at the close of the current biennium. (Finance)

SB 476-FN, relative to ambulatory surgical facilities. (Health, Human Services and Elderly Affairs)

SB 483-FN, exempting certain businesses from the electronic filing requirement under the meals and rooms tax. (Finance)

SB 486, relative to old age and survivors' insurance. (Executive Departments and Administration)

SB 495, relative to the university system study committee. (Education)

SCR 6, a urging Congress to establish a centralized registry for security interests in intellectual property to be located in New Hampshire. (State-Federal Relations and Veterans Affairs)

RECESS

(Rep. Lozeau in the Chair)

Their introduction having been approved by the Rules Committee:

Rep. Gene Chandler offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1669 and 1670 and Constitutional Amendment Concurrent Resolutions numbered 46 and 47, shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS, CACRs

First, second reading and referral

HB 1669-FN-A-L, adding a capital gains tax to the interest and dividends tax, and designating all revenues from the interest and dividends tax for funding education. (Almy, Graf 14: Finance)

HB 1670-FN-A-L, relative to a statewide school tax on income for purposes of funding a constitutionally adequate education and making an appropriation therefor. (Jacobson, Merr 2; French, Merr 3: Finance)

CACR 46, relating to the right of each educable child to an adequate education, and the proportionality and reasonableness of local taxes for education. Providing that the right of every child to an adequate education shall be enforced by appropriate legislation, that the state may delegate to its political subdivisions the duty to provide an adequate education, and that a tax imposed to implement such a delegated duty shall be proportional and reasonable. (G. Chandler, Carr 1; Carson, Rock 29; F. Riley, Hills 44: Finance)

CACR 47, relating to use of personal income taxes. Providing that the general court shall use net revenues from personal income taxes exclusively for educational purposes. (Hager, Merr 18; Below, Graf 13; Allen Hills 1; W. Williams, Graf 3; Feuerstein, Merr 13; French, Merr 3: Finance)

RECESS

(Rep. MacNeil in the Chair)

RESOLUTION

Their introduction having been approved by the Rules Committee:

Rep. Richardson offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1671, through 1673, shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 1671-FN-A-L, establishing a securities transfer excise tax to meet state obligations in funding education. (McCann, Straf 11; A. Pelletier, Straf 12; Hemon, Straf 11: Finance)

HB 1672-FN-A-L, replacing the business profits tax and the business enterprise tax with a reform business tax and establishing a committee to recommend a rate for the reform business tax. (Lovett, Graf 6: Finance)

HB 1673-FN-L, requiring the state board of education to establish a uniform salary schedule for public school teachers. (Melcher, Hills 11: Education)

RECESS

Rep. Lozeau moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 6

Thursday, March 5, 1998

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

Prayer was offered by Guest Chaplain, Reverend Lynne Hubley from the First Baptist Church in Bradford.

God of Truth and Wisdom: We come before You today seeking Your presence in our midst. May that presence provide strength and clarity, and direction to these representatives who have many tasks and challenges before them. Enable these particular leaders in this session to use the gifts and the power that have been given to them wisely and for the common good of the people whom they are serving. May their work and efforts be fruitful and may they be unified, despite their differences, as they strive to work as one body. We pray to You, O God, as one who hears all our prayers. Amen.

Rep. Cecelia Kane led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. George Brown, Ferguson, Robert Foster, Gage, Healy, Robert Johnson, Nowe, O'Rourke, Pantelakos, Pepino, Rubin, Russell, Paul Taylor and Thulander, the day, illness.

Reps. Briefs, Clegg, Coes, Flint, MacAuslan, Morello, Robb-Theroux, Simmons and Woods, the day, important business.

Rep. Hunter, the day, death in the family.

Reps. Burney, Carney and Carson, the day, illness in the family.

INTRODUCTION OF GUESTS

Teachers, chaperons and students of the Bicentennial School in Nashua, guests of the Nashua Delegation. Christine Pina, guest of Reps. Nordgren and Weatherspoon. Students of the 6th, 7th and 8th grades at the Mountain Shadow School in Dublin, their teacher Casey Jones and Nancy Brighton,

the Head of the school, guests of Rep. Peterson. Greg, Cathy and Megan Kettmann, guests of Rep. Daniels. Andy Martel, John Lyons, Theresa Chabot, Lloyd Basnar, Linda Gerrish and Michael Quinlan, guests of Rep. Vaillancourt. Todd Ptak, guest of Rep. Belvin. The Sunapee High School Senior Class, Mr. Jack Iacopino and Mr. Frank Hammond, guests of Rep. Leone. Pat Champagne, guest of Rep. Haley. Don Madore, guest of Rep. McCarty.

SPECIAL GUEST

Megan Kettmann, winner of the Robert Frost Youth Poet Award, guest of the House.

COMMUNICATION

March 4, 1998

Karen Wadsworth, Clerk of the House

Please be advised that the following representative-elect was sworn into office by the Governor and Executive Council on this day:

Hillsborough 47, Ernest E. Chabot, r, Manchester (146 Cartier St.) 03012

William M. Gardner, Secretary of State

RESOLUTION

Rep. Wheeler offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 73, 304, 311, 315, 342, 349, 353, 394, 467, 484, 493 and 497, shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 73-FN, providing that telecommunications poles and lines be subject to the property tax. (Local and Regulated Revenues)

SB 304, allowing juvenile case and court records to be unsealed in certain cases. (Criminal Justice and Public Safety)

SB 311, establishing the Uniform International Wills Act. (Judiciary and Family Law)

SB 315, relative to divorce proceedings. (Judiciary and Family Law)

SB 342, relative to capital appropriations for the Glencliff home for the elderly. (Public Works and Highways)

SB 349, enabling a town or school district moderator to postpone the deliberative session of a meeting because of a weather emergency. (Municipal and County Government)

SB 353-FN, relative to official ballot procedures. (Municipal and County Government)

SB 394, providing for revocation of wills by divorce. (Judiciary and Family Law)

SB 467-FN, requiring the department of transportation to construct sound barriers along certain streets in Nashua. (Public Works and Highways)

SB 484, prohibiting triple-trailer trucks from the ways of this state. (Transportation)

SB 493, establishing a commission to determine the feasibility of a new public-private partnership to conserve New Hampshire's priority natural, cultural, and historical resources. (Resources, Recreation and Development)

SB 497, relative to disbursement of tobacco settlement funds received by the state. (Finance)

SENATE MESSAGES

CONCURRENCE

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

HB 1664-FN, authorizing salary increases for state law enforcement officers.

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 517, relative to aggravated felonious sexual assault. (Amendment printed SJ 2, 1/29/98)

Rep. David Welch moved that the House concur.

Adopted.

HB 1119, relative to the town line between the towns of Groton and Plymouth, New Hampshire. (Amendment printed SJ 4, 2/19/98)

Rep. Metzger moved that the House concur.

Adopted.

ENROLLED BILL AMENDMENT

SB 96-FN, relative to the priority of charges in probate of estates. (Amendment printed SJ 5, 3/5/98)

Adopted.

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 648, 1119 and 1664.

Rep. Pfaff, Sen. Barnes for the Committee

RESOLUTION

Their introduction having been approved by the Rules Committee:

Rep. Wheeler offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 1674 and Constitutional Amendment Concurrent Resolution numbered 48, shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILL, CACR

First, second reading and referral

HB 1674-FN-A-L, establishing a proportional statewide property tax to provide equal per student funding for state-mandated education and funding for kindergarten and making an appropriation therefor. (Sapareto, Rock 13; Allen, Hills 1; Sabella, Rock 13; Wallin, Merr 15; Dodge, Rock 4: Finance)

CACR 48, relating to restricting any statewide property tax to education funding. Providing that all revenues resulting from a statewide property tax shall be used exclusively for elementary and secondary education. (Sapareto, Rock 13; Allen, Hills 1: Finance)

COMMITTEE REPORTS

CONSENT CALENDAR

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

HB 1178, relative to automobile leasing, removed by Rep. William McCarthy.

HB 1529, reinstating the corporate charter of Hampstead Garage, Inc, removed by Rep. Hunt.

HB 1598-FN, prohibiting the use of social security numbers except for taxation purposes and providing certain rights to victims of credit card fraud, removed by Rep. Donald White.

HB 1654, relative to consumer credit solicitations, removed by Rep. Sapareto.

HB 1327, clarifying enforcement when structures such as manufactured housing are relocated without payment of taxes, removed by Rep. Burling.

HB 1559, legalizing the possession and cultivation of marijuana for medicinal purposes, removed by Rep. Robertson.

HB 1465, relative to eligibility for athletic scholarships with the university system of New Hampshire, removed by Rep. Fesh.

HB 1371, requiring the collection of certain data on children and parents in the state case registry for use in child support enforcement, removed by Rep. Kurk.

HB 1445, relative to nonpublic sessions and relative to attorneys in certain proceedings, removed by Rep. Arthur Pelletier.

HB 1565-FN-A, establishing a joint legislative fiduciary oversight committee and making an appropriation therefor, removed by Rep. Jacobson.

HB 1107-L, relative to the rate setting duties of the department of revenue administration, removed by Rep. Dodge.

HB 1136, changing the appointing authority for board of tax and land appeals members from the supreme court to the governor and council, removed by Rep. Leishman.

Consent Calendar adopted.

HB 1147, relative to corporate filings with the secretary of state. OUGHT TO PASS WITH AMENDMENT

Rep. David T. Mittelman for Commerce: This bill a) clarifies which corporate officers may submit an annual report and b) repeals an expired grandfather clause relative to trade name registrations. Vote 16-0.

Amendment (0816h)

Amend the bill by replacing section 2 with the following:

2 New Subparagraph; Annual Report. Amend RSA 293-A:16.22(a) by inserting after subparagraph (5) the following new subparagraph:

(6) The signature of an officer, director, or any other person authorized by the board of directors to execute the annual report.

AMENDED ANALYSIS

This bill allows an annual report to be executed by an officer, director, or any other person authorized by the board of directors of a corporation.

The bill also repeals an obsolete provision concerning the registration of trade names.

HB 1153, establishing a committee to study uninsured and underinsured persons who have diabetes. INEXPEDIENT TO LEGISLATE

Rep. Gregory G. Carson for Commerce: The committee is currently addressing, in general, all persons who are uninsured or underinsured with consideration of HB 1411. With the passage of legislation in the last two sessions, including that supplies counseling and services be covered, the committee has addressed the issues specific to diabetes. The committee will continue to look at other issues as they arise through HB 1411. Vote 12-0.

HB 1165, relative to the incorporation, management, branching and merger of banks. OUGHT TO PASS WITH AMENDMENT

Rep. David T. Mittelman for Commerce: This bill makes technical corrections and improvements to the banking laws. In essence, these changes clarify director duties, operating procedures and parity provisions. Vote 15-0.

Amendment (0873h)

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

1 New Section; Change in Control of Nondepository Financial Institution. Amend RSA 383:9 by inserting after section 9-g the following new section:

383:9-h Change in Control of Nondepository Financial Institution. No change in control of a nondepository financial institution shall occur without the prior approval of the bank commissioner. The term "change of control" shall mean the direct or indirect acquisition by a person or group of persons acting in concert of 10 percent or more of the beneficial ownership or control of the voting shares. The person or group seeking to acquire control of the nondepository financial institution shall submit an application to the bank commissioner for approval which shall contain such financial, business, experience and other information as the bank commissioner shall require to determine whether such person or group is suitable to exercise control of a nondepository financial institution. Upon receipt of a complete application, the bank commissioner may hold a hearing on such application and shall make a decision within 60 days after receipt of the application.

2 Payment of Cost of Examination. Amend RSA 383:11, II(a) as follows:

(a) From banks and credit unions. Each state-chartered savings bank, commercial bank, trust company, cooperative bank, building and loan association, credit union, Morris Plan bank, or similar institution

required to be examined under the provisions of RSA 383:9 shall be charged and pay such proportion of said balance applicable to such institutions under the banking department's program appropriation unit designation, as its total assets bear to the total assets of all such institutions as shown by their reports to the commissioner as of June 30 preceding such charges, except that only [50] 25 percent of the fiduciary assets shall be used in the calculation of the total assets of each institution and all such institutions.

3 Responsibilities of Directors or Trustees and Officers; Qualifications; Elections. RSA 384:3 is repealed and reenacted to read as follows:

383:3 Responsibilities of Directors or Trustees and Officers; Qualifications; Elections.

I. The governance of a state-chartered bank or savings association shall be the responsibility of the board of directors or trustees. The board shall establish the policies and procedures for the conduct of the affairs of the bank or savings association and shall supervise the affairs of the bank or savings association to ensure that such policies and procedures are being adhered to by its officers and employees and that its operations are in compliance with federal and state laws and regulations. Neither the board nor individual directors or trustees may delegate their duty to govern the bank or savings association.

II. Each director or trustee of a state-chartered bank or savings association shall discharge his or her duties under the same standards that exist for a director of a business corporation under RSA 293-A:8.30 and RSA 293-A:8.31, except that:

(a) A director or trustee of a bank or savings association which serves as a fiduciary shall be subject to a fiduciary duty when he or she is acting on matters related to the bank or savings association's fiduciary activities; and

(b) A trustee of a mutual savings bank or savings association shall be subject to a fiduciary duty when he or she is acting on matters related to the proprietary interests of depositors.

III. The president shall be responsible for carrying out the policies and procedures of the board and managing the day-to-day affairs of the bank or savings association and shall be accountable to the board of directors or trustees in the performance of his or her duties. Each officer with discretionary authority shall discharge his or her duties under the same standards that exist for an officer of a business corporation under RSA 293-A:8.42, except that any such officer of a bank or savings association which serves as a fiduciary shall be subject to a fiduciary duty when he or she is acting on matters related to the bank or savings association's fiduciary activities.

IV. Notwithstanding any other provision of law to the contrary, a state-chartered bank or savings association shall have at least 5 directors or trustees. A majority of the directors or trustees shall be required to be citizens of and residents in the state of New Hampshire, except that this requirement shall not be applicable to the directors or trustees of a bank or

savings association which is wholly owned by an out-of-state bank holding company within the meaning of RSA 384:57, VI.

4 Oath of Office. RSA 384:5 is repealed and reenacted to read as follows:

384:5 Election; Oath. Officers, directors and trustees shall be elected as frequently as the charter or bylaws of the bank or savings association may require, but not less than once every 3 years, and they shall hold office until others are elected and qualified. All officers, directors and trustees, upon election, shall be sworn to the faithful discharge of their duties, except that they shall be required to take an oath of office only on the first occasion of their election or appointment and shall not be required to take any such oath thereafter.

5 Limitation. Amend the introductory paragraph of RSA 384:5-a, I to read as follows:

I. No person shall at the same time serve as a trustee, director, or [officer] senior executive officer who exercises significant influence over, or participates in, major policy decisions, of more than one of the following types of financial institutions if such financial institutions are doing business in the same assessment area as delineated under the federal Community Reinvestment Act, 12 USC 2901 et. seq., and regulations adopted thereunder:

6 Limitation. Amend RSA 384:5-a, II to read as follows:

II. The provisions of paragraph I shall not apply:

(a) With respect to any persons who hold such positions in more than one of such financial institutions as of July 1, 1971, except where such persons are elected, appointed, re-elected or re-appointed subsequent to June 30, 1971;

(b) With respect to any person serving as trustee, director, or officer of more than one affiliate of a bank holding company as defined in RSA 384-B:1, IV and V; [or]

(c) With respect to any person serving as a trustee, director, or officer of:

(1) [Any one of a mutual savings bank, a guaranty savings bank, or a cooperative bank,] An institution which does not engage in a trust business; and

(2) A [limited] trust company which does not make [real estate mortgage] loans and does not accept [savings] deposits [from natural persons.]; or

(d) With respect to any person who is serving in a capacity that is permitted under federal laws or regulations governing depository institution management interlocks.

7 Meetings; Records. Amend RSA 384:7 to read as follows:

384:7 Meetings; Records. The trustees or directors shall meet on a regular basis as often as [once each month] necessary but not less than 9 times per year; and at such [monthly] meetings the work for the preceding [month] period of the investment committee, and of all other committees appointed by the trustees or directors, shall be submitted to the board for examination. A record of the meeting shall be kept, showing the names of the trustees or directors present. A majority of the board of trustees or directors shall be a quorum for the transaction of business. The board of trustees or directors shall adopt a policy providing standards for determining the number of absences by a director or trustee from meetings of the board or the committees which shall result in a declaration of dereliction of duty by the board and its removal of the director or trustee from office.

8 New Sections; Action Without Meeting; Participation in Meetings. Amend RSA 384 by inserting after section 7 the following new sections:

384:7-a Action Without Meeting.

I. Unless the charter or bylaws provide otherwise, any action to be taken at a meeting of the board of directors or trustees or committee may be taken without a meeting if the action is taken by unanimous consent of all members of the board or committee. The action shall be evidenced by one or more written consents describing the action taken, signed by each director or trustee or other committee member, and included in the minutes or filed with the corporate records reflecting the action taken.

II. Action taken under this section is effective when the last director or trustee or committee member signs the consent, unless the consent specifies a different effective date.

III. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

384:7-b Participation in Meetings. Unless the charter or bylaws provide otherwise, a board of directors or trustees may permit any or all directors or trustees to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all of the directors or trustees participating may simultaneously hear each other during the meeting. A director or trustee participating in a meeting by this means is deemed to be present in person at the meeting. However, a director or trustee shall be physically present at a majority of the meetings such director or trustee attends.

9 Branch Offices. RSA 384-B:2, IV is repealed and reenacted to read as follows:

IV. In making the decision on each application, the board shall take into consideration the following factors:

(a) The financial history and condition of the bank or banks concerned including the adequacy of its or their capital funds;

(b) Its or their prospects; and

(c) The character of the management.

10 New Section; Exceptions. Amend RSA 384-B by inserting after section 2-d the following new section:

384-B:2-e Exceptions. Notwithstanding any provision to the contrary in RSA 384-B:2, I, III, IV and V and 384-B:2-c, II, a bank which is well-capitalized under applicable federal rules and regulations and has a composite camel rating of at least 2 as a result of its most recent examination by either its federal regulatory authority or the bank commissioner, may open a new branch if it does not exceed 20 percent of the dollar volume of the total deposits, time and savings, and demand of all banks, national banks, and federal savings banks and loan associations in the state as determined by the board as provided in RSA 384-B:2, I, by giving written notice to the bank commissioner at least 30 days in advance of the opening of the new branch and by paying the fee required by RSA 384-B:2, III.

11 Incorporators. RSA 386-A:1 is repealed and reenacted to read as follows:

386-A:1 Incorporators. Except as provided in this paragraph, 10 persons may subscribe to articles of agreement in writing for the purpose of forming a mutual savings bank or a guaranty savings bank and may, upon compliance with the provisions of this chapter, become a corporation with all the powers and privileges and subject to all the duties, restrictions, and liabilities of either a mutual savings bank or a guaranty savings bank, as set forth in the general laws now or hereafter in force relating to such corporations. If the bank is being organized by a bank holding company as defined by the federal Bank Holding Act of 1956, as amended, or by a savings and loan holding company as defined by the federal Savings and Loan Holding Company Act, as amended, or in connection with a reorganization of a bank into a holding company structure, then only the holding company is required to subscribe to the articles of agreement.

12 Considerations. RSA 386-A:6 is repealed and reenacted to read as follows:

386-A:6 Considerations. Before acting on any petition, the board shall consider such evidence as may be presented by the petitioners and all other interested persons, firms and corporations, including members of the general public and shall keep a permanent record of such evidence. The petitioners shall submit to the board full information as to the identity and background of each person, firm, or corporation who has subscribed to 3 percent or more of the initial capital of the proposed bank, including information on whether such person, firm, or corporation held an equity interest of 3 percent or more in or served as a director or officer of a bank which has failed. In making its decision on each petition, the board shall not take favorable action unless it determines that the following are adequate:

I. The proposed bank's capital structure.

II. The earning prospects of the proposed bank.

III. The character and general standing in the community of subscribers, the prospective directors, proposed officers and other employees, and other persons connected with the petition or to be connected with the proposed bank.

IV. The banking ability and experience of proposed officers and other employees.

13 Limitations of Investments. RSA 387:3, I is repealed and reenacted to read as follows:

I. Except as otherwise provided in this chapter, not exceeding 15 percent of capital funds shall be invested in the obligations or stock of any individual, partnership or corporation except public obligations, obligations of agencies of the United States as are designated by written ruling of the bank commissioner, loans authorized by RSA 387:4, IV and V, and liabilities for money borrowed to the extent that they shall be secured, covered, underwritten or protected as to principal and interest by guaranties, or by commitments or agreements to take over or purchase the same, made by or on behalf of any federal reserve bank, or the United States or the state of New Hampshire, or any other state, or any department, bureau, board, commission or establishment of the United States, the state of New Hampshire, or any other state including any corporation wholly owned directly or indirectly by the United States, the state of New Hampshire, or any other state, for the performance of which guaranties, commitments or agreements the faith of the United States, the state of New Hampshire, or any other state is pledged. Notwithstanding the foregoing a bank having deposits of \$1,500,000 or less may invest, in loans authorized by RSA 387:4, I, an amount to any one borrower not exceeding 2-1/2 percent of deposits or 15 percent of capital funds, whichever is greater, but in no case in excess of \$22,500, unless in such case 15 percent of capital funds exceeds said latter sum, in which case the limit shall be 15 percent of capital funds for such bank.

14 General Lending Authority. RSA 387:26 is repealed and reenacted to read as follows:

387:26 General Lending Authority. Notwithstanding any other provision of law to the contrary, a savings bank shall be authorized to make any type of secured or unsecured loan to any person, including without limitation any business or governmental entity. With respect to secured loans, a savings bank shall adopt prudent policies establishing loan-to-value ratios suitable for the type of property securing the loans. With respect to all loans, a savings bank shall adopt prudent policies establishing the creditworthiness of borrowers. The total liabilities of any person for money borrowed from a savings bank which is insured by the Federal Deposit Insurance Corporation shall not exceed the limitation prescribed for national banks under federal laws and regulations. The bank commissioner may adopt rules, pursuant to RSA 541-A, interpreting the applicability of such federal rules and regulations to savings banks. This limitation shall not apply to securities described in RSA 387:6, I-IV nor to liabilities for money borrowed to the extent that they shall be secured, covered, underwritten, or protected as to principal and interest by guaranties, or by commitments or agreements to take over or purchase the same, made by or on behalf of any federal reserve bank, or the United States or the state of New Hampshire, or any other state, or any department, bureau, board, commission, or establishment of the United States or the state of New Hampshire or any other state including any corporation

wholly owned directly or indirectly by the United States or the state of New Hampshire or any other state, for the performance of which guaranties, commitments, or agreements the faith of the United States or the state of New Hampshire or any other state is pledged.

15 Fiduciary Powers. Amend RSA 390:13 to read as follows:

390:13 Power to Act as Fiduciary.

I. Any trust company [or similar corporation], bank, or savings association incorporated under the laws of this state, or any national bank or federally chartered savings association duly authorized and located within the state, may be appointed trustee or executor in any case where an individual can be appointed, upon the same conditions and subject to the same control, requirements, and penalties.

II. Any trust company [or similar corporation], bank, or savings association incorporated under the laws of any other state, or any national bank or federally chartered savings association having its principal place of business in any other state may be appointed trustee or executor as provided in this section if the state in which such trust company [or similar corporation], bank, or savings association incorporated under the laws of that state, or any national bank or federally chartered savings association duly authorized and having its principal place of business in that state similarly allows any trust company [or similar corporation], bank, or savings association incorporated under the laws of this state, and any national bank or federally chartered savings association duly authorized and located within this state to serve as appointed trustees or executors in that state.

III. Any trust company bank, or savings association organized under the laws of New Hampshire may be authorized and empowered to act as receiver, assignee, or agent for any person, firm, association, or corporation, public or private; and in all proceedings in court or elsewhere in relation to such trusts or agencies, all accounts and other papers may be signed and sworn to in behalf of the [corporation] trust company, bank, or savings association by any officer duly authorized.

IV. Nothing contained in this section shall affect the rights of religious, charitable, and eleemosynary corporations organized under the laws of New Hampshire to act in fiduciary capacities, or extend to corporations or other forms of business entities other than trust companies [and similar corporations] banks, and savings associations, or [any] national [bank] banks and federally chartered savings associations duly authorized and located within the state, power to act in a fiduciary capacity.

16 Limitation on Fiduciary Powers. Amend RSA 390:15 to read as follows:

390:15 Limitation. The exercise of the powers granted herein is limited to [the specified corporations located] trust companies, banks and savings associations incorporated under the laws of this state and national banks and federally chartered savings associations duly authorized and having their principal place of business in this state, except as otherwise expressly provided in RSA 390:13.

17 Establishment and Use of Common Trust by Holding Company
Affiliates. Amend RSA 391:1-a to read as follows:

391:1-a Establishment and Use of Common Trust by Bank Holding Company
Affiliates. Any such bank or trust company which is an affiliate of a bank
holding company, as defined by [RSA 384-B:1, IV and V] the federal Bank
Holding Act of 1956, as amended, or of a savings and loan company as defined
by the federal Savings and Loan Holding Company Act, as amended, may
establish common trust funds for the purpose of furnishing investments to
itself as fiduciary, to other affiliates of the same bank holding company
qualified to act as fiduciary in this state as fiduciary, or to itself and
others as co-fiduciaries, or to such other affiliates and others as co-
fiduciaries. Subject to the limitations upon the investment of funds held in
a fiduciary capacity in common trust funds contained in RSA 391:1, the bank
or trust company affiliate of a bank holding company establishing such common
trust funds and other affiliates of the same bank holding company qualified
to act as fiduciary in this state may, as such fiduciary or co-fiduciary,
invest funds which it lawfully holds for investment in interest in such
common trust funds. The bank or trust company establishing, maintaining, or
so utilizing any such common trust fund shall comply with and be subject to
all of the provisions of this chapter as though such bank or trust company
and the other banks or trust companies participating in such common trust
fund or funds were one and the same corporate entity. Any person acting as a
co-fiduciary with any such bank or trust company is hereby authorized to
consent to the investment in interest in a common trust fund or funds created
hereunder.

18 Incorporators. RSA 392:2 is repealed and reenacted to read as
follows:

392:2 Incorporators. Except as provided in this paragraph, 10 persons
may subscribe to articles of agreement in writing for the purpose of forming
a trust company and may, upon compliance with the provisions of this chapter,
become a corporation with all the powers and privileges and subject to all
the duties, restrictions and liabilities of a trust company, as set forth in
the general laws now or hereafter in force relating to such corporations. If
a trust company is being organized by a bank holding company as defined by
the federal Bank Holding Act of 1956, as amended, or by a savings and loan
holding company as defined by the federal Savings and Loan Holding Company
Act, as amended, or in connection with a reorganization of a trust company
into a holding company structure, then only the holding company is required
to subscribe to the articles of agreement.

19 General Powers. RSA 392:33 is repealed and reenacted to read as
follows:

' 392:33 In General. Such corporation may be authorized and empowered to
receive on deposit, storage or otherwise, money, securities, jewelry,
documents, evidences of debt, and other personal property of a similar
character, for safekeeping, upon such terms or conditions as may be agreed
upon, which said deposits may be made by corporations and persons acting
individually or in any fiduciary capacity; to collect and disburse the income
and principal of said property when due; to negotiate, purchase, and sell
stocks, bonds, and other evidences of debt; to do a general banking business;
and to conduct a savings bank business. Notwithstanding any other provision
of law to the contrary, a trust company shall be authorized to make any type

of secured or unsecured loan to any person, including without limitation any business or governmental entity. With respect to secured loans, a trust company shall adopt prudent policies establishing loan-to-value ratios suitable for the type of property securing the loans. With respect to all loans, a trust company shall adopt prudent policies establishing the creditworthiness of borrowers.

20 Limitations on Loans, and Holdings of Corporate Securities. RSA 392:39 is repealed and reenacted to read as follows:

392:39 Limitations of Loans, and Holdings of Corporate Securities. The total liabilities of a person for money borrowed from a state-chartered trust company which is insured by the Federal Deposit Insurance corporation shall not exceed the limitation prescribed for national banks under federal laws and regulations. The bank commissioner may adopt rules, pursuant to RSA 541-A, interpreting the applicability of such federal rules and regulations to trust companies. This limitation shall not apply to securities described in RSA 387:6, I-IV nor to liabilities for money borrowed to the extent that they shall be secured, covered, underwritten, or protected as to principal and interest by guaranties, or by commitments or agreements to take over or purchase the same, made by or on behalf of any federal reserve bank, or the United States, the state of New Hampshire, or any other state, or any department, bureau, board, commission or establishment of the United States or the state of New Hampshire including any corporation wholly owned directly or indirectly by the United States, the state of New Hampshire, or any other state, for the performance of which guaranties, commitments, or agreements the faith of the United States or the state of New Hampshire is pledged.

21 Repeal. The following are repealed:

I. RSA 384:8, relative to absences.

II. RSA 384:9, relative to exceptions.

III. RSA 386:3, relative to report of stock ownership.

IV. RSA 386:5, relative to eligibility as affected by occupation.

V. RSA 392:8, III, relative to decision based on consideration of the convenience and need of the community.

VI. RSA 392:40, relative to limitations qualified.

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

AMENDED ANALYSIS

This bill makes technical corrections to the banking laws, most specifically with regard to incorporation and management of banks. The bill changes provisions governing the lending authority and holdings of corporate securities by banks.

The bill establishes criteria for the board of trust incorporation to consider when deciding on applications for branch offices.

HB 1203, establishing a committee to study methods of increasing the funding for the insurance fraud investigation unit. INEXPEDIENT TO LEGISLATE

Rep. George Hurt for Commerce: The committee found with testimony presented that current methods being used to alleviate fraud within the insurance marketplace is adequately being addressed within the legal framework of the insurance industry and the state insurance department. Vote 12-0.

HB 1237, relative to "salvage" motor vehicles. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce: The sponsor thought this bill was a lemon law for used vehicles. The bill doesn't accomplish this. The bill would require any owner of a vehicle which has a title with a salvage designation to report such designation when selling or transferring the vehicle. Current law requires any vehicle which has a salvage designation to have a sticker on the door frame. In addition, it is possible for an individual to trade in a used vehicle to a dealership and unknowingly be subject to this law. Vote 12-0.

HB 1257, authorizing landlords to conduct criminal background checks on prospective tenants with the consent of the prospective tenants. INEXPEDIENT TO LEGISLATE

Rep. Barbara L. Spear for Commerce: There are certain tenants who can be a problem for a landlord. Doing a criminal background check on each tenant applicant would burden local authorities and the FBI. Also, the report back to the landlord could take several weeks longer. Vote 11-1.

HB 1308, protecting the rights of distributors. REFER FOR INTERIM STUDY

Rep. David T. Mittelman for Commerce: The intent of this bill is to create a level playing field for negotiations between manufacturers and distributors. The committee would like additional time to examine the scope and impact of the problem, as well as the approach by other states. Vote 12-0.

HB 1311, adopting the 1994 revisions to article 8 of the uniform commercial code relative to investment securities. OUGHT TO PASS WITH AMENDMENT

Rep. David T. Mittelman for Commerce: This bill brings New Hampshire into conformity with other states relative to certificated securities, which serve to reduce the need for paper-based indicia of ownership by allowing registration as an alternative. UCC 8, in turn, governs this intermediation between issuers and beneficial owners. The 1994 revisions simply clarify and modernize the customs and usage of these certificated securities. Vote 12-0.

Amendment (0858h)

Amend the article title of RSA 382-A:8 as inserted by section 1 of the bill by replacing it with the following:

ARTICLE 8

INVESTMENT SECURITIES

Amend RSA 382-A:8-203-8-205 as inserted by section 1 of the bill by replacing them with the following:

382-A:8-203 Staleness as Notice of Defect or Defense. After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:

(1) requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; or

(2) is not covered by paragraph (1) and the purchaser takes the security more than 2 years after the date set for surrender or presentation or the date on which performance became due.

382-A:8-204 Effect of Issuer's Restriction on Transfer. A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless:

(1) the security is certificated and the restriction is noted conspicuously on the security certificate; or

(2) the security is uncertificated and the registered owner has been notified of the restriction.

382-A:8-205 Effect of Unauthorized Signature on Security Certificate. An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

(1) an authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates, or the immediate preparation for signing of any of them; or

(2) an employee of the issuer, or of any of the persons listed in paragraph (1), entrusted with responsible handling of the security certificate.

Amend the bill by replacing section 7 with the following:

7 Definitions and Index of Definitions. Amend RSA 382-A:9-105(1)(h) and (i) to read as follows:

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9-313), but does

not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) "Instrument" means a negotiable instrument (defined in Section 3-104), [or] a certificated security (defined in Section 8-102), a certificate of deposit (defined in Section 3-104(j)), or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment.

Amend the bill by replacing section 9 with the following:

9 Definitions; Account; General Intangibles. Amend RSA 382-A:9-106 to read as follows:

382-A:9-106 Definitions: "Account"; "General Intangibles". "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

Amend the bill by replacing section 11 with the following:

11 Attachment and Enforceability of Security Interest; Proceeds; Formal Requisites. Amend the introductory language of RSA 382-A:9-203(1) and RSA 382-A:9-203(1)(a) to read as follows:

(1) Subject to the provisions of Section 4-210 on the security interest of a collecting bank, [Section 8-321 on security interests in securities] Sections 9-115 and 9-116 on security interests in investment property, and Section 9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

Amend the bill by replacing section 21 with the following:

21 Savings Clause.

I. This act does not affect an action or proceeding commenced before January 1, 1999.

II. If a security interest in a security is perfected at the date this act takes effect, and the action by which the security interest was perfected would suffice to perfect a security interest under this act, no further action is required to continue perfection. If a security interest in a security is perfected at the date this act takes effect, but the action by which the security interest was perfected would not suffice to perfect a security interest under this act, the security interest remains perfected for a period of 4 months after the effective date and continues perfected thereafter if appropriate action to perfect under this act is taken within that period. If a security interest is perfected at the date this act takes effect, and the security interest can be perfected by filing under this act, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

HB 1312, adopting the 1995 revisions to article 5 of the uniform commercial code relative to letters of credit. OUGHT TO PASS

Rep. Tara G. Reardon for Commerce: This bill revises and modernizes Article 5 of the Uniform Commercial Code use of letters of credit and makes conforming and miscellaneous amendments to Articles 1, 2, and 9. Letters of credit use is increasing in international and domestic transactions. From time to time New Hampshire must modernize and coordinate our laws with the uniform laws to keep up custom, practice and to provide solid standards for the governance of letter of credit transactions. Vote 14-0.

HB 1314, relative to enforceable provisions in retail installment contracts for motor vehicles. OUGHT TO PASS WITH AMENDMENT

Rep. David T. Mittelman for Commerce: This bill expands the exceptions to the prohibition against acceleration of a motor vehicle installment contract to include improper insurance coverage, unauthorized transfers and other significant impairments to the realization of the collateral. Vote 16-0.

Amendment (0837h)

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

1 Retail Installment Sales of Motor Vehicles; Prohibitions as to Retail Installment Contracts; Acceleration of Principal Balance for Default; Exceptions Added. Amend RSA 361-A:7, IX(b) to read as follows:

(b) Any provision permitting the holder to accelerate the principal balance under the contract for default for any cause other than:

(1) Non-payment of any amount due under the terms of the contract[; or].

(2) Failure to insure the vehicle which secures the contract against loss, if such insurance is required by the terms of the contract [and except where the contract provides for the holder to purchase such insurance and collect the premiums for the insurance from the borrower]. Provided, however, that the holder may not accelerate the principal balance solely as a result of the failure to insure until the holder gives the buyer written notice conspicuously stating that the buyer has the opportunity to

cure the default under this subparagraph by submitting proof of insurance to the holder within 15 days of the mailing of the notice. If no proof of insurance is submitted to the holder within 15 days of mailing of notice, the holder may accelerate the principal balance. This subparagraph shall not apply if the contract obligates the holder to purchase such insurance and collect the premiums for the insurance from the buyer.

(3) Removal of the collateral from the United States or Canada without the holder's permission.

(4) Sale, rental, lease, or other transfer of an interest in the collateral without the holder's permission.

(5) Commencement of a proceeding in bankruptcy by or against the buyer.

(6) Other significant impairment of the realization of the collateral, limited to encumbrance of the vehicle, abandonment of the vehicle, or loss, theft, or destruction of the vehicle that is not covered by insurance.

2 New Subparagraph; Retail Installment Sales of Motor Vehicles; Prohibitions as to Retail Installment Contracts; Waiver of Right Benefit, or Privilege. Amend RSA 361-A:7, IX by inserting after subparagraph (c) the following new subparagraph:

(d) Any provision under which a buyer waives any right, benefit, or privilege which is conferred upon the buyer under this chapter.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill expands the exceptions to the prohibition against acceleration of a motor vehicle retail installment contract by the holder to include transfer by the buyer and proceedings in bankruptcy against the buyer. This bill also adds provisions under which a buyer waives a right, benefit, or privilege to the motor vehicle retail installment contract prohibitions.

HB 1379, making attorneys subject to the Consumer Protection Act. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce: The Consumer Protection Act doesn't apply to entities which are regulated by the state. Lawyers are regulated by the court system and the NH Bar Association. In addition, making an exception for lawyers would set a bad precedent. Vote 12-0.

HB 1380-FN, relative to energy costs for persons dependent upon life-support equipment. REFER FOR INTERIM STUDY

Rep. Keith R. Herman for Commerce: The bill as drafted is poorly crafted. However, the subject matter sparked some inquiry into the dilemma expressed by the proponents. The committee will be seeking input from the Health &

Human Services, Science, Technology & Energy, and Finance Committees as to how best to address this issue. Vote 12-0.

HB 1391, requiring insurance coverage for the screening and treatment of glaucoma. REFER FOR INTERIM STUDY

Rep. Martha Fuller Clark for Commerce: The committee recognizes that glaucoma is a serious disease which can only be detected through screening and is a disease which will become increasingly prevalent as NH's population ages. The committee believes that the issue of mandating coverage for glaucoma clearly deserves more study. Currently, we lack an understanding of how prevalent are riders to cover this condition. Nor do we have a clear picture of how such mandates might affect the price of premiums in the individual market, which is already in such a precarious state in New Hampshire. Vote 14-0.

HB 1458, requiring health maintenance organizations to provide certain written statements. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce: This bill repeats efforts being made in SB 371 to ensure relevant information is provided to individuals when a health carrier makes an "adverse determination". The committee believes this bill is not necessary and the committee is committed to follow through on the intent of this legislation. Vote 15-0.

HB 1461, relative to the definition of "destroyed" and "transfer" involving cashier's checks. INEXPEDIENT TO LEGISLATE

Rep. David T. Mittelman for Commerce: The sponsor requested this bill's withdrawal because its focus is already adequately addressed in current law. Vote 12-0.

HB 1484, relative to motor vehicle insurance. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce: The bill as drafted prevents insurance companies forcing a specific repair shop be used for auto repairs. This House passed this law two years ago, so the bill as drafted is not necessary. The sponsor's intent was to require all auto repairs to be made using Original Equipment Manufacturer parts. The committee feels that this mandate would only lead to higher insurance premiums and that there are sufficient consumer protections in place to ensure auto repairs are made in a safe manner. Vote 12-0.

HB 1512-FN, relative to credit card rates and payments. INEXPEDIENT TO LEGISLATE

Rep. Eric N. Lindblade for Commerce: The sponsor asked to withdraw the bill. There is no way that this law could be enforced. Credit card companies in other states cannot be controlled by our banking department. There also is no mention of how to deal with variable rates. Vote 12-0.

HB 1536, establishing a committee to study women's health care and relative to breast feeding a baby. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill creates a study committee to look into women's health care issues. The amendment removes a provision allowing breast feeding in public. The committee wants to emphasize that the issue of breast feeding is a societal concern that the sponsor will be taking a closer look into to ensure that all concerns are addressed. Vote 12-0.

Amendment (0755h)

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

AN ACT establishing a committee to study women's health care.

Amend the bill by deleting sections 6 and 7 and renumbering the original section 8 to read as 6.

AMENDED ANALYSIS

 This bill establishes a committee to study women's health care.

HB 1551-FN, adding dental insurance to the continuing insurance coverage for certain employees. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill expands the COBRA law to dental insurance as it relates to state employees. State employees (including legislators) may extend their dental coverage for 18 months after termination if they choose to pay for it. The amendment simply clarifies that this applies to state employees only. Vote 12-0.

Amendment (0655h)

Amend the bill by replacing all after section 1 with the following:

 2 Dental Insurance Added. Amend RSA 420-F:1, III to read as follows:

 III. Delta shall be governed by this chapter and shall be exempt from this title, except for the provisions of RSA 400-A:39, 415:18, VII(g)(1), relative to continuation of dental insurance, and 1961, 345; provided, however, if any of the provisions of 1961, 345 are inconsistent with this chapter the provisions of this chapter shall prevail. Delta and its agents shall be subject to the fees prescribed for [hospital and medical] health service corporations under RSA 400-A:29, VII.

 3 Reference Change. Amend the introductory paragraph of RSA 400-A:29, VII to read as follows:

 VII. [Hospital and medical] Health service corporations.

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

HB 1604, relative to ownership of shares of professional corporations and relative to shareholders of firms practicing public accountancy. REFER FOR INTERIM STUDY

Rep. David T. Mittelman for Commerce: This bill would allow professionals such as accountants to place their corporations' shares into a trust for estate planning purposes. While this goal is sound, the details need further refinement. Vote 15-0.

HB 1628, relative to health care liability. INEXPEDIENT TO LEGISLATE

Rep. Keith R. Herman for Commerce: This bill would allow individuals to sue HMOs for decisions which doctors within the HMOs network make, regardless of whether or not the HMO had anything to do with that decision. As it turns out, individuals in New Hampshire already have the ability under common law to file suits against HMOs. In addition, the state of Texas has a similar law being challenged as unconstitutional. Vote 12-0.

HB 1633, restricting unsolicited commercial electronic mail. INEXPEDIENT TO LEGISLATE

Rep. Gregory G. Carson for Commerce: This legislation requires the Consumer Protection and Antitrust Bureau to maintain a list of Internet Service Providers(ISP's) who register as a restricted solicitation electronic mail provider. The intent of the legislation is to reduce the number of unsolicited e-mails. This and similar services are currently available from ISPs' in the marketplace. While this is yet to be a significant issue, you can delete e-mail easier than throwing junk mail in the trash. The committee feels the work currently underway at the federal level better addresses the intent of this legislation. Vote 12-0.

HB 1129, relative to the penalty and substance abuse treatment for multiple DWI offenders who have previously successfully completed a multiple DWI offender intervention detention center program. OUGHT TO PASS

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: This bill is applicable to persons who have committed and been convicted of three or more DWI offenses. Currently, a 28 day treatment programs is required. This bill will replace the 28 day program requirement to a treatment program, with no set time, the duration of which is determined by an evaluation by a licensed alcohol and other drug counselor. Vote 14-1.

HB 1149, relative to the power to detain an accused person without a warrant for breach of conditions of release on bail. OUGHT TO PASS WITH AMENDMENT

Rep. Bruce F. Hunter for Criminal Justice and Public Safety: This bill was introduced for the purpose of adding the basic language of RSA 173:B-8,I(a), violation of protective orders, penalty, and RSA 594:10, I(a+b), arrest without a warrant, into RSA 597:7-a, detention and sanctions for default or breach of conditions. Now, the domestic violence chapter, the arrest chapter, and the bail chapter will reflect the same interest. The amendment adds probation and parole officers to those who may detain as they may be assigned to supervise people on bail. Vote 13-1.

Amendment (0697h)

Amend the introductory paragraph of RSA 597:7-a, I(a) as inserted by section 1 of the bill by replacing it with the following:

I.(a) A peace officer, including a probation or parole officer, may detain an accused person without a warrant until such accused person can be brought before a justice if the peace officer has:

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Probation or Parole Officer; Authority to Detain Accused Person Without Warrant. Amend RSA 504-A:12 by inserting after paragraph V the following new paragraph:

V-a. To detain an accused person without a warrant until such accused person can be brought before a justice in accordance with RSA 597:7-a.

AMENDED ANALYSIS

This bill authorizes a peace officer, including a probation or parole officer, to detain, without a warrant, an accused person who has been released on bail; if the officer views a breach of conditions of release or if the officer has probable cause to believe there was a breach of conditions of release within the 6 hours prior to the detention.

HB 1183, relative to use of force to prevent an unlawful taking of property. INEXPEDIENT TO LEGISLATE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The intent of this bill is to use force to stop the taking of property by the government through its public servants. Most of the testimony was in opposition to the bill for many reasons including using force against regulatory taking, using force against the police when taking of firearms pursuant to a domestic violence order, using force in response to a bank foreclosure. Most of these situations end in some sort of court order. The courts are the impartial trier of fact under our system of government and although we sometimes disagree with the decisions, we must abide by them and not let those few who don't agree take the law into their own hands. None of the sponsors appeared to testify on behalf of this bill. Vote 18-0.

HB 1227-FN, authorizing extended terms of imprisonment for persons who assault emergency medical personnel and fire services personnel. INEXPEDIENT TO LEGISLATE

Rep. Bruce F. Hunter for Criminal Justice and Public Safety: Testimony indicated present statutes have not been used by EMS personnel. This bill would enhance a penalty for assaulting EMS, fire or emergency room personnel. If that statute is not being invoked, it does not make sense to increase the penalty. Nothing in this bill would provide protection for emergency services people that they don't already have. Vote 18-0.

HB 1258, establishing a committee to study and investigate issues related to The State of New Hampshire v. Edward Silva. REFER FOR INTERIM STUDY

Rep. William V. Knowles for Criminal Justice and Public Safety: The committee would like the opportunity to address the concerns of the sponsors of this

legislation which relates to convictions of sex offenders We would like to have time to study this over the summer which would allow us time to research any problems that may exist. Vote 18-0.

HB 1265, establishing a study committee on the enactment of laws which would allow the office of the attorney general to freeze assets in white collar crime cases. INEXPEDIENT TO LEGISLATE

Rep. Doris R. MacIntyre for Criminal Justice and Public Safety: It was the unanimous decision of the committee that this bill is too far reaching. It calls for the freezing of assets during the investigative stage of an alleged crime. Although we understand the sponsor's concerns, the committee felt that to freeze a persons assets prior to being charged with a crime is contrary to a basic tenet of our judicial system, "innocent until proven guilty". Vote 14-0.

HB 1307, relative to penalties for habitual offenders. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill adds some language to RSA 262:19, IV Procedures of the Dept. of Safety in Habitual Defendant Hearing. Presently, the wording says "no conviction shall be annulled until at least 7 years after the conviction date." Presently, some cases are being continued at the motor vehicle hearing level and then the person goes to court and asks that they vacate the conviction. If the court does this, then the motor vehicle hearing officer has no option other than to dismiss the habitual offender hearing. By adding the words, "vacate, expunge, delete, cancel, or otherwise remove such a conviction...", we feel we have corrected this loophole in the law. Vote 14-1.

Amendment (0627h)

Amend RSA 262:19, IV as inserted by section 1 of the bill by replacing it with the following:

IV. No conviction for an offense specified under RSA 259:39 shall be annulled until at least 7 years after the conviction date. No court shall vacate, expunge, delete, cancel or otherwise remove such a conviction for at least 7 years subsequent to the conviction date, unless it is determined by a court of competent jurisdiction that the conviction was illegal or otherwise improper and invalid.

HB 1378-FN, making the penalty for the offense of official oppression a felony. INEXPEDIENT TO LEGISLATE

Rep. Richard F. Doucette for Criminal Justice and Public Safety: This bill increases the penalty for a public servant who commits an unauthorized act within the scope of his office to benefit to himself or to harm another. There was no evidence submitted that it was necessary to increase this penalty. There were no sponsors present at the public hearing. Vote 19-0.

HB 1448, relative to confidential communication between victims and counselors. OUGHT TO PASS WITH AMENDMENT

Rep. William V. Knowles for Criminal Justice and Public Safety: This legislation exempts domestic violence and sexual assault counselors from the duty to report under RSA 169-C:29 where a minor is 14 years of age or older, and is alleging abuse as defined by RSA 173-B:1, sexual assault as defined by RSA 632-A, stalking as defined by 633:3a, or sexual harassment as defined by state or federal law, and the alleged perpetrator is not related to the minor by consanguinity or affinity and does not reside either permanently or temporarily with the minor. Testimony indicated that confidentiality was very important to minors in the lower age category and they would be more likely to seek help from domestic violence and sexual assault counselors. The counselor is required to report child abuse under circumstances where such counselor has reason to believe a minor aged 14 or older is or may be in imminent danger of physical harm. Vote 14-0.

Amendment (0783h)

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

1 Definitions; Confidential Communications. Amend RSA 173-C:1, I to read as follows:

I. "Confidential communication" means information transmitted between a victim, as defined in paragraph VI, of an alleged sexual assault [or], alleged domestic abuse, alleged sexual harassment, or alleged stalking, and a sexual assault or domestic violence counselor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the hearing impaired, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the sexual assault or domestic violence counselor in the course of that relationship.

2 Definitions; Victim. Amend RSA 173-C:1, VI to read as follows:

VI. "Victim" means any person alleging sexual assault under RSA 632-A [or], domestic abuse as defined in RSA 173-B:1, stalking under RSA 633:3-a, or sexual harassment as defined under state or federal law, who consults a sexual assault counselor [or], a domestic violence counselor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual assault or domestic abuse, stalking, or sexual harassment, or an alleged attempted sexual assault [or] domestic abuse.

3 Exceptions to Counselor's Duty to Report Child Abuse. RSA 173-C:10 is repealed and reenacted to read as follows:

173-C:10 Counselor's Duty to Report Child Abuse. The domestic violence or sexual assault counselor shall have the same reporting duties under RSA 169-C:29 as other professionals, provided that, notwithstanding RSA 169-C:32, this duty shall not apply where a minor is 14 years of age or older, and is alleging abuse as defined by RSA 173-B:1, sexual assault as defined by RSA 632-A, stalking as defined by 633:3-a, or sexual harassment as defined by

state or federal law, and the alleged perpetrator is not related to the minor by consanguinity or affinity, and does not reside either permanently or temporarily with the minor. Nothing in this section shall be construed to alter, modify, or relieve a domestic violence or sexual assault counselor's duty to report child abuse under circumstances where such counselor has reason to believe a minor aged 14 or older is or may be in imminent danger of physical harm.

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

AMENDED ANALYSIS

This bill exempts, under certain circumstances, domestic violence and sexual assault counselors from the reporting requirements found in current law, and expands the definitions of "confidential communication" and "victim" to include instances of alleged stalking or sexual harassment.

HB 1472, relative to employment of prisoners. INEXPEDIENT TO LEGISLATE

Rep. Lori Cardin for Criminal Justice and Public Safety: The committee felt this bill was inexpedient to legislate because the decision to employ prisoners should be made by the city or town and the county, not by the legislature. Further, such restrictions can be part of a collective bargaining agreement. There was no evidence presented to indicate that a problem exists. Vote 13-1.

HB 1547-FN-L, relative to mandatory incarceration for violators of protective orders. INEXPEDIENT TO LEGISLATE

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: This bill would allow an individual who allegedly has violated a protective order to be arrested under a warrant and detained without bail until a hearing takes place. The committee unanimously felt that the defendant should not be incarcerated without an opportunity for bail or an immediate hearing as to whether he should be found in civil or criminal contempt of court and punished therefor. Vote 15-0.

HB 1561-FN, preventing computer pornography and child exploitation and increasing penalties for possession under the child pornography laws. OUGHT TO PASS WITH AMENDMENT

Rep. Lori Cardin for Criminal Justice and Public Safety: This bill, as amended, establishes penalties for child pornography and exploitation committed by means of computer. This strengthens the state's child pornography laws to include online crimes. This technology is a new challenge for law enforcement who need new laws to help with those challenges. The penalty for possession is raised to a felony if a person knowingly buys, procures, possesses or controls any visual representation of a child engaging in sexual activity or causes same to be imported into the state. Vote 17-0.

Amendment (0852h)

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

1 Penalties for Offenses Increased; Misdemeanor to Felony. Amend RSA 649-A:3 to read as follows:

649-A:3 Offenses.

I. A person is guilty of a felony if [he] such person:

(a) Sells, delivers or provides, or offers or agrees to sell, deliver or provide, any visual representation of a child engaging in sexual activity; or

(b) Presents or directs a visual representation of a child engaging in sexual activity, or participates in that portion of such visual representation which consists of a child engaging in sexual activity; or

(c) Publishes, exhibits or otherwise makes available any visual representation of a child engaging in sexual activity; or

(d) Possesses any visual representation of a child engaging in sexual activity for purposes of sale or other commercial dissemination[.]; or

(e) Knowingly buys, procures, possesses, or controls any visual representation of a child engaging in sexual activity; or

(f) Knowingly brings or causes to be brought into this state any visual representation of a child engaging in sexual activity.

II. An offense under paragraph I shall be:

(a) A class B felony if such person has had no prior convictions in this state or another state for the conduct prohibited by paragraph I;

(b) A class A felony if such person has had one or more prior convictions in this state or another state for the conduct prohibited by paragraph I.

[III. A person is guilty of a misdemeanor if he:

(a) Buys, procures, possesses, or controls any visual representation of a child engaging in sexual activity; or

(b) Brings or causes to be brought into this state any visual representation of a child engaging in sexual activity.]

2 New Chapter; Computer Pornography and Child Exploitation Prevention. Amend RSA by inserting after chapter 649-A the following new chapter:

CHAPTER 649-B

COMPUTER PORNOGRAPHY AND

CHILD EXPLOITATION PREVENTION

649-B:1 Short Title. This chapter shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1998."

649-B:2 Definition. In this chapter, "child" means any person under the age of 16 years.

649-B:3 Computer Pornography Prohibited.

I. No person shall knowingly:

(a) Compile, enter into, or transmit by means of computer;
(b) Make, print, publish, or reproduce by other computerized means;

(c) Cause or allow to be entered into or transmitted by means of computer; or

(d) Buy, sell, receive, exchange, or disseminate by means of computer,

any notice, statement, or advertisement, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information, for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any child, or the visual depiction of such conduct.

II. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

III. Any person who violates the provisions of this section is guilty of a class B felony.

649-B:4 Certain Uses of Computer Services Prohibited. Any person who knowingly utilizes a computer on-line service, internet service, or local bulletin board service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any of the following is guilty of a class B felony:

I. Any offense under RSA 632-A, relative to sexual assault and related offenses.

II. Indecent exposure and lewdness under RSA 645:1; or

III. Endangering a child, as defined in RSA 639:3.

649-B:5 Owners or Operators of Computer Services Liable.

I. It shall be a class A misdemeanor for any owner or operator of a computer on-line service, internet service, or local bulletin board service knowingly to permit a subscriber to utilize the service to commit a violation of this chapter.

II. Any out-of-state computer service company doing business in New Hampshire which receives a subpoena from the state of New Hampshire resulting from an investigation of a violation of this chapter shall respond to such subpoena within 14 days. Failure to respond may result in the suspension or revocation of such company's right to do business in New Hampshire.

649-B:6 State Criminal Jurisdiction. A person is subject to prosecution for engaging in any conduct proscribed by this chapter within this state, or for engaging in such conduct outside this state if by such conduct the person commits a violation of this chapter involving a child or an individual the person believes to be a child, residing within this state.

3 Authorization for Interception of Telecommunications or Oral Communications; Child Pornography Crimes. Amend RSA 570-A:7 to read as follows:

570-A:7 Authorization for Interception of Telecommunications or Oral Communications. The attorney general, deputy attorney general, or a county attorney, upon the written approval of the attorney general or deputy attorney general, may apply to a judge of competent jurisdiction for an order authorizing or approving the interception of telecommunications or oral communications, and such judge may grant, in conformity with RSA 570-A:9, an order authorizing or approving the interception of telecommunications or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offenses as to which the application is made, when such interception may provide, or has provided, evidence of the commission of organized crime, as defined in RSA 570-A:1, XI, or evidence of the commission of the offenses of homicide, kidnapping, gambling, theft as defined in RSA 637, corrupt practices as defined in RSA 640, child pornography under RSA 649-A, computer pornography and child exploitation under RSA 649-B, criminal conduct in violation of the securities law, as defined in RSA 421-B:3, 421-B:4, 421-B:5, 421-B:19, and 421-B:24, criminal conduct in violation of the security takeover disclosure laws, as defined in RSA 421-A:3, 421-A:7, 421-A:8, 421-A:11, and 421-A:13, robbery as defined in RSA 636:1, arson as defined in RSA 634:1, hindering apprehension or prosecution as defined in RSA 642:3, tampering with witnesses and informants as defined in RSA 641:5, aggravated felonious sexual assault as defined in RSA 632-A:2, felonious sexual assault as defined in RSA 632-A:3, escape as defined in RSA 642:6, bail jumping as defined in RSA 642:8, dealing in narcotic drugs, marijuana, or other dangerous drugs, hazardous waste violations under RSA 147-A:4, I, or any conspiracy to commit any of the foregoing offenses.

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

AMENDED ANALYSIS

This bill establishes penalties for child pornography, exploitation, and abuse offenses committed by means of computer. The bill makes owners and

operators of computer services criminally liable for knowingly permitting subscribers to utilize their services to commit such offenses.

The bill also increases the penalty for possession offenses under the child pornography laws from a misdemeanor to a class B felony.

HB 1588-FN, making it a felony to cause bodily injury to a police dog or horse. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The bill was brought forward to increase the penalty for injuring a police dog or horse from a misdemeanor to a class B felony. In another section of the law, RSA 644:8, cruelty to animals, it was already a class B felony to beat, torture, whip, or mutilate any animal. Therefore, our amendment repeals 644:8-d dealing with police dogs or horses but adds police dog or horse to the definition of animal in RSA 644:8,II. We think this simplifies and clarifies the statute. Vote 14-0.

Amendment (h)

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

AN ACT relative to causing injury to a police dog or horse.

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

1 Reference Added. Amend RSA 644:8, II to read as follows:

II. In this section, "animal" means a domestic animal, including a police dog or horse, a household pet, or a wild animal in captivity

2 Repeal. RSA 644:8-d, relative to interference with police dogs or horses, is repealed.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill repeals the law relating to interfering with police dogs or horses. A penalty for cruelty to police dogs and horses is included in the law relative to cruelty to animals.

HB 1626-FN, relative to illegal gambling businesses. INEXPEDIENT TO LEGISLATE

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The subject matter of this bill is contained in the amendment to HB 1011-FN. Vote 18-0.

HB 1646-FN, removing the intent requirement for crimes of possession under the controlled drug law and increasing penalties for violations of the controlled drug law involving marijuana and hashish. INEXPEDIENT TO LEGISLATE

Rep. Frank M. Schanda for Criminal Justice and Public Safety: This bill would remove from RSA 318-B:2, I and I-a, the "intent" requirement for crimes of

possession, under the controlled drug law and increase the penalties for violation of the controlled drug law involving marijuana and hashish. This bill would increase state expenditures each year, depending on the level of prosecution. It was the consensus of the committee that this bill needed more work if it were to be of any value in the war on drugs. Vote 19-0.

HB 1209, revising the interagency agreement for special education. OUGHT TO PASS WITH AMENDMENT

Rep. William A. Riley for Education: This bill, as amended, revises the interagency agreement for special education. Its purpose is to bring collaboration between the Department of Education and Health and Human Services for special education purposes. The amendment changes the date of the report from 1 May 1998 to 1 January 1999. Vote 19-0.

Amendment (0463h)

Amend RSA 186-C:7-a, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The commissioners of education and health and human services shall submit a copy of the initial interagency agreement for special education to the appropriate standing committees of each house of the general court on or before September 1, 1985, and shall submit a revision to the agreement no later than January 1, 1999. Any subsequent proposed amendments or revisions to the agreement shall be submitted to the appropriate standing committees of the house and senate.

Amend the bill by replacing section 2 with the following:

2 Interagency Agreement for Special Education; Guidelines for Revision.

I. The department of education and the department of health and human services shall review the interagency agreement between the 2 departments dated August 23, 1985, and subsequently amended July 14, 1987 and April 20, 1990 executed pursuant to RSA 186-C:7-a. The department of education and the department of health and human services shall report the results of their review and any recommendation for legislative change necessary to the house education committee on or before January 1, 1999.

II. The review shall include, but not be limited to, the following issues:

(a) The population covered by the agreement.

(b) The roles and responsibilities of each department for services provided to the population covered by the agreement.

(c) The costs of room and board and its relationship to the provision of special education.

(d) The costs of educationally related services which have a medical component.

(e) The administration of the Medicaid to Schools Program.

(f) Establishment of rates for educationally related services for which local school districts seek reimbursement, in whole or in part, from either department.

(g) Provisions for monitoring delivery of special education and educationally related services.

(h) Provisions to resolve disputes between the departments and school districts or state agencies.

III. This review is not intended to limit the responsibility and authority of local school districts to identify and provide services needed by educationally disabled students.

IV. The commissioner of the department of education and the commissioner of the department of health and human service shall, within 30 days of the effective date of this paragraph, designate 2 or more representatives to participate in this review. The designated staff shall meet on or before March 15, 1998, and as often as necessary thereafter to complete the review.

HB 1320, amending provisions of the advisory committee on the education of students with disabilities. OUGHT TO PASS WITH AMENDMENT

Rep. Iris Estabrook for Education: This bill amends the membership structure of the advisory committee on the education of students with disabilities. These changes are consistent with the 1997 federal reauthorization of IDEA (Individuals with Disabilities Education Act). The amendment assures that the membership be a majority of people associated with the special education community and gives specific duties to the committee. Vote 16-3.

Amendment (0754h)

Amend RSA 186-C:3-b, II (q) as inserted by section 1 of the bill by replacing it with the following:

(q) Parents of children/students with disabilities, appointed by the governor. A simple majority of the members of the committee shall be individuals with disabilities or parents of children/students with disabilities.

Amend RSA 186-C:3-b, IV as inserted by section 1 of the bill by inserting after subparagraph (d) the following:

(e) Advise the department of education in developing corrective action plans to address findings identified in federal monitoring reports.

(f) Advise the department of education in developing and implementing policies relating to the coordination of services for children/students with disabilities.

HB 1356-L, revising the procedures for withdrawal from a cooperative school district. INEXPEDIENT TO LEGISLATE

Rep. Warren C. Henderson for Education: If adopted, this bill would have permitted any town which had joined a multi-town cooperative school district to unilaterally withdraw without concern for the adverse impact of those towns which remain in the cooperative. The committee felt that this process would result in discord among the towns of the cooperative and could be financially devastating if one large town withdrew from a co-op and left several small towns financially strained. Since every town involved must vote to form a school cooperative, every town in the co-op should have a say in any withdrawal initiative. Vote 19-1.

HB 1386, to establish a committee to study alternative school systems. INEXPEDIENT TO LEGISLATE

Rep. Marie Rabideau for Education: This bill creates a committee charged with studying educational organizations, non-traditional attendance areas, and alternative sources of funding. The objective of the sponsors, as understood by the committee, was to study alternative school systems as a vehicle for innovation and change. The committee found that the charge of the study committee was not in line with the sponsors' intent. Also, it was entirely unclear what the sponsors meant by "alternative school systems" even after considerable testimony. There exist opportunities for districts to do this now. Vote 17-2.

HB 1428, establishing requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach a broad range of students, including disabled students. OUGHT TO PASS WITH AMENDMENT

Rep. David E. Larrabee, Sr. for Education: This bill, as originally written, established requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach a broad range of students, including disabled students. The amendment addresses the concerns of the committee so the range of students will be broadened to "exceptional learners" which includes gifted and special education students. Vote 17-1.

Amendment (0769h)

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

AN ACT establishing requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach to a broad range of students including exceptional learners.

Amend RSA 21-N:9, II (z) as inserted by section 1 of the bill by replacing it with the following:

(z) Establishing requirements for teachers and teacher preparation programs to ensure that all teachers are prepared to teach to a broad range of students' needs, including, but not limited to, the needs of exceptional learners, using a variety of methods, materials, and instructional techniques.

Amend RSA 186:8, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Establishing requirements for teachers and teacher preparation programs to ensure that all teachers are prepared to teach to a broad range of students' needs, including, but not limited to, the needs of exceptional learners.

AMENDED ANALYSIS

This bill would grant rulemaking authority to the state board of education to establish requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach a broad range of students including exceptional learners.

HB 1429, amending state board of education rulemaking authority relative to certain educational personnel. OUGHT TO PASS WITH AMENDMENT

Rep. Charles B. Yeaton for Education: This bill brings the statute up to date by including special education administrators as personnel for which certification standards should be set and eliminates several categories which no longer are regulated by the state board of education. The amendment corrects the "special education director" to the appropriate term "special education administrator". Vote 16-0.

Amendment (0618h)

Amend RSA 21-N:9, II (s) as inserted by section 1 of the bill by replacing it with the following:

(s) Certification standards for educational personnel, including teachers, paraprofessionals, superintendents, assistant superintendents, [teacher consultants,] special education administrators, business administrators, principals, vocational directors, [administrative associates,] coordinators of comprehensive health education and services, directors of pupil personnel services, guidance directors, guidance counselors, school psychologists, associate school psychologists, [school physicians, school dentists, emergency medical care providers, dental hygienists,] speech-language specialists, social workers, health educators, physical education teachers, home economics teachers, elementary teachers, [school nurses,] specialists in assessment of intellectual functioning, media supervisors, and media generalists [and media educational associates,] as authorized by RSA 186:8 and RSA 186:11, X.

AMENDED ANALYSIS

This bill redefines the rulemaking authority of the state board of education by excluding certain education and education-related professions and including special education administrators.

HB 1437, requiring the designation of alternative acceptable reading material for use in a school course following objection by a parent. INEXPEDIENT TO LEGISLATE

Rep. Warren C. Henderson for Education: This bill would establish a mechanism whereby school boards could assign alternative reading material when a parent or group of parents objected to the assigned material. While a worthy goal, the bill set no limits on how many times a parent might object, and the bill did not give school boards the discretion to reject such requests under any circumstances. This bill would encroach on matters best left to local control. Vote 15-1.

HB 1462, establishing an independent committee to study the university system of New Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Elizabeth K. Hoadley for Education: This bill and a further amendment by the sponsor concerned specific investigation into the admissions and scholarship programs in the New Hampshire university system. Both the amendment and the bill were voted inexpedient to legislate. Instead, the concerns of the proposed legislation will be passed to the university system oversight committee. Vote 17-0.

HB 1487, allowing a receiving district to withdraw from an authorized regional enrollment area school. INEXPEDIENT TO LEGISLATE

Rep. Richard L. Hill for Education: This bill did not satisfy the problem for area schools. The committee felt that SB 400, after a senate summer study and recent testimony, would be a better solution to the problem. Vote 18-1.

HB 1121, making technical corrections to the election laws. OUGHT TO PASS WITH AMENDMENT

Rep. Susan W. Almy for Election Law: This bill as amended makes minor but useful technical changes dealing with voter registration forms and supervisors of the checklist. The amendments restore original supervisor hours, and remove proposed political contribution changes. Vote 15-0.

Amendment (0866h)

Amend the bill by replacing section 3 with the following:

3 Voter Checklists; Session for Correction; Notice. Amend RSA 654:27 to read as follows:

654:27 Session for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed; provided that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m. Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.

Amend the bill by deleting sections 4-7 and renumbering the original sections 8-9 to read as 4-5, respectively.

Amend the bill by replacing section 4 with the following:

4 Town Elections; Voters and Checklists; Session Time Changed. Amend RSA 669:5 to read as follow:

669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post, and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25-654:31, provided, however, that the session for correction shall be held on Saturday 6 to 13 days prior to the election. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from 7 p.m. to 9 p.m.

AMENDED ANALYSIS

This bill modifies the time frame for checklist correction sessions for town elections and makes other technical changes to election laws.

HB 1124, relative to disposal of septage or sludge. OUGHT TO PASS

Rep. Peter R. Leishman for Environment and Agriculture: This bill transfers the authority of notification of planned sludge and septage spreading activities from the Department of Agriculture to the Department of Environmental Services. This would consolidate the authority to regulate sludge and septage management under one agency where it should be. Vote 21-0.

HB 1160, relative to the definitions of the terms "farm," "agriculture," and "farming." OUGHT TO PASS WITH AMENDMENT

Rep. Kenneth R. Marshall for Environment and Agriculture: The purpose of the act is to modernize the definition of "farm", "agriculture" and "farming" to represent what it really consists of today. The amendment merely adds "alpacas" to the list of animals, changes the word domestic to domesticated and included a sentence in the statement of intent that makes it clear that this bill cannot be construed as an exemption from any regulation nor can it be construed as a regulation. Vote 20-0.

Amendment (0878h)

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

1 Statement of Intent. The purpose of this act is to modernize the definition of "farming" and "agriculture" to more accurately reflect the scope of agriculture as practiced today in New Hampshire. This definition shall not be construed as a regulation, or as an exemption from any regulation, except to the extent that the defined terms are actually used in other statutes, including but not limited to RSA 432:32 through 432:35, RSA 672:1, and RSA 674:32-a through 674:32-c.

2 Definitions; "Farm," "Agriculture," and "Farming." RSA 21:34-a is repealed and reenacted to read as follows:

21:34-a Farm, Agriculture, Farming.

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.

II. The words "agriculture" and "farming" mean all operations of a farm, including:

(a)(1) The cultivation, conservation, and tillage of the soil.

(2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, sludge and biosolids.

(3) The use of and application of agricultural chemicals.

(4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), and reindeer (*Rangifer tarandus*).

(5) The breeding, boarding, raising, training, riding instruction, and selling of equines.

(6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.

(7) The raising, breeding, or sale of poultry or game birds.

(8) The raising of bees.

(9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.

(10) The production of greenhouse crops.

(11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or

horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

(b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(2) The transportation to the farm of supplies and materials.

(3) The transportation of farm workers.

(4) Forestry or lumbering operations.

(5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.

(6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided, that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

IV. Practices on the farm shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, and other appropriate agencies of the United States Department of Agriculture.

3 Motor Vehicles; Definitions; "Agriculture" and "Farming." RSA 259:3 is repealed and reenacted to read as follows:

259:3 Agriculture and Farming. The words "agriculture" and "farming" mean all operations of a farm, including:

I.(a) The cultivation, conservation, and tillage of the soil.

(b) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, sludge and biosolids.

(c) The use and application of agricultural chemicals.

(d) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), and reindeer (*Rangifer tarandus*).

(e) The breeding, boarding, raising, training, riding instruction, and selling of equines.

(f) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.

(g) The raising, breeding, or sale of poultry or game birds.

(h) The raising of bees.

(i) The raising, breeding, or sale of domesticated strains of fur-bearing animals.

(j) The production of greenhouse crops.

(k) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

II. Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(a) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(b) The transportation to the farm of supplies and materials.

(c) The transportation of farm workers.

(d) Forestry or lumbering operations.

(e) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.

(f) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

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

HB 1229, exempting biological control agents from registration requirements for pesticides. OUGHT TO PASS WITH AMENDMENT

Rep. David L. Babson for Environment and Agriculture: This bill aligns the definitions and rules with those that are currently in place through the Federal Department of Agriculture. Vote 21-0.

Amendment (0863h)

Amend RSA 430:37, II as inserted by section 1 of the bill by replacing it with the following:

II. For nematodes and beneficial insects used as biological control agents, and which are also exempt from regulation by the United States Environmental Protection Agency under 40 CFR chapter 1, subpart B, section 152.20, provided that such nematodes and beneficial insects are under a permit issued by the United States Department of Agriculture pursuant to 7 CFR 330.

HB 1238, establishing a committee to study ways to manage land use and to preserve and protect the state's farmland, rural character, and environmental quality. OUGHT TO PASS WITH AMENDMENT

Rep. Harold P. Melcher for Environment and Agriculture: The committee finds this bill a useful and well crafted way to deal with a perceived problem of meaningless and undesigned growth. We feel that there are ways both to keep NH beautiful and to allow growth and development. Vote 21-0.

Amendment (0773h)

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

AN ACT establishing a committee to study ways to manage land use and to preserve and protect the state's farmland, rural and community character, and environmental quality against low density sprawl and the loss of sense of place.

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

1 Statement of Intent.

I. Population forecasts indicate that growth and development will continue to be a part of New Hampshire's future. Development patterns in less developed areas have historically sprawled across the landscape, often disrupting the traditional, rural character of New Hampshire's communities. This low density sprawl has contributed significantly to the loss of any sense of place by disconnecting new development from the established, village-type growth patterns of many New Hampshire communities.

II. While this type of sprawl may not seem significant one subdivision at a time, the net result can have major impacts. The subtle conversion of a 50-acre wood lot into 10 5-acre backyards, or the conversion of a hay field into 10 5-acre lawns often results in the unnecessary consumption of land. The productive nature of this formerly rural land has been lost forever as it is converted to low density residential uses.

III. Preserving rural and community character is a goal endorsed by many New Hampshire communities in their master plans. This character relates not only to the visual quality of the undeveloped open space, but to the traditional, productive, growing trees, crops, livestock, or wildlife. Village, town, and urban center patterns are based on commerce and exchange, with open space scattered inside and along the edges.

IV. These distinctions are important pieces on New Hampshire's heritage and continue to make sense today. Development patterns, which concentrate activity in village, town, and urban centers, have the dual benefit of making it easier to provide municipal services (school busing, snow plowing, rubbish collection) and keeping infrastructure costs lower while still protecting open space, water quality, wildlife habitat, and recreational uses.

2 Committee Established. There is established a committee to study ways to manage land use and to protect and preserve the state's farmland, rural character, and environmental quality against low density sprawl, urban as well as rural, and the loss of sense of place. Such management strategies include, but are not limited to, creating a village plan alternative to municipal subdivision procedures.

3 Membership.

I. The committee shall be comprised of the following voting members:

(a) Five members of the house of representatives, one of whom shall be from the resources, recreation, and development committee, 2 of whom shall be from the environment and agriculture committee, and 2 of whom shall be from the municipal and county government committee, all appointed by the speaker of the house.

(b) Three members of the senate, appointed by the senate president.

II. The following shall serve as nonvoting members of the committee:

(a) The director of the office of state planning, or designee.

(b) The commissioner of the department of environmental services, or designee.

(c) The president of the New Hampshire Farm Bureau, or designee.

(d) The director of the New Hampshire Timberland Owners Association, or designee.

(e) The president of the New Hampshire Municipal Association, or designee.

(f) The president of the New Hampshire Home Builders Association, or designee.

(g) The president of the New Hampshire Association of Realtors, or designee.

(h) One member of the regional planning commission, appointed by the governor.

(i) The commissioner of the department of cultural affairs, or designee.

4 Duties. The committee shall examine the laws of states that provide mechanisms for local management of residential, commercial, and industrial development proposals and shall explore alternative approaches to protect and preserve the farmlands, rural and community character, and environmental quality of New Hampshire.

5 Meetings and Mileage. The first-named representative shall call the first meeting of the committee within 45 days after the effective date of this section. At the first meeting the committee shall elect a chairperson from among the voting members of the committee. All subsequent meetings shall be at the call of the chairperson. Five voting members shall constitute a quorum. Legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

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

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

AMENDED ANALYSIS

This bill establishes a committee to study ways to manage land use and to preserve and protect the state's farmland, rural and community character, and environmental quality against low density sprawl and the loss of sense of place.

HB 1185, creating a committee to study the feasibility of establishing an audit division within the department of justice to audit and review state contracts. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Executive Departments and Administration: The testimony before the committee was limited to construction contracts and dealt with the preparation of bids. The department of justice and department of transportation review all bids and contracts prior to awarding and also audit them for compliance during the execution at the present time. The committee was unclear as to the real focus of the study and what problems were to be examined. Therefore, the vote was inexpedient to legislate. Vote 15-0.

HB 1299, requiring members of executive branch councils to file annual financial statements and relative to certain person's who fail to file annual financial statements. OUGHT TO PASS

Rep. Robert K. Dodge for Executive Departments and Administration: This legislation, by adding a simple word, council, completes the original intent of RSA 21-G-5a and thus makes the filing of annual financial statements more inclusive and clarifies responsibility. Vote 17-0.

HB 1361, relative to rulemaking authority, subpoena powers, and establishment of civil penalties by the board of professional engineers. OUGHT TO PASS WITH AMENDMENT

Rep. Kipp A. Cooper for Executive Departments and Administration: This bill was introduced at the request of the engineers' board and will allow the board the ability to administer administrative fines and penalties, as well as the ability to issue subpoena with the approval of the attorney general. The committee felt this legislation will provide the engineers' board more flexibility in addressing misconduct issues among its membership and would be a positive step forward for the professional engineers and consumers alike. Vote 18-0.

Amendment (0742h)

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

1 New Subparagraphs; Civil Penalties; Retired Status. Amend RSA 310-A:6, I(p) to read as follows:

(p) Waiver of renewal fees for professional engineers 70 years of age or older under RSA 310-A:21[.];

(q) Procedural and substantive requirements for assessing, compromising, and collecting civil penalties against licensees as authorized by RSA 310-A:23, V(f);

(r) The requirements for retired status.

2 Subpoena Authority for Disciplinary Actions. RSA 310-A:23, II is repealed and reenacted to read as follows:

II(a). The board shall have the power to administer oaths or affirmations, preserve testimony, subpoena witnesses, and to compel, by subpoena duces tecum, the production of all books, records, files and documents, whether originals, copies, or in electronic or other form, and

other materials, relevant to its investigation of any grievance, complaint, or disciplinary proceeding before the board.

(b) The board may issue subpoenas with the approval of the office of the attorney general.

(c) A minimum of 10 business days' notice shall be given for compliance with a subpoena under this chapter.

3 Disciplinary Action; Civil Penalties. RSA 310-A:23, V is repealed and reenacted to read as follows:

V. The board, upon making an affirmative finding under RSA 310-A:22, II, may take disciplinary action in any one or more of the following ways:

(a) By written reprimand.

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

(c) By revocation of a license.

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

(e) By requiring the person to practice under the direct supervision of a licensed professional engineer for a period of time specified by the board.

(f) By assessing civil penalties in amounts established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$200 for each day the violation continues, whichever is greater.

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

AMENDED ANALYSIS

This bill adds new rulemaking authority to the board of professional engineers concerning assessing civil penalties and the requirements of retired status. The bill also expands the board's subpoena authority and grants new disciplinary authority to the board over licensees.

HB 1415, relative to the regulation of the practice of optometry REFER FOR INTERIM STUDY

Rep. Sylvia A. Holley for Executive Departments and Administration: Although this bill was mainly crafted to do some "housekeeping" by the board of optometry, numerous issues surfaced during the public hearing and two ensuing subcommittee work sessions. One issue related to an optometrist having access

to his/her office for an emergency, even if that office is located in a mall that is closed. Another issue was whether an optometrist should be required to issue a prescription for contact lenses only upon the request of the patient. Finally, numerous issues were raised regarding adjudicative hearings and subsequent concerns under RSA 541-A. The committee felt that interim study was indicated. Vote 18-0.

HB 1455, relative to the publication of administrative rules. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: At the present time, an agency rule becomes effective when filed with the director of legislative services, usually very shortly after the final hearing before the joint legislative committee on administrative rules. The rule as filed becomes the official rule. This bill, as amended, will now require the agency to file a proofed and certified copy with the New Hampshire state library and the state supreme court law library within 120 days of filing the official rule. At the present time, official rules need editorial corrections and proofing to be sure they comply with the vote of the JLCAR committee but there is no time frame in which to file the certified copies. This bill will require that this be done in 120 days. The bill only applies to rules filed and effective after the effective date of this act but does not apply to interim rules or emergency rules. Vote 18-0.

Amendment (0836h)

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

1 Administrative Rules; Publishing. Amend RSA 541-A:15, I to read as follows:

I. The director of legislative services shall compile, index, and publish, or require agencies to publish all effective rules adopted by each agency. The text of an adopted rule as filed with the director and which is effective shall be the official version of the rule, unless or until a version prepared for publication, which may have editorial changes not affecting the substance of the rule, is certified by the agency as the same in substance as originally filed. The certified version shall be the official version. The official version of the rule shall be available to the public by the agency and the director pursuant to RSA 541-A:14, IV.

I-a. The agency shall certify the rule under paragraph I within 120 days of the effective date of the rule. The 120-day deadline shall not apply to interim or emergency rules. A copy of each rule as filed and each as certified shall be sent by the director to the state library and the New Hampshire law library at the supreme court.

I-b. Compilations shall be supplemented, revised, or published as often as necessary. The compilation, indexing, or publishing of fiscal impact statements shall not be required. The director of legislative services, in consultation with state agencies, may enter into a contract for the preparation and publishing of the compilation of agency rules or any portion of it, or may certify a commercially prepared version of the compilation. Any version or portion of the code published under this section shall conform to all requirements of this chapter.

2 Applicability. The provisions of RSA 541-A:15 as amended by section 1 of this act shall apply to rules filed and effective after the effective date of this act.

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

AMENDED ANALYSIS

This bill requires agencies to certify the official version of a rule within 120 days of becoming effective, and requires certified copies of such rules to be sent to the state library, and the state supreme court law library.

HB 1459, requiring that all administrative rules adopted by every state agency under the Administrative Procedures Act identify the specific state or federal statute or regulation which the rule is designed to implement. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: The amendment to this bill will require state agencies adopting regular rules or interim rules to identify, in the rule making notice, the specific sections of state statutes or federal regulations for which the rules are designed to implement. The amendment also requires that the reference be specific in nature and in a uniform format as specified in the drafting and procedures manual. This will aid the public and the regulated community to reference the authority for promulgating such rule. Vote 17-0.

Amendment (0840h)

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

AN ACT relative to the specificity of administrative rules and the identification of state and federal law in the rulemaking process.

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

1 New Section; Specificity of Rules; Identification of State or Federal Law. Amend RSA 541-A by inserting after section 3 the following new section:

541-A:3-a Specificity of Rules; Identification of State or Federal Law. If an agency proposes a rule pursuant to RSA 541-A:3 or 541-A:19, the agency shall identify in the notice required pursuant to RSA 541-A:6 and 541-A:19, II, and in the rule, the specific section or sections of state or federal statute or regulation which the rule is intended to implement. The notice shall be in such form as the director of legislative services shall prescribe until otherwise provided by the drafting and procedure manual adopted pursuant to RSA 541-A:8. The identification in the rule shall be made in the manner specified in the drafting and procedure manual. General references to the name or title of a state or federal statute or regulation shall not suffice for the purposes of this section. To the extent that specific provisions of the proposed rule are designed to implement different sections or provisions of state or federal statutes or regulations, the agency shall

reference the state or federal statute or regulation with the provision of the proposed rule that is intended to implement that statute or regulation.

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

HB 1228, relative to notice required upon an agency's receipt of federal funds. INEXPEDIENT TO LEGISLATE

Rep. Margaret A. Lynch for Finance: This bill would require a state agency to notify the Legislative Fiscal Committee, Commissioner of Administrative Services, appropriate standing committees, and the coordinator of federal funds of the receipt of a federally funded grant. In the opinion of the committee, this bill serves little purpose as it simply requires notification after the fact. Current law requires Governor and Council to review, accept or refuse funds awarded outside the state budget, and in the event that a grant required the creation of a new position in any department, the Fiscal Committee would have to approve before the item could be forwarded to Governor and Council. Vote 17-0.

HB 1303-FN-A-L, continually appropriating boating fees and other revenues to the division of safety services. OUGHT TO PASS WITH AMENDMENT

Rep. Robert G. Holbrook for Finance: Starting with the next biennium, this bill, as amended, requires all boating registration fees and registration fines to be deposited into a non-lapsing fund for the Division of Safety Services, Department of Safety, that provides appropriations for navigation safety and enforcement. The effect is to increase the funding for navigation safety and enforcement from approximately \$900,000 currently to some \$1,900,000. As a result of this increase it is no longer necessary to allocate one-half of unrefunded road tolls, amounting to some \$750,000, to navigation safety, and so the bill returns it to the General Fund. Vote 17-0.

Amendment (0812h)

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

1 Purpose. Approximately \$2,000,000 is generated annually through boating registration fees and registration enforcement fines for use by the department of safety, division of safety services. The division of safety services is required to use this money to promote safe navigation and enforce the registration and uniform numbering requirements of vessels operating on inland public waters of the state of New Hampshire. Of the approximately \$2,000,000 generated, only approximately \$1,000,000 has actually been available to the division of safety services annually for these purposes. A nonlapsing and continual appropriation of these revenues will assure that these sums are appropriately expended on navigation safety and enforcement.

2 Administration of Motor Vehicle Laws; Road Tolls; Exception; Navigation Safety Fund Removed. Amend RSA 260:60 to read as follows:

260:60 Exception. Notwithstanding all other laws and rules to the contrary, annually, on or before June 1, the road toll administrator shall compare the number of gallons on which refunds have been made for the

preceding calendar year for motor fuel used in the propulsion of boats on inland public waters of the state, with the number of gallons of such motor fuel sold and delivered directly into the fuel tanks, or supplementary fuel tanks, of boats or outboard motors upon the inland public waters for use in such boats or outboards, based on the number of boats registered in the state at 100 gallons usage per boat, and if there is any balance of unrefunded tolls so collected, the administrator shall report the same to the state treasurer who shall, on July 1, next following, credit 1/2 of said balance to [a special navigation safety fund within the treasury, to be administered by the director of the division of safety services, which has jurisdiction over the navigation of such boats or motors] the general fund and credit 1/2 of said balance to the fish and game department. [Funds credited to the navigation safety fund shall be used by the division of safety services for the promotion of the safety of navigation, and] The funds credited to the fish and game department shall be used by said department to carry out its program and be accounted for as the fish and game fund is accounted for. Any [balances in the] funds [hereby] credited to the fish and game department as above provided shall not lapse at the end of the fiscal year. [Any funds in the navigation safety fund, not otherwise appropriated, may be used by the division of safety services for the promotion of the safety of navigation upon request from the commissioner of safety to the governor and council with the prior approval of the legislative fiscal committee.] The department shall pay monthly to the state treasurer all revenue from the aircraft landing area toll.

3 Navigation; Vessel Registration and Numbering; Disposition of Revenues; Safety Services; Nonlapsing and Continual Appropriation. Amend RSA 270-E:7, I to read as follows:

I. Except as provided in paragraph II, all fines collected under this chapter[, all sums received from the state treasurer on account of the unrefunded motor vehicle road tolls,] and the amount of fees generated by RSA 270-E:5, I and III shall be made available to the department of safety, division of safety services for the promotion of the safety of navigation and the administration and enforcement of this chapter. Such sums shall be nonlapsing and shall be continually appropriated to the department of safety, division of safety services.

4 Repeal. RSA 6:12, I(ppp), relative to the navigation safety fund general revenue exception, is repealed.

5 Effective Date. This act shall take effect July 1, 1999.

AMENDED ANALYSIS

This bill provides that fines and fees collected under RSA 270-E shall be nonlapsing and continually appropriated to the department of safety, division of safety services. This bill also credits the 1/2 of the unrefunded road tolls formerly credited to the navigation safety fund to the general fund.

HB 1321-FN-A, to provide marine patrol officers with adequate communications systems and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. Stephen T. DeStefano for Finance: This bill made an appropriation of \$125,000 to the marine patrol for the purchase of communications equipment. The committee, marine patrol and sponsors felt that this bill was not necessary based on the committee's support of HB 1303 which increases the revenue of the marine patrol by approximately \$800,000 by allowing it to keep the fines and licensing fees instead of sending them to the General Fund. Vote 22-0.

HB 1326, relative to applications for exemption to the state hiring delay. OUGHT TO PASS WITH AMENDMENT

Rep. Arthur P. Klemm, Jr. for Finance: This bill requires the department requesting an exemption from a hiring delay to obtain the approval of the Governor as well as the Fiscal Committee. The amendment adds the Governor as a recipient of the quarterly report from the Commissioner of Administrative Services concerning the savings realized from the hiring delay. This bill codifies what is existing practice. Vote 17-0.

Amendment (0832h)

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Hiring Delay; Quarterly Report by Administrative Services; Governor Added. Amend 1997, 351:45, IV to read as follows:

IV. The commissioner of the department of administrative services shall report quarterly to the governor and the fiscal committee concerning the savings realized under this section. The first report shall be submitted on or before November 1, 1997.

AMENDED ANALYSIS

This bill requires a department requesting an exemption to the hiring delay to seek approval from the governor as well as the legislative fiscal committee. Current law only requires approval of the legislative fiscal committee. This bill also requires that the commissioner of administrative services' quarterly report concerning savings realized by the hiring delay be submitted to the governor in addition to the fiscal committee.

HB 1384-FN-A, making appropriations for use by the New Hampshire Commission on the Smithsonian Festival of American Folklife. OUGHT TO PASS WITH AMENDMENT

Rep. Arthur P. Klemm, Jr. for Finance: In the summer of 1999, New Hampshire will be the featured state in a special exhibition at the Smithsonian Institution in Washington, D.C. The exhibit is being coordinated by the New Hampshire Commission on the Smithsonian Festival of American Folklife which was created by Chapter 204, Laws of 1996 and will showcase New Hampshire's cultural heritage with crafts, music, dance, storytelling, food ways, occupational skills and workshops. Also taking place on the National Mall will be a salute to New Hampshire's hometown communities with a celebration of Old Home Day, complete with parades, church suppers and other community festivities. In addition, the Commission will re-stage the festival in New

Hampshire and will also generate a package containing various inter-generational learning guides, videos and compact discs which will be freely provided to all libraries and schools throughout the state.

The Finance Committee acknowledges that the festival will become a major opportunity for the state to develop and generate significant tourism and economic development partnerships. The festival is expected to attract over 1.2 million international and national visitors and will clearly serve as a major component of New Hampshire's 1999 tourism and economic development promotional activities.

The bill, as amended, will provide the Commission with \$200,000 in FY 1999 which will join an additional \$2,000,000 in corporate and philanthropic gifts as well as federal funds which comprise a total Commission budget of \$2,200,000. The funds for this appropriation of \$200,000 will come from the additional \$1,000,000 budgeted for increased tourism and promotional activities at DRED in the current biennial operating budget for FY 1999. Vote 21-1.

Amendment (0899h)

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

AN ACT making an appropriation for use by the New Hampshire Commission on the Smithsonian Festival of American Folklife.

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

1 Appropriation; New Hampshire Commission on the Smithsonian Festival of American Folklife. The sum of \$200,000 for the fiscal year ending June 30, 1999 is appropriated to the New Hampshire commission on the Smithsonian Festival of American Folklife for the purpose of funding the participation of the state in the Smithsonian Festival of American Folklife to be held on the National Mall in Washington DC in 1999 and featuring the state of New Hampshire.

2 Source of Funds for Appropriation. Notwithstanding any other provision of law, the appropriation made in section 1 of this act shall be funded from the general fund appropriation made to the department of resources and economic development for travel and tourism development in PAU 03, 03, 02, 03, class lines 90, 93, or 94, or any combination of these class lines within said PAU.

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

AMENDED ANALYSIS

This bill makes an appropriation for use by the New Hampshire Commission on the Smithsonian Festival of American Folklife.

HB 1456, relative to the budget making process. OUGHT TO PASS WITH AMENDMENT

Rep. Arthur P. Klemm, Jr. for Finance: This bill is the result of a study this past summer by the New Hampshire Center for Public Policy Studies in

regard to preparation of our state budget. The bill requires the budget be available in electronic and printed format, that there be a narrative explanation of all appropriations recommended in the Governor's budget from a maintenance expenditure budget as well as putting into statute the ability for performance-based budgeting. The amendment states that an agency or program selected for performance-based budgeting must be approved in the budget process, not the Fiscal Committee. Vote 17-0.

Amendment (0790h)

Amend RSA 9:8-a, II as inserted by section 4 of the bill by replacing it with the following:

II. Performance budgeted agencies and programs shall be exempt from the requirements in paragraph I. The budget of a performance budget agency or program shall be presented as one line item for each program objective. In this section, performance budget agency and program means an agency, PAU, or program specified in the budget for the subsequent biennium on the basis of identified goals, objectives, and verifiable outcome measures.

Amend the bill by replacing all after section 6 with the following:

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

AMENDED ANALYSIS

This bill changes the budget process to require that the budget be available in printed and electronic format, clarifies proposed maintenance expenditures, and the budget process for performance based budget agencies and programs.

HB 1548-FN-A, providing for the health care of New Hampshire children and making an appropriation therefor. REFER FOR INTERIM STUDY

Rep. Mary Jane Wallner for Finance: This bill would provide a source of matching funds for a children's health insurance program. The federal government is making funding available to states to expand health care to low-income children. States will need to provide a source of state matching funds. At this time the committee is awaiting additional information in order to identify a source of matching funds. Vote 21-0.

HB 1586-FN-A, making an appropriation for the purpose of increasing coverage on highways by state troopers and for additional state troopers. INEXPEDIENT TO LEGISLATE

Rep. Stephen T. DeStefano for Finance: This bill made an appropriation of \$1,000,000 from the highway surplus account for the purpose of hiring six full-time state troopers to collect defaulted fines. The committee felt that although this was a worthwhile endeavor the price tag was far too high and the department should find other means to track down these individuals, either from within the department or through outside sources. Vote 22-0.

HB 1644-FN-A, relative to general fund operating budget surpluses.
INEXPEDIENT TO LEGISLATE

Rep. Franklin G. Torr for Finance: The content of this bill was similar to HB 1300. Therefore, we combined the bills, and HB 1644 became unnecessary. Vote 17-0.

HB 1118, relative to the expiration of contact lens prescriptions. OUGHT TO PASS WITH AMENDMENT

Rep. Eileen P. Dawe for Health, Human Services and Elderly Affairs: This bill changes the expiration of a contact lens prescription under the law governing ophthalmic dispensing to match the one year expiration term under the law regulating optometrists. Vote 17-0.

Amendment (0724h)

Amend the bill by replacing section 1 with the following:

1 Contact Lens Prescription; Definition Changed; Expiration. RSA 327-A:1, IV is repealed and reenacted to read as follows:

IV. "Prescription for contact lenses" means a dated and signed, written direction specifying that it is for contact lenses and which shall include at least the power, size, curvature, color, and material composition of the contact lenses. A prescription for contact lenses may also include, at the prescriber's professional discretion, other parameters or instructions such as lens manufacturer, prescription expiration date, number of permitted refills, and a statement prohibiting substitutions. Such parameters or instructions shall be honored by a person filling the prescription. Unless otherwise specified by the prescriber for health reasons, a contact lens prescription shall expire one year from the date of issue.

AMENDED ANALYSIS

This bill changes the definition of a contact lens prescription under the law governing ophthalmic dispensing and changes the expiration term to match the one year term under the law regulating optometrists.

HB 1150, establishing a committee to study the authority, functions, duties, and responsibilities of the bureau of emergency medical services. OUGHT TO PASS WITH AMENDMENT

Rep. Peter L. Batula for Health, Human Services and Elderly Affairs: Currently, emergency medical services personnel guidelines, education, certification, and protocol are unclear with many unregulated options. This bill sets up a committee to study the authority, functions, duties, funding and responsibilities through a coordinated process to be set forth by the Bureau of Emergency Medical Services (a bureau within Health and Human Services). The goal is to have a coordinated and quality emergency response effort to life or death situations. Vote 17-0.

Amendment (0654h)

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

AN ACT establishing a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services, department of health and human services.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study all aspects of the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services, department of health and human services.

AMENDED ANALYSIS

This bill establishes a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services, department of health and human services.

HB 1166, relative to the oversight committee on health and human services.
OUGHT TO PASS WITH AMENDMENT

Rep. Robert Chabot for Health, Human Services and Elderly Affairs: This bill strengthens the current statute on the health and human services oversight committee by establishing a meeting and reporting schedule. Vote 15-1.

Amendment (0628h)

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

1 Composition Changed; Duty Added. Amend RSA 126-A:13 and RSA 126-A:14 to read as follows:

126-A:13 Oversight Committee; Establishment.

I. There shall be an oversight committee on health and human services consisting of [13] 8 members as follows:

(a) 3 members of the senate, at least one of whom shall be a member of the senate public institutions/health and human services committee, appointed by the president of the senate; and

(b) 5 members of the house appointed by the speaker of the house from the health, human services and elderly affairs committee[; and

[(c) 5 members from the department of health and human services, appointed by the commissioner].

II. [For the members appointed under subparagraphs I(a) and (b),] Membership on the oversight committee shall be for the biennium and shall be coterminous with membership in the general court.

126-A:14 Organization and Compensation. The oversight committee shall have a chairperson who shall be chosen by vote from among the committee membership. The chairperson's term of office shall be for the biennium. The committee shall have a clerk who shall be chosen by vote by the members of the committee. The clerk's term of office shall be for the biennium. [The committee shall meet immediately upon the close of each legislative session.] The [legislative] members of the committee shall receive legislative mileage when in performance of their duties.

2 Duties of Oversight Committee. RSA 126-A:15 is repealed and reenacted to read as follows:

126-A:15 Duty of Oversight Committee.

I. The committee shall provide legislative oversight of the programs, policies, and rules of the department of health and human services as brought to its attention by committee members, legislators, department personnel, or others. The committee's work may include, but is not limited to, analyzing the efficacy of selected programs, studying the characteristics of target populations, researching trends affecting program costs and participation and reviewing alternate approaches to programmatic and administrative concerns. The committee shall maintain communications with the department of health and human services, and any other departments, as necessary to accomplish its work.

II. The committee shall meet at the call of the chair but in no case less than every 2 months.

III. The committee shall report no later than the first day of November of the second year of the biennium as to its activities and recommendations to the speaker of the house and the president of the senate.

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

HB 1298-FN-L, requiring health care providers to wear identification. OUGHT TO PASS WITH AMENDMENT

Rep. Alice Z. Calvert for Health, Human Services and Elderly Affairs: This bill requires caregivers, including consulting doctors, volunteers and students, who come in contact with clients and residents of a health care facility (licensed under RSA 151) to wear identification which discloses name, licensure status and staff position. Health and Human Services would be notified of a fault but the facility would not be cited for a deficiency. Vote 16-0.

Amendment (0663h)

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

1 New Section; Identification Required. Amend RSA 151 by inserting after section 3-a the following new section:

151:3-b Identification Required.

I. Facilities licensed under this chapter shall require all persons, including volunteers, consulting doctors, and students, in contact with clients and residents to wear a form of identification which readily discloses the first name, licensure status, if any, and staff position. This section shall also apply to home health care providers and hospice staff.

II. Failure to comply with the requirements of paragraph I shall not result in a citation for deficiency, but shall result in a notice from the department of health and human services that such compliance is mandated by law.

2 Identification Required. Amend RSA 151:21, I to read as follows:

I. The patient shall be treated with consideration, respect, and full recognition of the patient's dignity and individuality, including privacy in treatment and personal care and including being informed of the name, licensure status, and staff position of all those with whom the patient has contact.

3 Identification Required. Amend RSA 151:21-b, II(a) to read as follows:

(a) Be treated with consideration, respect, and full recognition of the client's dignity and individuality, including privacy in treatment and personal care and respect for personal property and including being informed of the name, licensure status, and staff position and employer of all persons with whom the client/resident has contact.

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

HB 1498, requiring emergency medical care providers to inform patients of transport options. OUGHT TO PASS WITH AMENDMENT

Rep. Peter L. Batula for Health, Human Services and Elderly Affairs: This bill is one of three that tightens up and coordinates a more professional emergency medical services response as it deals with transportation options for the patient. Emergency medical service personnel may advise individuals of their options after an assessment of signs and symptoms is made. EMS personnel are authorized to secure a signed waiver from the individual if they refuse transportation to a medical facility. Vote 15-2.

Amendment (0664h)

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

AN ACT authorizing emergency medical care providers to inform patients of transport options.

Amend RSA 151-B:10-a as inserted by section 1 of the bill by replacing it with the following:

151-B:10-a Transport Options. Emergency medical care providers licensed under this chapter may, under medical control, inform individuals of transport options which, in the opinion of the provider, are suitable to such individual. This information shall be provided only after the emergency medical care provider has made a physical assessment of the signs and symptoms of the individual within the provider's level of licensure. All individuals who elect not to be transported or not to be transported by an emergency medical service vehicle shall sign an agreement releasing the emergency medical care provider, hospital, and the medical control physician from liability relating to such transport decision. Nothing in this section shall be construed to require an individual to choose any particular transport option.

AMENDED ANALYSIS

This bill authorizes licensed emergency medical care providers to inform patients of transport options.

HB 1652, establishing a pilot program relative to the administration of medications in residential care facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Marion L. Copenhagen for Health, Human Services and Elderly Affairs: This bill establishes a 2-year pilot program for the administration of medications in certain residential care facilities. The amendment clearly sets out the criteria which have to be met by the Department of Health and Human Services. This lengthy amendment will appear in the session laws, not in the regular RSAs. The committee took pains to insure that the safety and well-being of these frail elderly are protected. Vote 16-0.

Amendment (0881h)

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

1 Statement of Intent. The general court recognizes the growing need of frail elderly in the state who require supervised living environments but do not require 24-hour per day skilled nursing services. Residential care facilities offer elders these services in a cost-effective manner and their existence enables such elders to remain as independent as possible while receiving needed care. The general court recognizes that in order to address the growing number of frail seniors in the state, alternative means and settings for providing such care must be explored. It is the intent of the general court that investment in this form of care for seniors will result in more cost-effective means to provide services to the frail elderly in the state of New Hampshire. Therefore, the general court hereby establishes a pilot program relative to medication administration in residential care facilities.

2 Pilot Program.

I. The commissioner of the department of health and human services is hereby directed to create a pilot program for medication

administration in residential care facilities. The commissioner may approve a waiver to He-P 804. The requirements for the pilot program shall be as follows:

(a) Facility criteria:

(1) Residential care facility shall have had the same administrator for 2 previous years.

(2) Facility may have any number of beds.

(b) Resident criteria:

(1) Resident must be either cognitively intact, have a guardian who has power to make medical decisions, or have given power of attorney for medical decisions to another individual.

(2) Cognitive state to be determined by bureau of health facilities, department of health and human services, needs assessment tool.

(3) Cognitive ability to be determined within 30 days prior to application for medication waiver.

(c) Program criteria:

(1) Residential care facilities with 24-hour RN staff are under no restrictions on the number of residents or number and type of medications that may be administered.

(2) Residential care facilities with an LPN on staff and supervision provided by a RN are under no restrictions on number of residents or number and type of medications.

(3) All medication administration under subparagraph (1) and (2) shall be in accordance with RSA 326-B.

(4) If the residential care facility does not have licensed staff, the following shall apply:

(A) Waiver request must be specific for both the resident and the individual or individuals who will be administering medications.

(B) The resident shall have resided in the home for at least 6 months prior to the waiver request.

(C) The resident shall have a single ordering health care practitioner and/or have a primary care practitioner sign off that he or she has reviewed all medications for compatibility.

(D) Medications (prescription and over the counter) shall come from the same pharmacy or medications shall be reviewed

quarterly by a pharmacist. If a quarterly review is required, the first shall be completed prior to the waiver request. A drug review shall be completed each time a new medication is ordered.

(E) The resident shall be assessed utilizing the states' needs assessment no more than 30 days prior to request. A full resident needs assessment shall be done quarterly and sent to the bureau of health facilities within 7 days of completion.

(F) The facility shall have had no medication deficiencies which threaten the health and safety of a resident within the last year.

(G) Administration of injectable or rectal medication, class 2 or class 3 narcotics will be denied, except as deemed appropriate by the consulting RN.

(H) Administration of eyedrops shall require individualized training by an RN.

(I) All individuals administering medications shall have a minimum of a high school diploma.

(J) The number of medications shall be determined by the consulting RN based on the type of prescription, the type of medication, and the capability of the staff member.

(K) Waivers will be granted for no more than 5 residents per facility.

(L) Quarterly quality assurance reports shall be filed with the bureau of health facilities, department of health and human services using indicators developed by that bureau.

(M) Facilities shall hire a registered nurse consultant, qualified to perform the resident needs assessment.

(N) The nurse consultant shall be responsible for:

(i) implementing the program based on the requirements of He-M 1201, including staff training and procedures for documentation.

(ii) performing the quarterly resident assessments.

(iii) completing the quarterly quality assurance program.

(iv) performing any additional training required by a change in the residents' medications.

(d) Waiver may be revoked for any of the following reasons:

(1) The bureau of health facilities, in consultation with the consulting RN, determines that medication errors threaten the well being of the residents and/or are excessive.

(2) Allowing unauthorized staff to administer medications.

(3) Failure to follow any criterion for the pilot program.

II. Due process rights of the facility shall not apply to this pilot program.

III. Administration of medications under this pilot program shall be exempt from the provisions of RSA 326-B.

IV. This pilot program shall be exempt from the provisions of RSA 541-A.

V. Facilities eligible for the pilot program shall hire a registered nurse as a consultant.

VI. This pilot program shall terminate on December 31, 2000, unless authorized to continue by the legislature.

VII. The commissioner may pursue additional funding for the pilot program in the form of grants from federal and private foundations sources and expend such grants, moneys, and any appropriation for the purpose of said program.

VIII. The commissioner shall submit a report on the activities, findings and recommendations relative to the pilot program to the speaker of the house, the president of the senate, and the governor before the termination date specified in paragraph VI of this section.

3 Residential Care Pilot Program Advisory Committee Established.

I. There is hereby established the residential care pilot program advisory committee to review the implementation of the pilot program established in section 2 of this act. The members of the committee shall be as follows:

(a) The commissioner of the department of health and human services, or designee.

(b) An RN from the bureau of health facilities, department of health and human services, appointed by the commissioner of the department.

(c) A representative of the New Hampshire board of nursing, appointed by the board.

(d) A representative of the New Hampshire Residential Care Association, appointed by the association.

(e) A representative of the New Hampshire Nurses Association, appointed by the association.

(f) A representative of the New Hampshire Health Care Association, appointed by the association.

(g) A representative of the New Hampshire Home Care Association, appointed by the association.

II. The committee's duties shall include, but not be limited to reviewing the implementation of the pilot program established under section 2 of this act.

4 Funding. The pilot program established in section 2 of this act shall be funded through existing appropriations to the department of health and human services.

5 Repeal. Sections 1-4 of this act, relative to the residential care pilot program, are repealed.

6 Effective Date.

I. Section 5 of this act shall take effect December 31, 2000.

II. The remainder of this act shall take effect July 1, 1998.

AMENDED ANALYSIS

This bill requires the commissioner of health and human services to establish a pilot program for medication administration in residential care facilities. The pilot program shall terminate on December 31, 2000.

Referred to Finance.

HB 1164, relative to requests for changes in superior court justices assigned to trials. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: The committee feels this bill would bring about a scheduling nightmare and dramatically increase costs. New Hampshire has a limited number of judges and therefore are assigned only 2-3 days before the trial date. Further, there are ample opportunities to challenge judges if they do not recuse themselves. The administrative judge has developed an assignment system based on "weighted" case load in order to facilitate the system. Vote 12-0.

HB 1261-FN, prohibiting part-time judges from sitting on courts located within 50 miles of their primary places of business. INEXPEDIENT TO LEGISLATE

Rep. David C. Allison for Judiciary and Family Law: The committee believes this bill is unworkable and to be a possible cause of mischief within the courts. Vote 13-0.

HB 1266, relative to reporting of alleged criminal conduct by the professional conduct committee and the judicial conduct committee. INEXPEDIENT TO LEGISLATE

Rep. Marjorie K. Smith for Judiciary and Family Law: This bill requires the Professional and Judicial Conduct Committees to refer allegations of criminal conduct to the attorney general and the county attorneys. This bill is not necessary because the Judicial Conduct Committee is already required by statute to report alleged criminal behavior and the Professional Conduct Committee does this in practice. Additionally the attorney general can refer criminal investigations to the county attorneys. Vote 12-0.

HB 1302, relative to the liability of the university system of New Hampshire for civil damages arising from snow, ice, or inclement weather. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: The committee did not find a need for this bill at this time. The university testified that in the last two years there were seven cases brought forward, six of which were dismissed. While the university is a non-profit institution, it is not the same as a municipality. Vote 12-2.

HB 1325, relative to the rooms and meals tax and occupants of rooming houses. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: This bill was proposed last year and turned down. The sponsor had agreed to bring in a new bill which would address the concerns. Currently, rooming houses are considered transitional housing and give the landlord 90 days in which to make a determination on the character of the tenant. During that period the tenant is a "tenant at will" and has no rights to occupancy. The committee believes a six-month period during which the tenant has no rights is too long a period. Vote 11-2.

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

HB 1360, revising the formula for determining child support. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: This bill does not take into consideration HB 774 which was passed this January and is now in the senate. We need to wait to evaluate how that bill, which is a result of study committee, functions. It provides for major changes to the current support guidelines. Vote 12-1.

HB 1408, requiring a criminal background investigation for certain child care agencies. OUGHT TO PASS WITH AMENDMENT

Rep. Marjorie K. Smith for Judiciary and Family Law: This bill, as amended, would require criminal record and central registry checks for those who are

receiving state funds for providing child care but are exempt from licensing. Currently, in New Hampshire, there are 1,500 providers caring for between 1,500 and 4,500 children who fall into that category. A finding would not result in an automatic denial but the Department of Health and Human Services would have the authority to conduct an investigation as to whether the individual poses a current threat. Health and Human Services says that there will be no additional costs. Vote 12-1.

Amendment (0800h)

Amend the bill by replacing section 1 with the following:

1 New Section; Criminal Records and Central Registry Check of Child Day Care Providers Exempt From Licensing. Amend RSA 170-E by inserting after section 3 the following new section:

170-E:3-a Criminal Records and Central Registry Check of Child Day Care Providers Exempt From Licensing. Any child day care providers exempt from licensing under RSA 170-E:3 which receive state funds or subsidies in payment for the provision of child day care shall, as a condition of receiving state funds or subsidies, provide their names, birth names, birth dates and addresses, and the same information for any individual residing in the child day care provider's household who may be responsible for the care of, or is in regular contact with children, to the department prior to the receipt of state funds or subsidies on or before July 1, 1999, and every 3 years thereafter. The department shall conduct criminal records and central registry checks on these names in accordance with the provisions of RSA 170-E:7.

Amend RSA 170-E:7, I as inserted by section 2 of the bill by replacing it with the following:

I. Licensed child day care agencies and child day care providers exempt from licensing under RSA 170-E:4 but which receive state funds or subsidies in payment for the provision of child day care shall, within 30 days of adding new staff members responsible for care of or in regular contact with children, submit the names, birth names, birth dates, and addresses of such staff members to the department.

HB 1419, making victims of juvenile offenses eligible for compensation from the victim's assistance fund. INEXPEDIENT TO LEGISLATE

Rep. Andrew R. Peterson for Judiciary and Family Law: The committee unanimously found that this legislation would not serve to further the intent of the sponsor that juveniles should be made more accountable to the victims of crimes which involve personal property damage. The victim's assistance fund, according to testimony from the Attorney General's office, the Department of Justice and the N.H. Police Chiefs Association would be drained of needed resources if expanded to include victims of property crimes. Vote 12-0.

HB 1510-FN, requiring probate court judges to report attorneys who are fiduciaries and have been cited for delinquencies in accounting by the probate court to the professional conduct committee of the supreme court. INEXPEDIENT TO LEGISLATE

Rep. Wayne T. Moynihan for Judiciary and Family Law: There was no evidence presented that this bill was necessary to solve an existing problem. No sponsors appeared and no testimony in support was received. Enacting this bill would increase state expenditures by a significant but indeterminable amount. The vast majority of delinquencies are missed deadlines by one or two weeks, and internal probate procedures now ensure that the vast majority are cured in a timely fashion. The probate court judges already have the power to report attorneys who are delinquent fiduciaries to the professional conduct committee of the supreme court when they deem it to be warranted. Vote 12-1.

HB 1511-FN, requiring registers of probate to send a notice to each beneficiary when a fiduciary is delinquent in filing an inventory or account. INEXPEDIENT TO LEGISLATE

Rep. Peter F. Bergin for Judiciary and Family Law: The Probate Court has rules and systems in place to take care of this. RSA 548:5 mandates that the register of probate send notice of the default to the fiduciary by first class mail within 12 days after default. The fiduciary then has 30 days to either file the inventory or account or show good cause for the failure to file. If the fiduciary neither files nor shows good cause for the failure to file, the probate judge shall issue a citation to the fiduciary to appear before the judge. RSA 548:5-a, II mandates that the register of probate send a copy of such citation by first class mail to any beneficiary. Vote 11-1.

HB 1519, requiring registers of probate to be consistent and uniform in the enforcement of delinquency notices, citations, and contempt charges. INEXPEDIENT TO LEGISLATE

Rep. Marjorie K. Smith for Judiciary and Family Law: The procedures identified in this bill are already in place as a result of legislation passed in 1991, 1994 and 1995 and the adoption of rules proposed by the Probate Court Forms committee, the Probate Court Procedures committee and the Probate Court Rules committee. Vote 12-0.

HB 1554-FN, allowing punitive damages in actions for domestic violence and sexual assault. REFER FOR INTERIM STUDY

Rep. Andrew R. Peterson for Judiciary and Family Law: Although the committee was disinclined to pass this bill allowing an expansion of the use of punitive damages in civil court, the majority felt that giving victims of abuse enhanced access to "expanded compensatory damages" merits study. Vote 14-1.

HB 1610, relative to back wages owed by employers. REFER FOR INTERIM STUDY

Rep. Sandra B. Keans for Judiciary and Family Law: The committee believes a problem exists in that there are small corporations that build up debt including back wages and then leave town. However, we are not sure that this bill is worded correctly to solve the problem without opening up other problems for legitimate operating companies. Vote 7-5.

HB 1423-FN, modifying the definition of employment under the unemployment compensation statute and assignment of unemployment compensation payments for a claimant's child support obligations. OUGHT TO PASS WITH AMENDMENT

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: This bill allows the Commissioner of Employment Security to accept authorization for child support payments from a court or administrative agency of competent jurisdiction. It also allows the department to accept certain federal funds to administer the compensation statute. Vote 18-0.

Amendment (0277h)

Amend the bill by replacing section 1 with the following:

1 Unemployment Compensation; Definition of Employment. Amend RSA 282-A:9, IV(l) to read as follows:

(l) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by the individual at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

HB 1109, allowing prepayment of property taxes before April 1. OUGHT TO PASS WITH AMENDMENT

Rep. Linda T. Foster for Local and Regulated Revenues: This bill allows taxpayers to prepay their taxes if the municipality has authorized such payments. The payment allows taxpayers to maximize the IRS federal tax deductions and allows the municipality up to 16 months of early collection. Any prepayment is entirely voluntary. Vote 14-0.

Amendment (0868h)

Amend RSA 80:52-a as inserted by section 1 of the bill by replacing it with the following:

80:52-a Prepayment. Any town by vote at a town meeting under a proper article in the warrant or by vote of the board of selectmen or the town council and any city by vote of its governing board may authorize the prepayment of taxes and authorize the collector of taxes to accept payments in prepayment of taxes. If a town or city so votes, any person, firm or corporation owning taxable property [on April 1] may, [after April 1 and] at any time before notice of the amount of taxes assessed against said property [for that year] has been received, make payments on account of such taxes as will be due and the collector shall receive such payments and give a receipt therefor and credit the amounts paid toward the amount of the taxes eventually assessed against said property. In any town or city which shall vote to authorize the prepayment of taxes the collector of taxes shall give such bond in the form and amount which the commissioner of revenue administration shall require, and [he] the collector shall pay over all sums so received to the town treasurer under the provisions of RSA 41:35. No taxpayer shall be allowed to prepay taxes more than 2 years in advance of the

due date of the taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.

AMENDED ANALYSIS

This bill allows property taxpayers to make prepayments on their taxes up to 2 years in advance of the due date of the taxes. No interest shall accrue on any prepayment, nor shall interest be paid to the taxpayer on any prepayment which is later subject to refund or rebate.

HB 1122, relative to the definition of charitable organization for the purposes of conducting bingo games. OUGHT TO PASS WITH AMENDMENT

Rep. Stephen G. Avery for Local and Regulated Revenues: This bill modifies existing law by allowing charitable organizations to play bingo and Lucky Seven in towns other than the town in which they are organized. It limits the play to one town during the term of the license and limits the charity to no more than ten game dates in one calendar month. Vote 12-1.

Amendment (0606h)

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

AN ACT relative to the licensure of charitable organizations to conduct bingo games or sell lucky 7 tickets in towns and cities in which the organizations have been conducting charitable activities.

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

1 Definition; Charitable Organization. Amend the introductory paragraph of RSA 287-E:1, V and subparagraphs (a) and (b) to read as follows:

V. "Charitable organization" means any bona fide religious, charitable, civic, veterans or fraternal organization which shall have been in existence and organized under the laws of this state for at least 2 years in [the] a town or city [in which the bingo games are to be conducted, which is organized under the laws of this state], and to which contributions are exempt from federal income tax. To be eligible for licensure under this chapter, a charitable organization shall do all of the following:

(a) Document that [it is] contributions to the organization are exempt from federal income tax.

(b) Establish that the religious, civic, fraternal, veterans, or charitable purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the [bingo games are conducted] charitable organization is organized.

2 License Eligibility; Charitable Organization. Amend RSA 287-E:5, VII(b) to read as follows:

(b) Establish that the religious, civic, fraternal, veterans, or charitable purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the [bingo games are conducted; provided that any charitable organization which was licensed to play bingo games outside of the town or city in which it is organized on June 1, 1997 shall be eligible to be licensed to continue to play bingo games outside of the town or city in which it is organized until July 1, 1998] charitable organization is organized.

3 Issuance of Licenses; Charitable Organizations. Amend RSA 287-E:6, II(a) to read as follows:

(a) No more than one license shall be issued to a charitable organization per calendar month, and the license shall permit no more than 10 game dates of bingo in one calendar month, and in no more than one town or city which has authorized bingo games under RSA 287-E:27. The license shall expire on the last game date authorized under said license.

4 Application Fee; Lucky 7. Amend RSA 287-E:19, I to read as follows:

I. The lucky 7 license application fee shall be \$10 per month or any part of a month.

5 Lucky 7 Licenses; Charitable Organizations. Amend RSA 287-E:20, I to read as follows:

I. The license shall specify where the tickets may be offered for sale, provided that the license shall not authorize a charitable organization to sell lucky 7 tickets except at a place where a bingo game has been authorized, or in [the town or city where the organization has existed for at least 2 years prior to the date the tickets are sold] a town or city which has authorized the sale of lucky 7 tickets under RSA 287-E:27.

6 New Paragraph; Organization Eligible for Lucky 7 Licensing. Amend RSA 287-E:20 by inserting after paragraph V the following new paragraph:

VI. Only charitable organizations as defined in RSA 287-E:1, V shall be eligible for licensing.

7 Sale of Lucky 7 Tickets; Locations. Amend RSA 287-E:21, II to read as follows:

II. Lucky 7 tickets may only be sold at the location specified in the license issued by the commission, which [may] shall include either:

(a) The regular meeting place of or a facility owned, leased or utilized by the charitable organization for its activities; or

(b) Any other location where the sale of lucky 7 tickets is conducted in conjunction with and at the same time as an event sponsored or co-sponsored by the charitable organization, to be held once a year, and will be held for no more than 4 consecutive days.

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

AMENDED ANALYSIS

This bill modifies the definition of "charitable organization" for the purposes of eligibility to conduct bingo games and sell lucky 7 tickets.

HB 1131, relative to the sale of liquor and beverages and relative to enforcement of the liquor laws. OUGHT TO PASS WITH AMENDMENT

Rep. Robert N. Kelley for Local and Regulated Revenues: This bill serves a variety of purposes in updating the operations of the liquor commission. The enforcement of liquor laws is strengthened by further tightening of photo identification requirements by increases in fines for underage possession of liquor and by more business-like reporting requirements for full service restaurant licenses. This bill is user friendly to the commission and the general public as well. No one appeared in opposition. Vote 16-0.

Amendment (0387h)

Amend RSA 178:20, V(j) as inserted by section 5 by replacing it with the following:

(j) Golf Facility. An operator or designee of a golf facility may be entitled to a cocktail lounge license for the sale of liquor and beverages to patrons in rooms or any clearly defined area under the licensee's control approved by the commission.

Amend RSA 179:10 as inserted by section 8 of the bill by replacing it with the following:

179:10 Unlawful Possession. Except as provided in RSA 179:23, any person under the age of 21 years who has in his possession any liquor or alcoholic beverage shall be guilty of a violation and shall be fined a minimum of [\$50] \$250. Any second and subsequent offense shall be fined at least [\$250] \$500. No portion of this mandatory minimum fine shall be waived, continued for sentencing or suspended by the court. Any person under the age of 21 years convicted of unlawful possession of liquor or beverage shall forfeit the same, and it shall be disposed of as the court directs. The proceeds, if any, shall be paid into the treasury of the county in which the proceedings were determined.

HB 1188, requiring a 24-hour rest for beer at the warehouse after delivery to the wholesale distributor by the brewer or manufacturer. INEXPEDIENT TO LEGISLATE

Rep. Jean R. Wallin for Local and Regulated Revenues: After hearing testimony, the committee decided this bill is unnecessary at this time. Vote 16-0.

HB 1276, relative to charitable organizations conducting bingo. INEXPEDIENT TO LEGISLATE

Rep. Lauren Carney for Local and Regulated Revenues: The intent of this bill has been incorporated into House Bill 1122 as amended. Vote 13-0.

HB 1277, prohibiting beverage, wine, and liquor tasting in grocery and convenience stores. INEXPEDIENT TO LEGISLATE

Rep. Jean R. Wallin for Local and Regulated Revenues: Beer, wine and liquor tasting in grocery and other retail outlets has been allowed for many years. This marketing tool has been used responsibly and successfully according to the Liquor Commission. The committee sees no reason to prohibit the practice. Vote 15-0.

HB 1381, relative to charitable organizations eligible to sell Lucky 7 tickets. INEXPEDIENT TO LEGISLATE

Rep. Stephen G. Avery for Local and Regulated Revenues: The concerns of the sponsor were taken care of in the amendment to House Bill 1122. Vote 13-0.

HB 1469-L, clarifying the value of public utility property for property tax purposes. OUGHT TO PASS WITH AMENDMENT

Rep. Linda T. Foster for Local and Regulated Revenues: The amendment to this bill establishes a study committee to examine the valuation of public utility property. The committee believes that the deregulation of the electric industry makes this issue especially relevant. Vote 15-0.

Amendment (0798h)

Amend the bill by replacing the title with the following:

AN ACT establishing a committee to examine the valuation of public utility property.

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

1 Committee Established. There is hereby established a committee to examine the valuation of public utility property.

2 Membership and Mileage.

I. The committee shall be comprised of the following members:

(a) Two representatives from the committee on science, technology and energy, appointed by the speaker of the house.

(b) Two representatives from the committee on finance, appointed by the speaker of the house.

(c) Two representatives from the committee on local and regulated revenues, appointed by the speaker of the house.

(d) Three senators, appointed by the senate president.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The first meeting of the committee shall be called by the first-named house member within 45 days after the effective date of this section. At the first meeting, members shall elect a chairperson from among the committee membership. All subsequent meetings shall be at the call of the chairperson. Five members of the committee shall constitute a quorum.

3 Duties. The committee shall examine the valuation of public utility property regulated by the public utilities commission. The committee shall address only those properties which are used in the distribution and transmission of electricity and telecommunications. The committee shall study ways to improve valuation equalization, including, but not limited to, the possible development of separate equalization ratios for such property and any other issues that arise during this study.

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

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

AMENDED ANALYSIS

This bill establishes a committee to study the valuation of public utility property regulated by the public utilities commission. Specifically, the committee shall examine those properties which are used in the distribution and transmission of electricity and telecommunications.

HB 1492-L, relative to limiting increases in the assessed valuation of property. INEXPEDIENT TO LEGISLATE

Rep. Douglass P. Teschner for Local and Regulated Revenues: Property is assessed based upon the market value of that property. This bill would change this long-standing policy by capping increases in assessed valuations at 2 percent per year. The committee believes that this change would be disruptive of local property taxation and poor public policy. Vote 15-0.

HB 1566-FN-L, providing that state-owned lands leased to or under an operating agreement with a private business entity are subject to the local property tax. REFER FOR INTERIM STUDY

Rep. Linda T. Foster for Local and Regulated Revenues: This bill involves subject matter which ranges from taxation to tourism. Interim Study will provide the opportunity for the thoughtful and thorough consideration which this bill deserves. Vote 15-0.

HB 1111, relative to the types of investments allowable by local treasurers. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph E. Stone for Municipal and County Government: The committee has a sub-committee currently studying county government. During one of its meetings with the NH Association of Counties, the problem of repurchase agreements was brought to the sub-committee's attention by the Grafton County Treasurer. Working closely with the State Treasurer the committee amended

this legislation so now it is possible for county treasurers, when they have in their custody a surplus of funds not immediately needed for the purpose of expenditure, to invest in repurchase agreements with banks incorporated under the laws of the State of New Hampshire or in banks recognized by the State Treasurer. Vote 13-0.

Amendment (0784h)

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

1 County Treasurers. Amend RSA 29:1 to read as follows:

29:1 Duties. The county treasurer shall have custody of all moneys belonging to the county, and shall pay out the same only upon orders of the commissioners. The county treasurer shall deposit the same in participation units in the public deposit investment pool established pursuant to RSA 383:22 or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to a third party custodial bank or the regional federal reserve bank collateral security for such deposits, United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The county treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the county treasury, and of all notes given by the county, with the particulars thereof. At the close of each fiscal year, the county treasurer shall make a report to the county, giving a particular account of all the treasurer's financial transactions during the year. The treasurer shall furnish to the commissioners statements from the books, and submit the books and vouchers to them and to the county auditors for examination, whenever so requested. Whenever the county treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the treasurer shall, with the approval of the commissioners, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits and repurchase agreements of banks incorporated under the laws of the state of New Hampshire or in [national] banks [located within this state or the commonwealth of Massachusetts] recognized by the state treasurer. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. At least yearly, the county treasurer, with the approval of the county commissioners, shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

2 Town Treasurers. Amend RSA 41:29, IV to read as follows:

IV. Whenever the town treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the town treasurer shall, with the approval of the selectmen, invest the same in obligations of the United States government, in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits and repurchase agreements of banks incorporated under the laws of the state of New Hampshire or in [national] banks [located within this state or the commonwealth of Massachusetts] recognized by the state treasurer. At least yearly, the selectmen shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

3 City Treasurers. Amend RSA 48:16, III to read as follows:

III. Whenever the city treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the city treasurer shall, with the approval of the mayor and a majority of the city council, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits and repurchase agreements of banks incorporated under the laws of the state of New Hampshire or in [national] banks [located within this state or the commonwealth of Massachusetts] recognized by the state treasurer. At least yearly, the city council or board of aldermen shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

4 School District Treasurers. Amend RSA 197:23-a to read as follows:

197:23-a Treasurer's Duties. The treasurer shall have custody of all moneys belonging to the district and shall pay out the same only upon orders of the school board or upon orders of the 2 or more members of the school board empowered by the school board as a whole to authorize payments. The treasurer shall deposit the moneys in participation units in the public deposit investment pool established pursuant to RSA 383:22, or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to a third party custodial bank or the regional federal reserve bank collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the district treasury, and of all notes given by the district, with the particulars thereof. At the close of each fiscal year, the treasurer shall make a report to the district, giving a particular account of all of the treasurer's financial transactions during the year. The treasurer shall furnish to the school board statements from the books, and submit the books and vouchers to them and to the auditors for examination, whenever so requested. Whenever the treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the treasurer shall, with the approval of the school board, invest the same in obligations of the United States government, in participation units in the public deposit

investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits and repurchase agreements of banks incorporated under the laws of the state of New Hampshire or in [national] banks [located within this state or the commonwealth of Massachusetts] recognized by the state treasurer. Any person who directly or indirectly receives any such funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the district. Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. At least yearly, the school board shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

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

AMENDED ANALYSIS

This bill allows county, town, city, and school district treasurers to invest excess funds in repurchase agreements and removes certain restrictions on the location of banks in which such funds may be invested.

HB 1112, relative to the placement of articles on the official ballot. OUGHT TO PASS

Rep. Robert A. Lockwood for Municipal and County Government: This bill clarifies that articles concerning the issuance of bonds and notes may be placed on the official ballot in municipalities that have adopted a charter authorizing such votes or have adopted the provisions of RSA 40:12-14. Vote 13-0.

HB 1113, relative to reports of town and school district meetings to be certified to the department of revenue administration. OUGHT TO PASS WITH AMENDMENT

Rep. Marilyn A. Fraser for Municipal and County Government: This bill provides a procedure for towns and school districts which have adopted official ballot voting, either by charter or adoption of RSA 40:13, to file their minutes and certify votes on ballots. This bill is a request of the Department of Revenue Administration. Vote 14-0.

Amendment (0872h)

Amend RSA 21-J:34, IV-a as inserted by section 1 of the bill by replacing it with the following:

IV-a. For municipalities which have elected to vote by official ballot either through adoption of a charter or through the adoption of RSA 40:12-14, the minutes of any meeting or any deliberative session of a municipality's legislative body at which any appropriations may be amended, voted, or rescinded shall be certified by the clerk. Such minutes shall be

filed within 20 days after the date of the close of the meeting of the municipality's legislative body at which appropriations may be amended, voted, or rescinded.

HB 1126-L, relative to municipal debt limits. OUGHT TO PASS

Rep. Cynthia J. Dokmo for Municipal and County Government: This bill, sponsored at the request of the NH Municipal Association, would raise the municipal debt limit from 1.75% to 5%. Testimony revealed that many municipal bond counsels believe the municipal debt in New Hampshire is artificially low. A higher rate may favorably affect bond interest rates. Vote 13-1.

HB 1172-L, relative to the number of members on a municipal budget committee. OUGHT TO PASS

Rep. Kathleen N. Taylor for Municipal and County Government: This bill allows a municipal budget committee to consist of 3 to 12 members who shall serve staggered terms of three years. The law says 3, 6, 9 or 12 and this resulted sometimes in even numbers on a committee which would stymie progress on budget issues. Vote 12-0.

HB 1236-L, relative to limitations on the amendment of warrant articles in official ballot voting. OUGHT TO PASS WITH AMENDMENT

Rep. Betsey L. Patten for Municipal and County Government: During the recent official ballot process under RSA 40:13 collective bargaining agreements were amended at the first session and those amendments were required to be placed on the official ballot. Under RSA 273-A, the local legislative body is authorized only to reject or accept a collective bargaining agreement. Any change negates the agreement and negotiations may either resume or the pre-existing contract is in force. The bill reinforces the current RSAs. If a change is necessary in the collective bargaining agreement process, then the House Labor, Industrial and Rehabilitative Services Committee needs to review RSA 273-A as it oversees the labor laws. Vote 15-0.

Amendment (0839h)

Amend the bill by replacing section 1 with the following:

1 Limitations on the Amendment of Warrant Articles. Amend RSA 40:13, IV(b) to read as follows:

(b) Cost items in collective bargaining agreements shall not be amended.

(c) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

AMENDED ANALYSIS

This bill adds cost items in collective bargaining agreements to the types of warrant articles that cannot be amended in the first session of an annual meeting in a local political subdivision that votes by official ballot.

HB 1239-L, allowing school districts and village districts to independently adopt the provisions of the municipal budget law concerning establishment of a budget committee. INEXPEDIENT TO LEGISLATE

Rep. Cynthia J. Dokmo for Municipal and County Government: The Municipal Budget Act provides a coordinated framework in which one budget committee reviews and makes recommendations on all budgets proposed by all political subdivisions of a municipality. It is an efficient system which minimizes confusion and provides an efficient comprehensive evaluation of a municipality's appropriations. The committee unanimously believed that the proposed legislation would fragment this coordinated effort, leading to additional cost, work and confusion for our citizens. Vote 17-0.

HB 1282-L, requiring a public hearing and vote of the town before a conservation commission may expend funds received through the current use penalty. INEXPEDIENT TO LEGISLATE

Rep. Mary E. Griffin for Municipal and County Government: This bill requires that revenues received by a town through the current use penalty for deposit in the town's conservation fund be accounted for separately and that a public hearing and vote of the town be taken before such funds may be spent by the conservation commission to acquire real property. The sponsor of this bill stated this bill does not accomplish what he intended and therefore requests that the bill be ITL. Vote 14-0.

HB 1343, relative to multiple and contingent warrant articles under the official ballot voting process. INEXPEDIENT TO LEGISLATE

Rep. Betsey L. Patten for Municipal and County Government: This bill attempted to address some issues regarding multiple and contingent warrant articles that are on the official ballot. The attempt was to provide fairness and efficiency to the process which is a laudable goal. However, the committee felt that this seemingly simple bill would change the democratic process of majority rule into rule by the minority or plurality in that there would be three choices on any given warrant article-the governing body's proposal, the amended version from the first session and a "none of the above" option. This is a fundamental change in the official ballot process and the committee felt that it was a significant change and definitely in conflict with Article 30 of the Constitution which states that "No law changing the charter or form of government of a particular city or town shall be enacted by the legislature except to become effective upon the approval of the voters of such city or town upon a referendum to be provided for in said law". Vote 13-0.

HB 1434-L, simplifying the charter amendment procedure for the purpose of establishing official ballot voting. OUGHT TO PASS

Rep. Marilyn A. Fraser for Municipal and County Government: This bill references HB 141, Chapter 53, Laws of 1995 which established a charter commission for official ballot voting. HB 1434 allows a charter commission for the express purpose of official ballot voting and basically condenses and streamlines the charter process for official ballot voting. It provides that a charter commission question and the election of charter commission members shall be placed on the same ballot in situations in which the only issue to

be addressed by the charter commission is the adoption of official ballot voting procedures. Vote 15-0.

HB 1447-L, relative to approval by the legislative body of cost items in a collective bargaining agreement. OUGHT TO PASS

Rep. Cynthia J. Dokmo for Municipal and County Government: This bill provides reasonable time lines in which cost items in a collective bargaining agreement must be submitted to and acted upon by the appropriate legislative body. The change was supported by the Granite State Taxpayers as well as NEA-NH. Vote 12-0.

HB 1482, providing a mechanism for optional fiscal year towns to use the official ballot voting procedures. REFER FOR INTERIM STUDY

Rep. Cynthia J. Dokmo for Municipal and County Government: This bill presents several important issues for which the committee needs additional time to thoroughly review. The issue relative to allowing May meeting dates for optional fiscal year official ballot towns will be addressed this year in Senate Bill 353, concerning the official ballot bill. Vote 15-0.

HB 1483, authorizing secret ballot voting at annual meeting. INEXPEDIENT TO LEGISLATE

Rep. Paul A. McGuirk for Municipal and County Government: Adoption of this bill would allow any municipality to conduct voting at annual and special meetings by secret ballot and require that the business portion of the meeting be conducted over two days. RSA 40:4-A, which has been on the books since 1971, provides for secret balloting, if so requested by a minimum of voters (three or five depending on the population of town), on any warrant article. The proposal to change the meeting to be conducted over a two day period was totally unacceptable to the committee. Vote 13-0.

HB 1491, making the second Tuesday in April, rather than the second Tuesday in March, the election day for all local offices and for official ballot voting. INEXPEDIENT TO LEGISLATE

Rep. Betsey L. Patten for Municipal and County Government: This bill would require the election date for local officials in all traditional and official ballot towns and school districts to change from the second Tuesday in March to the second Tuesday in April without a vote of the local legislative body. The committee feels that this mandated change without a local vote is not warranted. Vote 15-0.

HB 1533-L, requiring court diversion programs to provide an accounting of funds appropriated by municipalities, requiring municipalities to publish such accounting in the annual report of the municipality, and requiring municipalities to separately state anticipated expenditures for court diversion programs in the budget. INEXPEDIENT TO LEGISLATE

Rep. Norma A. Sabella for Municipal and County Government: To pass this bill would put the state legislature in the position of interfering with local control. Furthermore, such information is already available under the current right to know law. Vote 14-0.

HB 1567-L, relative to local excavation permits for bedrock quarrying or crushing operations. REFER FOR INTERIM STUDY

Rep. Joseph E. Stone for Municipal and County Government: This bill requires the existing local excavation permitting process be applied to certain bedrock quarrying or crushers operations and clarifies the extent of preemption of local regulations of excavation and reclamation sites. The feeling of the committee is this issue has many areas that should be studied in depth and there just was not enough time to do this. Therefore, the committee recommends continued work on the subject. Vote 15-0.

HB 1568, relative to the timing of special school district meetings. OUGHT TO PASS

Rep. Betsey L. Patten for Municipal and County Government: A request for a special meeting to raise and appropriate money or reduce or rescind an appropriation needs to be presented to the governing body no less than 60 days prior to the next annual meeting. By setting December 31 as the last day a vote may be taken to raise and appropriate or reduce or rescind an appropriation HB 1568 ensures that no special school district meetings are held so late in the property tax year that municipalities are unable to collect taxes with which to pay the school district requirement. Vote 15-0.

HB 1608, providing that the membership on any charter commission established in a multi-town school district shall reflect each town's proportionate membership of the district's school board. OUGHT TO PASS

Rep. Thomas E. Rice for Municipal and County Government: This bill is a simple exercise in fairness. It established proportional representation on a charter commission in a multi-school district along lines already established in the district. Vote 16-0.

HB 1571, relative to the acquisition of abandoned or inactive rail lines in the city of Lebanon. REFER FOR INTERIM STUDY

Rep. Merle W. Schotanus for Public Works and Highways: The committee learned in the public hearing on this bill that it was filed to influence or replace the ongoing negotiations between the New Hampshire Department of Transportation (NHDOT) and Guilford Transportation Co. to acquire a certain section of rail line in the city of Lebanon. The committee hopes this bill will not be needed, but concluded that is prudent to hold the bill and reactivate it in the unfortunate event that negotiations falter or breakdown. Vote 17-0.

HB 1585, requiring the state to notify the town or city in which state-owned real estate is located prior to a change in use of such real estate. INEXPEDIENT TO LEGISLATE

Rep. Paul I. LaMott for Public Works and Highways : The committee review of this bill and the issues to which it relates indicates the bill is not necessary. The state, as a matter of policy, routinely notifies the town or city in which state-owned property is located prior to sale, lease or change of use of the property. Vote 17-0.

HB 1591, relative to a width exception for highway building and maintenance equipment owned by private businesses and used for winter snow removal.
INEXPEDIENT TO LEGISLATE

Rep. Robert A. Daigle for Public Works and Highways: While sympathetic with the plight of one individual constituent whose fixed blade plow exceeds the width limit, the committee could not support this bill. The plow in question is 150 inches, nearly half again as large as the 102 inch maximum currently in statutes. Considering how narrow some of our roads are, the committee felt removing this maximum width could well present a safety hazard. The largest plow used by the state's Bureau of Highway Maintenance is 12 feet, and that blade is angled. Vote 17-0.

HB 1496, relative to energy facility evaluation. OUGHT TO PASS WITH AMENDMENT

Rep. Jeffrey C. MacGillivray for Science, Technology and Energy: This bill updates the energy facility site evaluation laws (RSA 162-H) to be consistent with competition in electric generation. Under current RSA 162-H, proposed energy facilities are divided into "energy facilities", requiring environmental review by the site evaluation committee, and "bulk power supply facilities", requiring both this environmental review and an additional certificate from the Public Utilities Commission that the project is needed. The bill, as amended, moves all of the following from "bulk power supply facilities" to "energy facilities" and thus eliminates the need for them to obtain the certificate that the project is needed: (1) all electric plants built by entities not subject to rate regulation; (2) all electric plants built by anyone after competition exists in half of the state; and (3) transmission lines connecting generating plants to the transmission grid. The bill also exempts electric generating facilities of less than 30 megawatts from RSA 162-H, updates the purpose statement of RSA 162-H to conform with these changes, and corrects and eliminates cross references. Vote 16-0.

Amendment (0853h)

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

1 Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Declaration of Purpose. Amend RSA 162-H:1 to read as follows:

162-H:1 Declaration of Purpose.

I. The legislature recognizes that the selection of sites for energy facilities will have a significant impact upon the welfare of the population, the economic growth of the state and the environment of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the possible need for new energy facilities in New Hampshire; that undue delay in construction of any needed facilities be avoided; [that operation of the facility be consistent with the state's least cost energy policy;] and that the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic and technical issues are resolved in an integrated fashion. The legislature, therefore, hereby establishes a procedure for the review, approval, monitoring and enforcement of compliance in the planning,

siting, construction and operation of energy facilities. The legislature also recognizes that it has a broad responsibility to provide both economic and environmental protection for its coastal and estuarine waters and the adjoining land areas. The legislature therefore declares it to be its policy that any offshore facility, other than pipelines, shall be located so as to at least comply with the policies and guidelines of the Federal Environmental Protection Agency; and that this policy may be relaxed only if it is shown by clear and convincing evidence that there are compelling technological or economic reasons for doing so, that no feasible alternative exists, and that there will be no substantial environmental risk.

II. The legislature also finds that the present and predicted growth in electric power demands in the state of New Hampshire requires the development of a procedure for the selection and utilization of sites for electric generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the need for new power sources; [that operation of the facility be consistent with the state's least cost energy policy;] that electric power supplies must be constructed on a timely basis; that in order to avoid undue delay in construction of needed facilities and to provide full and timely consideration of environmental consequences, all [electric] entities planning to construct facilities in the state should be required to [engage in adequate long-range planning and] provide full and complete disclosure to the public of such plans; that a certifying body be established for the preconstruction review of [bulk power supply facilities] high voltage transmission lines; that the siting of [bulk power plants and] electric generating plants and high voltage transmission lines should be treated as a significant aspect of land-use planning in which all environmental, economic and technical issues should be resolved in an integrated fashion, so as to assure the state an adequate and reliable supply of electric power in conformance with sound environmental utilization. The legislature, therefore, hereby establishes a procedure for the planning, siting, and construction of [bulk power supply facilities] large electric generating facilities and high voltage transmission lines.

2 Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Definitions; Energy Facility; Certain Electric Generating Station Equipment and Facilities Added. Amend RSA 162-H:2, VII to read as follows:

VII. "Energy facility" means any industrial structure, other than bulk power supply facilities, as defined in paragraph II, that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion and onshore and offshore

loading and unloading facilities for energy sources. Energy facility shall also include energy transmission pipelines, storage tanks, or any other facility which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines requires a certificate, consistent with the findings and purposes set forth in RSA 162-H:1. Energy facility shall include electric generating station equipment and associated facilities only if they are designed for, or capable of, operation at a capacity of greater than 30 megawatts.

3 New Paragraph; Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Prohibitions and Restrictions; Energy Facilities After Competition. Amend RSA 162-H:5 by inserting after paragraph III the following new paragraph:

IV. All electric generating facilities of capacity greater than 30 megawatts proposed and to be owned by entities not subject to rate regulation by the commission shall be considered energy facilities, and shall not be considered bulk power supply facilities. After the date when competition has been certified to exist, pursuant to RSA 38:36, in that portion of the state or in more than half of the state as a whole, all proposed electric generating facilities of capacity greater than 30 megawatts shall be considered energy facilities, and shall not be considered bulk power supply facilities. All transmission lines which would otherwise be considered bulk power supply facilities under RSA 162-H:2 and which are necessary to interconnect one electric generating facility or group of energy facilities to the transmission grid shall also be considered energy facilities, and shall not be considered bulk power supply facilities.

4 New Paragraph; Public Safety and Welfare; Energy Facility Evaluation, Siting, Construction, and Operation; Bulk Power Facility Plans; Exemption After Competition Added. Amend RSA 162-H:17 by inserting after paragraph II the following new paragraph:

III. Any utility in whose portion of the state competition has been certified to exist pursuant to RSA 38:36 shall be exempt from the requirements of this section with respect to electric generating plants.

5 Office of State Planning; Coordination; Reference Changed. Amend RSA 4-C:6, II(d) to read as follows:

(d) [Bulk power supply facility] Site evaluation committee as established in RSA [162-F:3]162-H:3;

6 Fish and Game; Endangered Species Conservation Act; Exemptions and Restrictions; Reference Deleted. Amend RSA 212-A:13, III to read as follows:

III. The provisions of RSA 212-A or any rule promulgated under this chapter shall not interfere in any way with the siting or construction of any bulk power supply facility [as defined in RSA 162-F:2,] or any energy facility as defined in RSA 162-H:2.

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

AMENDED ANALYSIS

This bill provides that electric generating facilities of capacity greater than 30 megawatts to be owned by entities not subject to rate regulation shall not be considered bulk power facilities. This bill provides that all proposed electric generating facilities of capacity greater than 30 megawatts and certain transmission lines may no longer be certified as a bulk power supply facility after electric competition is certified to exist. This bill also exempts public utilities from certain reporting requirements relative to bulk power supply facilities after electric competition is certified to exist, and makes technical corrections in certain laws relative to bulk power supply utilities.

HCR 23, urging Congress to provide relief for the Palestinian Christians by direct aid or by negotiation with the government of Israel. INEXPEDIENT TO LEGISLATE

Rep. Leighton C. Pratt for State-Federal Relations and Veterans Affairs: While well intentioned, this resolution posed serious difficulties to the committee, particularly in asking that the Congress usurp the role of the executive branch and enter into direct negotiation with a sovereign government. The committee offered to work with the sponsor to correct the language of the resolution, but that offer was not accepted. The committee, consequently, votes unanimously ITL. Vote 12-0.

HCR 24, urging Congress to enact legislation amending the Social Security Act to authorize issuance of waivers to states allowing design and implementation of alternative retirement plans. INEXPEDIENT TO LEGISLATE

Rep. Kenneth J. MacDonald for State-Federal Relations and Veterans Affairs: It would appear that Congress plans to make changes in Social Security or "fix Social Security". We should wait to review their work. Now is not the time to remove people from the system. Vote 15-0.

REGULAR CALENDAR

HB 1212, prohibiting the use of credit reports to deny property or casualty insurance. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.

Rep. Anthony Syracuse for the Majority of Commerce: The use of credit reports to deny Homeowner Insurance, including Tenants Homeowners Insurance was discussed in detail at the public hearing and at two subcommittee meetings. The full committee, by overwhelming majority, believes passage at this time is inappropriate. The committee and the Insurance Department want to analyze more closely if a problem on this topic exists. In addition, SB 500 addresses a similar topic and may yield additional data. The committee is committed in any case, to review this issue in conjunction with the Insurance Department and the industry to prepare legislation, if needed, next session. Vote 11-1.

Rep. Tim S. McGough for the Minority of Commerce: This bill would prevent the extremely unfair practice of denying insurance based on a bad credit report. A consumer is not more likely to be a victim of theft and have to file a claim if they have had a bad credit history. Currently, insurance companies are all too readily refusing to cover a homeowner or tenant because they have had credit problems in the distant past. It is only right to allow consumers a fair shake when dealing with large insurance underwriting companies. SB 500

also deals with the subject of credit data usage in the insurance industry. If this bill is not passed by the Senate, the chairman of the House Commerce committee has committed to appointing an ad hoc committee to study the use of data in the insurance industry. It is for that reason the Minority supports referring this bill for Interim Study to provide a vehicle to examine all aspects of this practice.

Majority report adopted.

HB 1281, eliminating the requirement for precertification from a primary care physician to access OB/GYN services in managed care plans. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill creates a mechanism for OB/GYN physicians to be recognized as primary care physicians. In addition, plan subscribers may access OB/GYN services without a referral for covered services and follow-up treatment. This bill, as amended, recognizes the importance of a woman to seek specialized care while protecting the basic structure of managed care. Vote 16-0.

Amendment (0825h)

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

AN ACT requiring managed care plans to permit a woman to select an obstetrician-gynecologist as a primary care physician or to obtain access for certain obstetrical or gynecological services.

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

1 New Section; Obstetrical-Gynecological Coverage. Amend RSA 420-J by inserting after section 6 the following new section:

420-J:6-a Obstetrical-Gynecological Coverage.

I.(a) A health carrier shall permit a covered person to designate a participating in-network obstetrician-gynecologist as the covered person's primary care physician if:

(1) The obstetrician-gynecologist meets the standards established by the plan for primary care physicians;

(2) The obstetrician-gynecologist requests that the carrier make the obstetrician-gynecologist available for designation as a primary care provider;

(3) The obstetrician-gynecologist agrees to accept the payment terms applicable under the plan to primary care physicians for services other than obstetrical-gynecological services; and

(4) The obstetrician-gynecologist agrees to abide by all other terms and conditions applicable to primary care physicians under the plan generally.

(b) This paragraph shall not be construed to require an individual obstetrician-gynecologist to accept primary care physician status if the obstetrician-gynecologist does not wish to be designated as a primary care physician. This paragraph shall also not be construed to interfere with the credentialing and other selection criteria usually applied by a health benefit plan with respect to other physicians in its network.

II. If a covered person does not select an obstetrician-gynecologist as a primary care physician, the covered person shall be permitted to receive obstetrical-gynecological care from a network obstetrician-gynecologist without being required to first visit a primary care physician for covered services including but not limited to:

(a) Maternity care;

(b) Annual visits; and

(c) Followup gynecological care for conditions diagnosed during maternity care or annual visits.

III. Following each visit for gynecological care under paragraph II, the obstetrician-gynecologist shall communicate with the covered person's primary care physician concerning any diagnosis or treatment rendered. The obstetrician-gynecologist shall confer with the primary care physician before performing any diagnostic procedure that is not a covered obstetrical-gynecological service rendered during an annual visit.

2 New Paragraph; Explanation of Benefits. Amend RSA 420-H:4 by inserting after paragraph V the following new paragraph:

VI. An explanation of a covered person's option to select an obstetrician-gynecologist as the covered person's primary care physician or receive direct access to limited obstetrical-gynecological care, pursuant to RSA 420-J:6-a.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill allows an individual participating in a managed care plan to select an obstetrician-gynecologist as such individual's primary care physician.

Adopted.

Report adopted and ordered to third reading.

SPECIAL ORDER

Rep. Hunt moved that HB 1365, establishing a committee to study whether any state laws were violated or any misrepresentations made up to and including the present date in the merger of Catholic Medical Center and Elliot

Hospital, be made a Special Order in the Regular Calendar for Thursday, March 12, 1998 and spoke in favor.

Rep. Vaillancourt spoke against.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being the adoption of the motion to Special Order.

YEAS 203 NAYS 125

YEAS 203

BELKNAP			
Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Calvert, Alice
Clark, Charles	Holbrook, Robert	Laflam, Robert	Lawton, David
Lawton, Robert	Pilliod, James	Rice, Thomas, Jr.	Salatiello, Thomas
Thomas, John			
CARROLL			
Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Cooper, Kipp
Dickinson, Howard, Jr.	Howard, Godfrey	Kenney, Joseph	Lyman, L. Randy
Mock, Henry	Patten, Betsey	Philbrick, Donald	
CHESHIRE			
Avery, Stephen	Hunt, John	Lynch, Margaret	Manning, Joseph
McNamara, Wanda	Metzger, Katherine	Royce, H. Charles	Smith, Edwin
Steere, Myron, III			
COOS			
Davis, Perley	Guay, Lawrence	Horton, Lynn	Merrill, Gerald
Moynihan, Wayne	Pratt, Leighton	St. Hilaire, Paul	Tholl, John, Jr.
GRAFTON			
Akins, Ralph	Alger, John	Brown, Channing	Chase, Paul, Jr.
Guaraldi, Lawrence	Hill, Richard	Luker, Elsa	MacNeil, Allen
Mirski, Paul	Root, John	Trelfa, Richard	Williams, William, Jr.

HILLSBOROUGH			
Alukonis, David	Amidon, Eleanor	Arnold, Thomas, Jr.	Batula, Peter
Belvin, William	Bergin, Peter	Boutin, David	Brundige, Robert
Calawa, Leon, Jr.	Carlson, Donald	Chabot, Ernest	Clay, Susan
Daniels, Gary	Durham, Susan	Dyer, Merton	Emerton, Lawrence, Sr.
Fenton, James	Fields, Dennis	Flora, Kathleen	Golding, William
Goulet, Maurice	Haley, Robert	Hall, Betty	Hansen, Herbert
Hart, Nick	Herman, Keith	Holley, Sylvia	Jean, Loren
Kelley, Robert	Kurk, Neal	L'Heureux, Robert	LaRose, Richard
Lessard, Rudy	Lozeau, DonnaLee	Luebkert, Bernard	MacGillivray, Jeffrey
MacIntyre, Doris	Marcinkowski, Michael	McCarty, Winston	McGough, Tim
Melcher, Harold	Mercer, Robert	Messier, Irene	Milligan, Robert
Mittelman, David	Murphy, Robert	O'Hearn, Jane	Perkins, Paul
Peterson, Andrew	Piteri, Dawn	Riley, Frances	Rowe, Robert
Sargent, Maxwell	Searles, Stanley, Sr.	Wheeler, Robert	White, Donald
Wright, George			
MERRIMACK			
Adams, Stephen	Anderson, Eric	Brown, Mary	Chandler, Earle
Colburn, Thomas	Crosby, Toni	Crowell, Peter	Daneault, Gabriel
Hess, David	Hoadley, Elizabeth	Jacobson, Alf	Krueger, Patricia
Langer, Ray	Larrabee, David	Lavoie, Gerard	Leber, William
Lockwood, Robert	Marshall, Kenneth	Maxfield, Roy	Morrill, Olive
Pfaff, Terence	Reardon, Tara	Whalley, Michael	Whittemore, James
ROCKINGHAM			
Arndt, Janet	Battles-Peirce, Marjorie	Beaulieu, Jon	Belanger, Ronald
Camm, Kevin	Case, Margaret	Cegelis, Mark	Christie, Andrew, Jr.
Cooney, Richard	Dalrymple, Janeen	Dearborn, Bruce	Dowd, Sandra
Downing, Michael	Fesh, Robert	Flanagan, Natalie	Flanders, David
Flanders, John, Sr.	Francoeur, Sheila	Frechette, Joseph	Gleason, John
Griffin, Mary	Guthrie, Joseph	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	Malcolm, Kenneth	McCarthy, John, Jr.
McKinney, Betsy	Mikowski, Walter	Moore, Benjamin	Noyes, Richard
Packard, Sherman	Rabideau, Marie	Raynowska, Bernard	Sapareto, Frank
Smith, Kevin	Stickney, Nancy	Stone, Joseph	Stritch, C. Donald
Syracusa, Anthony	Tufts, J. Arthur	Varrell, Thomas	Welch, David
Weyler, Kenneth			
STRAFFORD			
Brown, Julie	Cossette, Larry	Dunlap, Patricia	Estabrook, Iris
Grassie, Anne	Kaen, Naida	Keans, Sandra	McKinley, Robert
Spear, Barbara	Torr, Ann	Torr, Franklin	
SULLIVAN			
Adler, Rudolf	Burling, Peter	Leone, Richard	Lindblade, Eric
Schotanus, Merle			
NAYS 125			
BELKNAP			
Golden, Paul	Rosen, Ralph	Veazey, John	
CARROLL			
CHESHIRE			
Bonneau, Sarah	Burnham, Daniel	Champagne, Richard	Doucette, Richard
Lynott, Margaret	McGuirk, Paul	Meadar, David	Pratt, Irene
Richardson, Barbara	Riley, William	Robertson, Timothy	Vogl, John
COOS			
Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Hawkinson, Marie
Mears, Edgar			
GRAFTON			
Almy, Susan	Below, Clifton	Cobbin, Philip	Copenhaver, Marion

Lovett, Sidney	Nordgren, Sharon	Phinney, William	Weber, Phil
HILLSBOROUGH			
Allen, W. Gordon	Ameen, W.	Baroody, Benjamin	Barry, William, III
Buckley, Raymond	Burke, M. Virginia	Cardin, Lori	Chabot, Robert
Christiansen, Lars	Clemons, Jane	Cote, David	Cote, Peter
D'Allesandro, Lou	Daigle, Robert	Dokmo, Cynthia	Drabinowicz, A. Theresa
Dwyer, Paul, Sr.	Foster, Joseph	Foster, Linda	Gagnon, Eugene
Gosselin, Gerald	Haettenschwiller, Alphonse Jean, Claudette	Johnson, Lionel	
Konys, Christine	Lefebvre, Roland	Leishman, Peter	Leonard, Peter
Letendre, Evelyn	Lynde, Harold	McCarthy, William	McDonald, James, Sr.
Murch, George	Reidy, Frank	Turgeon, Roland	Vaillancourt, Steve
Welch, Donald	Williams, Carol		
MERRIMACK			
DeStefano, Stephen	Dunn, Miriam	Fraser, Marilyn	French, Barbara
Gile, Mary	Hager, Elizabeth	Lamach, Bernard	Moore, Carol
Owen, Derek	Rogers, Katherine	Seldin, Gloria	St. Cyr, Gerard
Wallin, Jean	Wallner, Mary Jane	Yeaton, Charles	
ROCKINGHAM			
Abbott, Dennis	Blanchard, MaryAnn	Clark, Martha	Cushing, Robert
Dodge, Robert	Dolan, Richard	Dowling, Patricia	Dunham, Vivian
Gibbons, Paul	Heath, John	Kane, Cecelia	Micklon, Stephanie
Morris, Debbie	Norelli, Terie	Pitts, Jacqueline	Schanda, Frank
Vaughn, Charles	Weatherspoon, Jackie		
STRAFFORD			
Berube, Roger	Bickford, David	Brennan, William	Callaghan, Frank
DeChane, Marlene	Hemon, Roland	Heon, Richard	Knowles, William
Lundborn, Raymond	Merrill, Amanda	Merritt, Deborah	Pelletier, Arthur
Rogers, Rose Marie	Smith, Marjorie	Snyder, Clair	Sullivan, Henry
Twardus, Joseph	Vachon, Dennis	Vincent, Francis	Wall, Janet

SULLIVAN			
Allison, David	Cloutier, John	Donovan, Thomas	Ferland, Brenda
Palmer, Lorraine	Wiggins, Celestine		

and the motion was adopted.

REGULAR CALENDAR (CONT'D.)

HB 1411, establishing a committee to study the feasibility of creating a nonprofit, public corporation to facilitate the availability of affordable health insurance for the uninsured and underinsured by organizing large purchasing groups of subsidized and non-subsidized subscribers. OUGHT TO PASS WITH AMENDMENT

Rep. Keith R. Herman for Commerce: This bill creates a study committee to look at an option to provide insurance to the uninsured and underinsured population. The amendment adds to the bill a "codification" of the New Hampshire Insurance Department's emergency order which creates a risk pool subsidized by the group health market. The committee feels this codification is an important first step in addressing the problems in the individual health market. Vote 10-3.

Amendment (0831h)

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

AN ACT establishing a committee to study the feasibility of creating a nonprofit, public corporation to facilitate the availability of affordable health insurance for the uninsured and underinsured by organizing large purchasing groups of subsidized and non-subsidized subscribers and establishing the individual health insurance market mandatory risk sharing plan.

Amend the bill by replacing all after section 5 with the following:

6 New Chapter; Individual Health Insurance Market Mandatory Risk Sharing Plan. Amend RSA by inserting after chapter 404-F the following new chapter.

CHAPTER 404-G

INDIVIDUAL HEALTH INSURANCE MARKET

MANDATORY RISK SHARING PLAN

404-G:1 Purpose of Provisions.

I. The purpose of this chapter is to protect the citizens of this state who participate in the individual health insurance market by providing a mechanism to equitably distribute the excessive risk associated with this market.

II. To provide this protection, an association of insurers is created to operate a mechanism for risk adjustment and subsidization whereby the risk of catastrophic claims experienced by writers of health insurance for individual policyholders is offset to a predetermined extent by a financial subsidy furnished by licensed writers of all health insurance on a proportional basis.

404-G:2 Definitions. In this chapter:

I. "Actively marketing" means currently accepting applications for insurance.

II. "Assessment" means the liability of the member insurer to the association.

III. "Association" means the entity created by this chapter.

IV. "Catastrophic claim" means an insurance liability that exceeds a certain amount.

V. "Commissioner" means the commissioner of insurance.

VI. "Covered lives" shall include all New Hampshire lives for which a carrier provides health insurance coverage. New Hampshire covered lives include those for which an individual policy or a group certificate, evidentiary of health insurance coverage, has been issued in New Hampshire. For group excess loss insurance, or other types of group health insurance for which no certificates are issued, covered lives shall mean those New Hampshire employees and their dependents who are protected, in part, by a policy, issued in New Hampshire, and purchased by a group health insurance plan subject to the Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA).

VII. "Group health insurance" means health insurance coverage other than individual health insurance coverage.

VIII. "Health insurance" means health insurance coverages issued in accordance with RSA 415, 420-A and 420-B. For the purposes of this chapter, health insurance shall not include accident only, credit, dental, vision, Medicare supplement, Medicare Risk, Managed Medicaid, long term care, disability income, coverage issued as a supplement to a liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, policies or certificates of specified disease, hospital confinement indemnity, limited benefit health insurance or short term, nonrenewable individual health insurance, coverage provided through the New Hampshire healthy kids association, coverage provided through the Federal Employees' Program. Non-profit health service corporations shall exclude coverage provided through national account policies originating outside of New Hampshire to the extent the non-profit health service corporation assumes no risk for the provision of such insurance. Health insurance does include group excess loss insurance.

IX. "Individual health insurance" means health insurance sold directly to an individual and not on a group remittance basis. Individual health insurance shall include franchise health insurance.

X. "Insurer" means any entity licensed pursuant to RSA 402, RSA 420-A, or RSA 420-B.

XI. "Order" means the insurance department findings and final order dated November 26, 1997, in the matter of the individual health insurance market in New Hampshire pursuant to RSA 404-C.

XII. "Writing" means engaged in the business of insurance.

XIII. "Writer" means a writing carrier.

404-G:3 Board of Directors.

I. The board of directors of the association shall consist of 5 member insurers who are representative of categories of members of the association and the commissioner who shall be an ex-officio member.

II. Two directors shall be representative of and elected by qualified writers of group health insurance; 3 directors shall be representative of and elected by qualified writers of individual health insurance.

III. To be qualified to vote for the election of directors, a member must provide coverage for at least 500 covered lives or 5 percent of the total covered lives in either New Hampshire's individual health insurance market or New Hampshire's group health insurance market.

IV. Members of the board of directors shall be elected to terms of one year.

V. The initial board of directors shall be the same as that set forth in the order.

VI. The board of directors shall take action by affirmative vote of 4 directors.

VII. The board shall elect officers in accordance with the bylaws of the association. The bylaws of the association shall also govern the place and frequency of meetings of directors and their reimbursement for expenses incurred.

404-G:4 Association's Powers and Duties.

I. The association shall be a not-for-profit, voluntary corporation under RSA 292 and shall possess all general powers as such and additional powers that are approved by the commissioner.

II. The association shall:

(a) Prepare a plan of operation for approval by the commissioner;

(b) Conduct activities in accordance with the plan of operation as approved;

(c) Determine and collect assessments and to disburse subsidy payments, as provided in the plan of operation;

(d) Enter into contracts as necessary or proper to administer the plan of operation;

(e) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessments for, on behalf of, or against members of the association or other participating persons;

(f) Appoint from among members appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent legal consultants as necessary; and

(g) Perform any other functions within the authority of the association, as may be necessary or proper in carrying out the plan of operation.

404-G:5 Plan of Operation. The board of directors of the association shall prepare, adopt and submit to the commissioner a plan of operation which shall provide substantially the following:

I. Description of risks to be shared. Sharing shall be implemented through a risk adjustment and subsidization mechanism whereby writers in the group market will subsidize losses of writers in the individual market, but only to the predetermined extent to which individual writers incur a disproportionate number of catastrophic claims based on an appropriate standard. The mechanism shall include parameters which will limit its costs and ensure proper claims management by the nongroup writers. Only those individual health insurance writers that are currently actively marketing individual health insurance, in accordance with the provisions of RSA 420-G, shall be eligible for a subsidy. The plan of operation shall include the basis by which catastrophic claims shall be determined and the standard to be used in evaluating whether the number of catastrophic claims incurred by the individual writers was excessive.

II. Subsidy determination. Subsidies shall be determined on a calendar year basis. Subsidy calculations in a given calendar year shall be based on the experience of the prior year. Only those individual writers who are actively marketing individual health insurance, in accordance with the provisions of RSA 420-G, during the calendar year in which the subsidy calculation is made shall be eligible for a subsidy. The subsidy calculation shall be based on the risk characteristics of the eligible individual health insurance writers. The plan of operation shall include how the individual health writers' risk characteristics will be used in the subsidy determination. The use of risk characteristics in the subsidy calculation shall not violate the provisions of RSA 420-G.

III. Assessment determination.

(a) Assessment liabilities shall commence July 1, 1999.

(b) Assessments shall be calculated based on the number of covered lives. The number of covered lives shall be determined each month during the calendar year. The assessment shall be calculated as the number of covered lives times a specified amount. The specified amount shall be fixed throughout the calendar year and shall be determined by the board no later than the first day of November preceding the calendar year for which the amount is to be used. The amount shall be approved by the commissioner. The board shall provide a basis for recommending the specified amount, including a projection of the calculated subsidy and consideration of any prior year shortfalls or coverages. For the calendar year 1999, the specified amount shall be 18 cents per covered life per month.

(c) Each covered life should be included in the assessment only once. The board shall adopt procedures by which affiliated carriers calculate their assessment on an aggregate basis with procedures to ensure that no covered life is counted more than once.

IV. Administrative matters. The plan of operation shall further provide for all of the following:

(a) Responsibility for the handling and accounting of funds and other assets of the association.

(b) The financial and other records required to be kept, including the annual report to be submitted to the commissioner.

(c) Such other administrative provisions as are necessary or proper for the execution of the powers and duties of the association.

404-G:6 Commissioner's Powers and Duties. In addition to duties and powers enumerated elsewhere in this chapter:

I. The commissioner shall upon request of the board of directors, serve a demand upon the member insurer to make good an assessment within a reasonable time; the failure of the member insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this chapter.

II. The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed 5 percent of the unpaid assessment per month, but no forfeiture shall be less than \$100 per month.

III. Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if the appeal is taken within 30 days of the final action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the association and available to meet association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Any final action or order of the commissioner shall be subject to judicial review pursuant to RSA 541.

IV. The commissioner may adopt rules as necessary to carry out the purposes of this chapter.

V. The powers of the commissioner enumerated in this chapter shall be in addition to those established under RSA 404-C.

VI. The commissioner may at any time prescribe provisions of the plan of operation, including, but not limited to, those requiring insurers to enter the individual health insurance market, as well as those varying any provisions of RSA 420-G as necessary to maintain an individual health insurance market in this state.

404-G:7 Examination and Annual Report. The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner each year, not later than 120 days after the association's fiscal year, a financial report in a form approved by the commissioner and a report of its activities during the preceding fiscal year. The association's fiscal year shall be the calendar year.

404-G:8 Tax Exemption. The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

404-G:9 Immunity for Members and Employees. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or the commissioner's representatives, for any action or omission by them in the performance of their powers and duties under this chapter.

404-G:10 Severability. If any provisions of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

7 Effective Date.

I. Section 6 of this act shall take effect January 1, 1999.

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

AMENDED ANALYSIS

This bill establishes a committee to study the feasibility of creating a nonprofit, public corporation to facilitate the availability of affordable health insurance for the uninsured and underinsured by organizing large purchasing groups of subsidized and non-subsidized subscribers.

This bill also establishes the individual health insurance market mandatory risk sharing plan which provides a mechanism to distribute the risks associated with such market.

Adopted.

Rep Vachon offered a floor amendment.

Floor Amendment (0963h)

Amend paragraph II of section 2 of the bill by replacing it with the following:

- I. The committee shall solicit information and assistance from the insurance commissioner and the commissioner of health and human services.

Rep. Vachon spoke in favor.

Rep. Herman spoke against and yielded to questions.

On a division vote, 172 members having voted in the affirmative and 158 in the negative, the floor amendment was adopted.

Report adopted and ordered to third reading.

HB 1011-FN, prohibiting possession of gambling machines unless specifically authorized under state law. OUGHT TO PASS WITH AMENDMENT

Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: This bill deals with the so-called "gray machines" that are being used all over the state for illegal video gambling. The revised bill incorporates the provisions of HB 1626-FN making it a class B felony to permit gambling or gambling machines at a business or to run a gambling business. It also expands the current forfeiture provisions to include cash and proceeds of the illegal gambling operation. Additionally, the bill increases from a misdemeanor to a class B felony the unlawful possession of a gambling machine. Exceptions are included for antique machines, cruise ship machines, and machines used at charity Monte Carlo night, the state lottery or other legal uses. This does not prohibit games of skill. Vote 17-1.

Amendment (0888h)

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

AN ACT making it a felony to operate certain gambling businesses and prohibiting possession of gambling machines unless specifically authorized under state law.

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

1 Gambling. RSA 647:2 is repealed and reenacted to read as follows:

647:2 Gambling.

I. A person is guilty of a misdemeanor if such person knowingly and unlawfully:

(a) Permits gambling in any place under the person's control.

(b) Gambles, or loans money or any thing of value for the purpose of aiding another to gamble.

II.(a) A person is guilty of a class B felony if such person conducts, finances, manages, supervises, directs, or owns all or part of a business and such person knowingly and unlawfully permits gambling on the premises of the business.

(b) A person is guilty of a class B felony if such person knowingly and unlawfully conducts finances, manages, supervises, or directs all or part of any proprietary interest operated for the purpose of gambling which:

(1) Has had gross revenue of \$2,000 in any single day; or

(2) Has been or remains in substantially continuous operation for a period in excess of 10 days.

III. For purposes of this section:

(a) "Gambling" means to risk something of value upon a future contingent event not under one's control or influence, upon an agreement or understanding that something of value will be received in the event of a certain outcome.

(b) "Unlawfully" means not specifically authorized by law.

IV. Any property including money, proceeds, all implements, equipment, and apparatus used in violation of this section shall be forfeited.

2 New Section; Gambling Machines. Amend RSA 647 by inserting after section 2 the following new section:

647:3 Gambling Machines.

I. A person is guilty of a class B felony if such person knowingly possesses any gambling machine. Any person having any interest in a gambling machine, who knowingly receives any money or proceeds from such machine, shall also be guilty of a class B felony. Liability under this section shall not require any showing that the machine was actually used, or that the person was aware or believed that the machine was being used, for gambling as defined in RSA 647:2, III(a).

II. For purposes of this section "gambling machine" means any machine or device, whether or not it is in working order or requires some act of manipulation, repair, adjustment, or modification to render it operational, which, upon the insertion of cash or tokens, or upon the payment of any consideration to another, is available to play or simulate the play of any game of chance. As used in this paragraph, a game of chance is any game the result of which is determined totally or predominantly by chance, including but not limited to poker, keno, line-up, or blackjack.

III. Any gambling machine as defined in this section shall be seized upon detection by any police officer, sheriff, constable or deputy, and shall be forfeited.

IV. This section shall not apply to:

(a) Any machine the use or possession of which is authorized pursuant to RSA 287-C, RSA 287-D, RSA 287-E, or RSA 287-F.

(b) Any machine or device at least 25 years old which is maintained for nostalgic reasons, monetary investment, or historical interest, and which is not operated for gambling purposes.

(c) Cruise ships which are equipped with gambling machines whose primary purpose is touring. Any such cruise ship shall be allowed to temporarily enter New Hampshire coastal waters and ports for up to 48 hours, provided that all gambling machines on board are not in use or capable of being used while in New Hampshire coastal waters and ports. For the purposes of this paragraph "cruise ship" means any vessel which is capable of providing overnight accommodations for 500 or more people.

3 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill makes it a felony for a person to operate certain gambling businesses. This bill also requires persons convicted of gambling or operating an illegal gambling business to forfeit any property used in furtherance of the crime to the state. Current law limits such forfeiture to implements, equipment, and apparatus.

The bill makes it a class B felony to knowingly possess a gambling machine, except for antique gambling machines which are not operated for gambling purposes, gambling machines on cruise ships, and gambling machines which are licensed or otherwise specifically authorized under state law.

Adopted.

Reps. D'Allesandro and Gosselin spoke against.

Rep. Knowles spoke in favor.

Reps. Christie and Henderson spoke in favor and yielded to questions.

Rep. Gosselin requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 237 NAYS 106

YEAS 237

BELKNAP			
Bartlett, Gordon	Boyce, Robert	Calvert, Alice	Clark, Charles
Golden, Paul	Holbrook, Robert	Pilliod, James	Thomas, John
CARROLL			
Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Howard, Godfrey
Kenney, Joseph	Lyman, L. Randy	Mock, Henry	Patten, Betsey
Philbrick, Donald			
CHESHIRE			
Avery, Stephen	Bonneau, Sarah	Burnham, Daniel	Hunt, John
Lynch, Margaret	Manning, Joseph	McNamara, Wanda	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	Davis, Perley	Guay, Lawrence	Hawkinson, Marie
Horton, Lynn	Merrill, Gerald	Pratt, Leighton	Tholl, John, Jr.
GRAFTON			

Akins, Ralph	Alger, John	Almy, Susan	Below, Clifton
Brown, Channing	Chase, Paul, Jr.	Eaton, Stephanie	Guaraldi, Lawrence
Hinman, Harry	Lovett, Sidney	MacNeil, Allen	Phinney, William
Root, John	Teschner, Douglass	Trelfa, Richard	Weber, Phil
Williams, William, Jr.			
HILLSBOROUGH			
Amidon, Eleanor	Arnold, Thomas, Jr.	Batula, Peter	Belvin, William
Bergin, Peter	Boutin, David	Brundige, Robert	Burke, M. Virginia
Calawa, Leon, Jr.	Carlson, Donald	Chabot, Ernest	Chabot, Robert
Christiansen, Lars	Clay, Susan	Daniels, Gary	Dawe, Eileen
Dokmo, Cynthia	Drabinowicz, A. Theresa	Durham, Susan	Dyer, Merton
Emerton, Lawrence, Sr.	Fields, Dennis	Flora, Kathleen	Foster, Joseph
Foster, Linda	Ginsburg, Ruth	Golding, William	Goulet, Maurice
Haettenschwiller, Alphonse Hansen, Herbert	Herman, Keith	Holley, Sylvia	
Holt, David	Jean, Claudette	Kelley, Robert	Konys, Christine
Kurk, Neal	L'Heureux, Robert	LaRose, Richard	Leishman, Peter
Letendre, Evelyn	Lozeau, DonnaLee	Luebkert, Bernard	Lynde, Harold
MacIntyre, Doris	Marcinkowski, Michael	McCarthy, William	McCarty, Winston
McDonald, James, Sr.	McGough, Tim	Melcher, Harold	Mercer, Robert
Messier, Irene	Mittelman, David	Murch, George	O'Hearn, Jane
Peterson, Andrew	Piteri, Dawn	Riley, Frances	Rowe, Robert
Sargent, Maxwell	Searles, Stanley, Sr.	Wheeler, Robert	White, Donald
White, Jay	Wright, George		
MERRIMACK			
Adams, Stephen	Anderson, Eric	Brown, Mary	Chandler, Earle
Colburn, Thomas	Crosby, Toni	Daneault, Gabriel	DeStefano, Stephen
Dunn, Miriam	Fraser, Marilyn	French, Barbara	Gile, Mary
Hager, Elizabeth	Hess, David	Hoadley, Elizabeth	Jacobson, Alf
Krueger, Patricia	Lamach, Bernard	Langer, Ray	Larrabee, David

Lavoie, Gerard	Leber, William	Marshall, Kenneth	Maxfield, Roy
Morrill, Olive	Pfaff, Terence	Wallin, Jean	Whalley, Michael
Whittemore, James	Yeaton, Charles		
ROCKINGHAM			
Abbott, Dennis	Arndt, Janet	Beaulieu, Jon	Blanchard, MaryAnn
Case, Margaret	Christie, Andrew, Jr.	Dalrymple, Janeen	Dearborn, Bruce
Dodge, Robert	Dolan, Richard	Dowd, Sandra	Dowling, Patricia
Downing, Michael	Felch, Charles, Sr.	Fesh, Robert	Flanagan, Natalie
Flanders, David	Flanders, John, Sr.	Francoeur, Sheila	Frechette, Joseph
Gleason, John	Griffin, Mary	Guthrie, Joseph	Heath, John
Henderson, Warren	Hutchinson, Rebecca	Kane, Cecelia	Klemm, Arthur, Jr.
Kobel, Rudolph	Langley, Jane	Langone, John	Lovejoy, Marian
Major, Norman	Malcolm, Kenneth	McCarthy, John, Jr.	McKinney, Betsy
Morris, Debbie	Noyes, Richard	Packard, Sherman	Pitts, Jacqueline
Rabideau, Marie	Raynowska, Bernard	Reardon, Neil	Sabella, Norma
Schanda, Frank	Smith, Kevin	Stickney, Nancy	Stone, Joseph
Syracusa, Anthony	Tufts, J. Arthur	Varrell, Thomas	Vaughn, Charles
Welch, David	Weyler, Kenneth		
STRAFFORD			
Brown, Julie	Callaghan, Frank	Cossette, Larry	Dunlap, Patricia
Estabrook, Iris	Grassie, Anne	Kaen, Naida	Keans, Sandra
Knowles, William	McKinley, Robert	Rogers, Rose Marie	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Spear, Barbara	Sullivan, Henry
Torr, Ann	Torr, Franklin	Vachon, Dennis	Wall, Janet
SULLIVAN			
Adler, Rudolf	Allison, David	Donovan, Thomas	Ferland, Brenda
Kibbey, David	Leone, Richard	Lindblade, Eric	Schotanus, Merle
NAYS 106			
BELKNAP			

Boriso, Thomas	Laflam, Robert	Rice, Thomas, Jr.	Rosen, Ralph
Salatiello, Thomas	Veazey, John		
CARROLL			
Cooper, Kipp	Dickinson, Howard, Jr.		
CHESHIRE			
Champagne, Richard	DePecol, Benjamin	Doucette, Richard	Lynott, Margaret
McGuirk, Paul	Meader, David		
COOS			
Coulombe, Henry	Coulombe, Yvonne	Mears, Edgar	Moynihan, Wayne
St. Hilaire, Paul			
GRAFTON			
Cobbin, Philip	Copenhaver, Marion	Guest, Robert	Hill, Richard
LaMott, Paul	Luker, Elsa	Mirski, Paul	Nordgren, Sharon
HILLSBOROUGH			
Allen, W. Gordon	Alukonis, David	Ameen, W.	Baroody, Benjamin
Barry, William, III	Buckley, Raymond	Cardin, Lori	Clemons, Jane
Cote, David	Cote, Peter	D'Allesandro, Lou	Daigle, Robert
Dwyer, Paul, Sr.	Fenton, James	Gagnon, Eugene	Gosselin, Gerald
Haley, Robert	Hall, Betty	Hart, Nick	Jean, Loren
Johnson, Lionel	Lefebvre, Roland	Leonard, Peter	Lessard, Rudy
MacGillivray, Jeffrey	Martin, Mary	McRae, Karen	Milligan, Robert
Murphy, Robert	Perkins, Paul	Reidy, Frank	Turgeon, Roland
Vaillancourt, Steve	Welch, Donald	Williams, Carol	
MERRIMACK			
Crowell, Peter	Lockwood, Robert	Moore, Carol	Owen, Derek
Reardon, Tara	Rogers, Katherine	Seldin, Gloria	St. Cyr, Gerard
Wallner, Mary Jane			
ROCKINGHAM			
Battles-Peirce, Marjorie	Belanger, Ronald	Camm, Kevin	Cegelis, Mark
Clark, Martha	Cooney, Richard	Cushing, Robert	Dunham, Vivian

Gibbons, Paul	Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane
Micklon, Stephanie	Mikowski, Walter	Moore, Benjamin	Norelli, Terie
Sapareto, Frank	Stritch, C. Donald	Weatherspoon, Jackie	
STRAFFORD			
Berube, Roger	Bickford, David	Brennan, William	DeChane, Marlene
Hemon, Roland	Heon, Richard	Lundborn, Raymond	Merrill, Amanda
Merritt, Deborah	Pelletier, Arthur	Twardus, Joseph	Vincent, Francis
SULLIVAN			
Burling, Peter	Cloutier, John	Palmer, Lorraine	Wiggins, Celestine

and the report was adopted.

Reps. David Lawton and Robert Lawton declared conflicts of interest and did not participate.

REMARKS

Rep. Dickinson moved that the remarks and the response to questions made by Rep. Christie, be printed in the Journal

On a division vote, 190 members having voted in the affirmative and 148 in the negative, the motion was adopted.

Rep Christie: Thank you, Madam Speaker. Members of the House, good morning. I rise in support of HB 1011. I will just give you a quick history of the bill. This is a combination of two bills, HB 1626 and HB 1011. The bill does three major things. It makes gambling businesses illegal and a felony. It makes gambling machines illegal and a felony to have them or use them. It allows the forfeiture, as Rep. D'Allesandro spoke to, of property including money and proceeds. That is an important issue. I will address that in just a minute. Illegal gambling is a huge business in the state of New Hampshire. This bill is directed at stopping it by making the running of gambling businesses and the use of gambling machines a felony. We believe we have taken a giant step towards that goal by doing this. Last year the state police seized over \$300,000 in cash in one raid alone. They discovered a machine, that only accepted \$100 tokens, that was commonly used. This indicates the scope of the problem. Unfortunately, they probably will have to give the money back because the present statute does not allow for the forfeiture of proceeds. It only allows for the forfeiture of equipment. That is why we changed that part of the statute. The bill corrects that by adding property, including money and proceeds, to the forfeiture list. The bill further defines a gambling machine as being something to play or simulate the play of any game of chance. If we are dealing with games of skill they are legal. If it becomes a game of chance, they are illegal. There have been some questions raised about family entertainment centers. In fact, this legislation does eliminate redemption slot machines which may be up to 15% of the total games in family entertainment centers. We understood what we were doing when we did that. We do not want children playing games of chance in arcades and getting rewarded where there is no skill involved. If we talk of teaching values in school then I believe we should do our part and reward skill and ability, not luck or chance. There has also been some talk of

creating a felony. Many businesses today, where there are this large handle of money, it is cheaper to pay the fine and get convicted of a misdemeanor and open up and run your business tomorrow just as usual. Our goal is to eliminate gambling businesses in the state of New Hampshire. To do that we need to make it not economically viable. You must remember though, that not everybody is going to go to jail if they are arrested for this. The prosecutor retains the authority in charging decisions in all felonies. If the individual is arrested and charged with a felony offense, if it is a first offense and the person has a clean record, it is very likely the prosecutor will charge the person with a misdemeanor under the first part of this Chapter. The prosecutor has the discretion to make this decision. The most significant sentence in a gambling case in the last ten years was six months in jail. This was a person who had been convicted numerous times in the past. In almost every one of these cases, if the person is convicted, he or she receives suspended jail sentences or a minor fine. By making the possession of gambling machines and engaging in gambling businesses a felony, if the person is convicted of a felony he or she can receive absolutely no jail time. In fact this will probably be the likely outcome on the first offense. It is just as it is today for the first offense of theft, forgery, burglary, fraud or any other theft-related crime where the person has stolen even thousands of dollars. The potential penalty of up to seven years should only scare those who are making thousands of dollars a day, currently laughing at the state of New Hampshire and making a mockery out of the system. Out of all the people who are engaging in illegal gambling operations today, only a handful would go to prison on the first offense, if at all. The judge retains full authority to hand out a suspended sentence or simply place the person on probation. I don't see this as a major problem. I do see it as the elimination of gambling machines and video poker machines that are used for illegal purposes. They can be, for the places that have them and want to comply with the law made legal by the insertion or the change of a chip and I believe that to cost approximately \$75. That would turn those machines into games of skill, not games of chance. I would urge you to support the committee in its vote of 17-1, Ought to Pass, on this legislation. Thank you.

Rep. DePecol: Thank you, Madam Speaker and Rep. Christie. The part of this bill that troubles me is the forfeiture section. One of the words in the forfeiture section is "proceeds" from these machines. Would you define proceeds for me, please?

Rep. Christie: I think the proceeds from the machine is the money that the machine takes in from the gambling business. I alluded to the situation where we had \$300,000 on the table in one place, actually it was in a box, and they could not seize that money because the statute presently says, "implements, equipment and apparatus", so we added proceeds to that so we could seize the money. Otherwise we are leaving them the money to pay the fine and continue on.

Rep. DePecol: Would proceeds also include anything that that money could buy, such as a house, a car or food?

Rep. Christie: I think the proposed legislation says "property" which I would assume would include or could include a house if it is used for that purpose, yes.

Rep. Cegelis: Thank you, Madam Speaker. Representative, my question is this. I have a personal computer at home and I have a disk called casino. I am curious to know if you could explain to me how this could be differentiated because it is a different type of machine, it is not table top. Could you elaborate on any of the illegality of that scenario with that type of game?

Rep. Christie: I believe that your computer at home is not defined as a machine based upon the insertion of cash or a token, or upon the payment of consideration to others, so that you may do that in your own home and that is not gambling. Further, I have been informed that in "property", we are not intending to include a house in property.

Rep. Hill: Thank you, Madam Speaker. I am a little confused. I hear games of chance, I hear games of skill, would you please define what a game of skill is to me?

Rep. Christie: How about if I define what a game of chance is, and then everything else is skill? A game of skill would be something that you have the ability to control the outcome. Just as a simple matter, in an arcade, ski-ball is a game of skill because it is based on how you roll the ball and whether you are able to get it in the center hole. A game of chance is a slot machine where you have no control over the outcome of the game. You just play the game and hope that you get an outcome.

SPECIAL ORDER

Rep. Lozeau moved that **HB 1025-FN**, relative to capital murder, first degree murder, and second degree murder, be made a Special Order as the first order of business on Thursday, March 12, 1998.

Adopted.

regular calendar (cont'd.)

HB 1248-FN, establishing the crime of assault against a sports official.
INEXPEDIENT TO LEGISLATE

Rep. Kathleen M. Flora for Criminal Justice and Public Safety: This bill creates a class "A" misdemeanor penalty for a simple assault under RSA 631:2-a. If the victim is a sports official and the assault takes place immediately prior to, during or immediately following an organized amateur or professional athletic contest. Although the committee fully understands and supports the need for the protection of sports officials from assault, the committee believes that this protection is provided in the current assault statutes Vote 12-5.

Adopted.

HB 1499, establishing a committee to study the circumstances and investigation of the deaths of Janet and Steven Dow; providing an exception from statutes of limitations for certain unlawful acts related to murders; relative to false reports to law enforcement officers; and nullifying the adoption of Steven Medeiros. REFER FOR INTERIM STUDY

Rep. Paul K. Chase, Jr. for Criminal Justice and Public Safety: The bill proposes the establishment of a committee to investigate the circumstances surrounding the deaths of Janet and Stephen Dow which occurred in 1982. The proponents of the bill believe that the case was not properly or fully investigated thereby allowing an alleged murder to go unsolved. The committee heard testimony that the police investigators either did not gather or preserve some critical evidence needed to prove that the deaths were the result of murder and to prove who committed the murder. The committee does believe that mistakes were made in the investigation and that if a full and proper collection of evidence had occurred, the murders might have been solved and prosecuted. However, it is now 16 years later and although there is no statute of limitations on the prosecution of murder, the state's prosecutors have testified that they do not currently have enough evidence to

charge a particular defendant or to prove beyond a reasonable doubt that the deaths were the result of murder. As the case is still open, the committee strongly urges continuing the investigation and aggressively pursuing and maintaining an ongoing review of the facts and evidence in the case. The committee also urges the attorney general to convene the grand jury when the evidence is sufficient to do so. The committee further believes that for many reasons, the legislature is not the forum for criminal investigations. The legislature does not have the resources, the training, the expertise, or the authority to investigate criminal cases. Furthermore, this would open up the possibility that every time in a criminal case there was dissatisfaction with a police investigation and/or prosecutorial decision making there would be an expectation that the legislature could solve the problem. This would raise false hope in victims of crimes that the legislature could fix every bad event. So, while the committee fully understands the frustration of the parties involved in this particular case and concedes that errors might have been made, we do not believe that a legislative study committee is the proper vehicle to address the problem. The bill is recommended for interim study in order to inform the executive branch agency that there is strong support for continuing the investigation Vote 18-0.

Rep. Cobbin spoke in favor.

Adopted.

HB 1543-FN-L, relative to disbursement of income of persons held or imprisoned in a county department of corrections facility. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. William V. Knowles for the Majority of Criminal Justice and Public Safety: Current law provides that a portion of the wages or salaries from the work of all persons held for trial or sentenced to imprisonment at a county department of corrections facility may be applied to the cost of board and all other expenses of the county maintaining the facility. This proposed legislation enables the county commissioners of each county to require sentenced inmates only to pay a fraction of their income payable to them from sources other than wages or salaries, to offset the costs of incarceration when sanctioned by the sentencing court. In setting the amount of such payments, the court shall take into consideration and make allowances for the maintenance and support of an inmate's spouses dependent children, or any other persons having a legal right to support and maintenance by the inmate. This proposed legislation shall not apply to persons on pre trial detention. Vote 10-5.

Rep. Walter J. Mikowski for the Minority of Criminal Justice and Public Safety: The minority of the committee was concerned that the pensions, interest from mutual funds, interest from savings accounts, and rental income could all be taken from joint accounts of the person being prosecuted and the spouse and family, leaving the spouse and family on welfare. These concerns came from the wording of the bill and the lack of a firm definition of what was a "portion". At present, a prisoner can be dunned part of his earnings from work in jail to cover the expense of their keep. The minority felt this bill went too far and left too much discretion to the judge.

Amendment (0770h)

Amend RSA 30-B:19 as inserted by section 1 of the bill by replacing it with the following:

30-B:19 Application of Earnings.

I. The wages or salaries from the work of all persons held for trial or for any other cause or sentenced to imprisonment in a county department of corrections facility shall be disbursed by the superintendent for:

[I.] (a) Restitution or reparation or both, to the victim of his conduct for the damage or injury which was sustained, in a sum and manner determined by the court.

[II.] (b) The cost of board and all other expenses of the county maintaining the facility with the county of commitment receiving a credit for the cost of board and all other expenses.

[III.] (c) Payment of a fine.

[IV.] (d) Incidental expenses of the person so employed.

[V.] (e) Support of the person's dependents, if any.

[VI.] (f) The account of the person so employed which shall be payable to such person upon discharge.

II. The county commissioners of each county may require sentenced inmates to pay a portion of their income payable to them from sources other than wages or salaries, to offset the costs of incarceration, when sanctioned by the sentencing court. In setting the amount of such payments, the court shall take into consideration and make allowances for the maintenance and support of an inmate's spouse, dependent children, or any other persons having a legal right to support and maintenance by the inmate.

Adopted.

Rep, Mikowski offered a floor amendment.

Floor Amendment (0948h)

Amend RSA 30-B:19 as inserted by section 1 of the bill by replacing it with the following:

30-B:19 Application of Earnings.

I. The wages or salaries from the work of all persons held for trial or for any other cause or sentenced to imprisonment in a county department of corrections facility shall be disbursed by the superintendent for:

[I.] (a) Restitution or reparation or both, to the victim of his conduct for the damage or injury which was sustained, in a sum and manner determined by the court.

[II.] (b) The cost of board and all other expenses of the county maintaining the facility with the county of commitment receiving a credit for the cost of board and all other expenses.

[III.] (c) Payment of a fine.

[IV.] (d) Incidental expenses of the person so employed.

[V.] (e) Support of the person's dependents, if any.

[VI.] (f) The account of the person so employed which shall be payable to such person upon discharge.

II. The county commissioners of each county may require sentenced inmates to pay a portion of their income payable to them from sources other than wages or salaries, to offset the costs of incarceration, when sanctioned by the sentencing court. In setting the amount of such payments, which shall in no case exceed the lesser of 15 percent of income from sources other than wages or salaries or \$20 per day, the court shall take into consideration and make allowances for the maintenance and support of an inmate's spouse, dependent children, or any other persons having a legal right to support and maintenance by the inmate.

Rep. Mikowski spoke in favor.

Rep. Knowles spoke against and yielded to questions.

Rep. David Welch spoke against.

The floor amendment failed.

Rep. David Welch yielded to questions.

Majority report adopted and ordered to third reading.

HB 1562, excepting cannabis-type drugs from forfeited drugs which may be delivered to the department of health and human services for medical use.
OUGHT TO PASS

Rep. Edwin O. Smith for Criminal Justice and Public Safety: While now permissible, this type of distribution is not used by health and human services. They are not interested in starting to use this procedure for various reasons. The most important reason is the lack of quality control from possibly locally produced cannabis-type drugs. Since we do not have a need by health and human services for this bill, all cannabis-type drugs confiscated will be disposed of as is currently being done. Vote 17-0.

Adopted and ordered to third reading.

HB 1635-FN, establishing the crime of criminal storage of a firearm.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.

Rep. Walter J. Mikowski for the Majority of Criminal Justice and Public Safety: This bill would make it a class A misdemeanor if a person did not secure a firearm by locking it up or using a gun lock and allowed a child to get it. Although well intended, the bill does not take into account the reason many people have firearms in the home, for security of themselves and their families. The majority felt that the answer was firearm safety training at home by the parents and possibly in schools. There are many safety training courses available by different organizations that can be used for this purpose. Vote 9-5.

Rep. William V. Knowles for the Minority of Criminal Justice and Public Safety: This proposed legislation has merit but we did not have the time to clarify and refine some parts. There seemed to be a high percentage of gun owners who admitted to having unsecured loaded firearms on their premises. This bill is aimed at preventing access to firearms by children

Majority report adopted.

RECESS

(Speaker Sytek in the Chair)

CACR 42, relating to public money used to compensate individuals for sectarian education. Providing that the provision prohibiting public money from being used to compensate individuals for education at sectarian schools be replaced with federal constitutional church-state separation protections.
INEXPEDIENT TO LEGISLATE

Rep. Charles B. Yeaton for Education: This measure would open the door to the use of public money for the support of sectarian schools. The committee felt that the separation of church and state is a long cherished tradition in our state which should be preserved. In addition, with the changes which are being considered due to the Claremont decision, now is not the time to make such a major decision. Vote 14-4.

Reps. Colburn, Alger and Mary Brown spoke against.

Rep. Estabrook spoke in favor and yielded to questions.

Rep. Durham spoke in favor.

Rep. Colburn requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 249 NAYS 89

YEAS 249

BELKNAP			
Boriso, Thomas	Calvert, Alice	Golden, Paul	Holbrook, Robert
Lawton, Robert	Pilliod, James	Salatiello, Thomas	Thomas, John
Turner, Robert			
CARROLL			
Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Dickinson, Howard, Jr.
Lyman, L. Randy	MacDonald, Kenneth	Patten, Betsey	Philbrick, Donald
CHESHIRE			
Bonneau, Sarah	Burnham, Daniel	DePecol, Benjamin	Doucette, Richard
Lynch, Margaret	Lynott, Margaret	Manning, Joseph	McGuirk, Paul
Meador, David	Metzger, Katherine	Pratt, John	Richardson, Barbara
Riley, William	Robertson, Timothy	Royce, H. Charles	Smith, Edwin
Vogl, John			
COOS			
Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Davis, Perley
Guay, Lawrence	Hawkinson, Marie	Horton, Lynn	Mears, Edgar
Merrill, Gerald	Moynihan, Wayne	Pratt, Leighton	
GRAFTON			
Almy, Susan	Below, Clifton	Copenhaver, Marion	Eaton, Stephanie
Guest, Robert	Hill, Richard	LaMott, Paul	Lovett, Sidney
Luker, Elsa	MacNeil, Allen	Nordgren, Sharon	Phinney, William
Trelfa, Richard			
HILLSBOROUGH			
Allen, W. Gordon	Amidon, Eleanor	Baroody, Benjamin	Batula, Peter
Belvin, William	Bergin, Peter	Boutin, David	Brundige, Robert
Buckley, Raymond	Calawa, Leon, Jr.	Chabot, Robert	Clay, Susan
Clemons, Jane	Cote, David	Cote, Peter	D'Allesandro, Lou
Daigle, Robert	Daniels, Gary	Dawe, Eileen	Dokmo, Cynthia
Drabinowicz, A. Theresa	Durham, Susan	Emerton, Lawrence, Sr.	Fenton, James

Fields, Dennis	Foster, Joseph	Foster, Linda	Franks, Suzan
Gage, Ruth	Gagnon, Eugene	Ginsburg, Ruth	Gosselin, Gerald
Goulet, Maurice	Haettenschwiller, Alphonse Hall, Betty	Hart, Nick	
Herman, Keith	Holt, David	Jean, Claudette	Johnson, Lionel
Kelley, Robert	Konys, Christine	Kurk, Neal	L'Heureux, Robert
LaRose, Richard	Leishman, Peter	Leonard, Peter	Lessard, Rudy
Lozeau, Donnalee	Lynde, Harold	MacIntyre, Doris	McCarthy, William
McCarty, Winston	Melcher, Harold	Mercer, Robert	Messier, Irene
Milligan, Robert	Murphy, Robert	O'Hearn, Jane	Perkins, Paul
Piteri, Dawn	Reidy, Frank	Rowe, Robert	Sargent, Maxwell
Searles, Stanley, Sr.	Turgeon, Roland	Vaillancourt, Steve	Welch, Donald
Wheeler, Robert	White, Jay	Williams, Carol	
MERRIMACK			
Anderson, Eric	Chandler, Earle	Crowell, Peter	Daneault, Gabriel
DeStefano, Stephen	Dunn, Miriam	Fraser, Marilyn	French, Barbara
Gile, Mary	Hess, David	Hoadley, Elizabeth	Jacobson, Alf
Langer, Ray	Lockwood, Robert	Marshall, Kenneth	Maxfield, Roy
Moore, Carol	Morrill, Olive	Owen, Derek	Pfaff, Terence
Reardon, Tara	Rogers, Katherine	Seldin, Gloria	St. Cyr, Gerard
Wallin, Jean	Wallner, Mary Jane	Whalley, Michael	Whittemore, James
Yeaton, Charles			
ROCKINGHAM			
Abbott, Dennis	Arndt, Janet	Battles-Peirce, Marjorie	Beaulieu, Jon
Belanger, Ronald	Blanchard, MaryAnn	Case, Margaret	Christie, Andrew, Jr.
Cooney, Richard	Cushing, Robert	Dalrymple, Janeen	Dearborn, Bruce
Dolan, Richard	Dowd, Sandra	Downing, Michael	Flanagan, Natalie
Flanders, John, Sr.	Francoeur, Sheila	Frechette, Joseph	Gleason, John
Guthrie, Joseph	Heath, John	Hutchinson, Rebecca	Kane, Cecelia
Kelley, Jane	Klemm, Arthur, Jr.	Kobel, Rudolph	Langley, Jane
Langone, John	Lovejoy, Marian	Major, Norman	Malcolm, Kenneth

McCarthy, John, Jr.	Micklon, Stephanie	Norelli, Terie	Packard, Sherman
Pitts, Jacqueline	Sabella, Norma	Stone, Joseph	Stritch, C. Donald
Syracusa, Anthony	Tufts, J. Arthur	Vaughn, Charles	Weatherspoon, Jackie
Welch, David			
STRAFFORD			
Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
Cossette, Larry	DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris
Grassie, Anne	Hemon, Roland	Heon, Richard	Kaen, Naida
Keans, Sandra	Knowles, William	Lundborn, Raymond	McCann, William, Jr.
Merrill, Amanda	Merritt, Deborah	Musler, George	Pelletier, Arthur
Pelletier, Marsha	Rogers, Rose Marie	Rollo, Michael	Smith, Marjorie
Snyder, Clair	Spear, Barbara	Sullivan, Henry	Taylor, Kathleen
Torr, Ann	Tsiros, William	Twardus, Joseph	Vachon, Dennis
Vincent, Francis	Wall, Janet		
SULLIVAN			
Adler, Rudolf	Allison, David	Burling, Peter	Cloutier, John
Donovan, Thomas	Ferland, Brenda	Kibbey, David	Leone, Richard
Lindblade, Eric	Palmer, Lorraine	Schotanus, Merle	Wiggins, Celestine
NAYS 89			
BELKNAP			
Bartlett, Gordon	Boyce, Robert	Clark, Charles	Laflam, Robert
Lawton, David	Rice, Thomas, Jr.	Rosen, Ralph	Veazey, John
CARROLL			
Cooper, Kipp	Howard, Godfrey	Kenney, Joseph	Mock, Henry
CHESHIRE			
Hunt, John	McNamara, Wanda		
COOS			
St. Hilaire, Paul	Tholl, John, Jr.		
GRAFTON			

Akins, Ralph	Alger, John	Chase, Paul, Jr.	Cobbin, Philip
Connolly, Steven	Guaraldi, Lawrence	Hinman, Harry	Mirski, Paul
Root, John	Weber, Phil	Williams, William, Jr.	
HILLSBOROUGH			
Alukonis, David	Ameen, W.	Arnold, Thomas, Jr.	Burke, M. Virginia
Carlson, Donald	Chabot, Ernest	Christiansen, Lars	Desrosiers, William
Dwyer, Paul, Sr.	Flora, Kathleen	Golding, William	Holley, Sylvia
Jean, Loren	Lefebvre, Roland	Letendre, Evelyn	Luebker, Bernard
MacGillivray, Jeffrey	Marcinkowski, Michael	Martin, Mary	McDonald, James, Sr.
McGough, Tim	McRae, Karen	Murch, George	Riley, Frances
White, Donald	Wright, George		
MERRIMACK			
Adams, Stephen	Brown, Mary	Colburn, Thomas	Krueger, Patricia
Lamach, Bernard	Larrabee, David	Lavoie, Gerard	Leber, William
ROCKINGHAM			
Camm, Kevin	Cegelis, Mark	Dodge, Robert	Dowling, Patricia
Dunham, Vivian	Fesh, Robert	Flanders, David	Gibbons, Paul
Griffin, Mary	Henderson, Warren	Katsakiores, George	Katsakiores, Phyllis
Letourneau, Robert	McKinney, Betsy	Mikowski, Walter	Noyes, Richard
Rabideau, Marie	Raynowska, Bernard	Reardon, Neil	Sapareto, Frank
Schanda, Frank	Smith, Kevin	Stickney, Nancy	Varrell, Thomas
Verani, Giovanni	Weyler, Kenneth		
STRAFFORD			
Bickford, David	McKinley, Robert		
SULLIVAN			
None			

and the report was adopted.

HB 1215, establishing a committee to study the shortage of qualified and certified personnel in the delivery of services related to special education. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Clair A. Snyder for the Majority of Education: There is a vast shortage of qualified and certified personnel required to deliver services to special education students. This committee will investigate methods of enabling more graduates in these shortage areas to avail themselves of scholarships, special training programs, and interstate agreements in higher education. It would also investigate opportunities for districts to share services in these shortage areas. Vote 17-2.

Rep. Michael F. Marcinkowski for the Minority of Education: The minority feels the study is premature at this point in time. This legislative body has not addressed the major task and issue of defining adequate education nor the attendant costs of providing the level of the yet undefined definition of adequate education.

Majority report adopted and ordered to third reading.

HB 1230-FN-L, establishing a teacher improvement and evaluation program.
REFER FOR INTERIM STUDY

Rep. Iris Estabrook for Education: It is generally recognized that improvement of teacher performance is an essential element of a successful school system. It is also essential that there be adequate teacher evaluation in order to insure fair non-renewal of teachers who do not meet the standards of the district. Since members of the committee felt this bill had some remaining problems to resolve, it is recommended that interim study be carried out so that this important issue may be properly addressed. Vote 13-7.

Adopted.

HB 1280-L, clarifying the procedures for background criminal checks for school employees and volunteers. OUGHT TO PASS WITH AMENDMENT

Rep. Michael F. Marcinkowski for Education: The bill and amendment clarifies that the school district shall identify the circumstances under which "designated" volunteers are required to undergo a criminal background check and to formulate appropriate procedure to govern such circumstances. Vote 18-2.

Amendment (0435h)

Amend RSA 189:13-a as inserted by section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. It shall be the responsibility of the local school board or other appropriate governing body in every school administrative unit, school district, and charter school in the state to identify the circumstances under which volunteers who are designated as having regular contact with pupils are required to undergo criminal background checks, and formulate an appropriate procedure to govern such circumstances. Such procedure shall be implemented within one year of the effective date of this paragraph.

Adopted.

Report adopted and ordered to third reading.

HB 1357-L, authorizing teachers in public schools to remove dangerous, disruptive, or uncooperative pupils from the classroom. INEXPEDIENT TO LEGISLATE

Rep. Phil A. Weber for Education: This is a well intended bill. However, this bill is not the solution to the issue of disruptive students in the classroom. Vote 15-2.

Adopted.

HB 1369, revising the student membership of the university system of New Hampshire board of trustees. OUGHT TO PASS WITH AMENDMENT

Rep. Amanda Merrill for Education: The original version of this bill called for the addition of two students to the university system of New Hampshire board of trustees, such that UNH, Keene State College and Plymouth State College would each have a representative. (Presently representation rotates among the three campuses.) The amendment, instead, calls for the addition of one student, such that UNH will have a student representative and the Keene and Plymouth campuses will have rotating student representation. Two students working together, one from the university campus and the other rotating member from the smaller college campuses will have more to offer the board than one isolated student representative. The bill also changes the dates of students' terms of office from June 1 - May 31 to July 1 - June 30 so that the students are dealing with the system budget near the end of their terms rather than at the beginning. Vote 11-8.

Amendment (0702h)

Amend the introductory paragraph of RSA 187-A:13 as inserted by section 1 of the bill by replacing it with the following:

The general government of the university system and its constituent divisions and institutions shall be vested in a single board of [25] 26 trustees composed as follows and in accordance with the following conditions:

Amend RSA 187-A:13, III as inserted by section 2 of the bill by replacing it with the following:

III. [One member shall be a student enrolled at the university of New Hampshire, Keene state college or Plymouth state college. The office of student trustee shall be rotated among the 3 schools in the order in which they are listed.] Two members shall be students enrolled at institutions within the university system of New Hampshire as follows: one from the university of New Hampshire and one member chosen on a rotating basis from Keene state college and Plymouth state college, in the order in which they are listed. The student [trustee] trustees shall be elected by the student body at [the] each school responsible for providing the student [trustee] trustees. Said [school] schools shall provide for the election of the student [trustee] trustees in March of the year for which the student [trustee] trustees shall be elected. The [student trustee's term] term of the student trustees shall be for one year commencing [June] July 1 of the year for which

the student was elected and ending [May 31] June 30 of the next year. Student trustees shall be expected to serve the full duration of their elected term. In the event that a student trustee ceases for any reason to attend the school from which the student was elected, the chancellor of the university system shall declare a vacancy in [the] that student trustee position, and the [next school in order] school causing the vacancy, or, in the case of the rotating member vacancy, the next school in order, shall elect [the] a replacement student trustee who shall serve for the remainder of the predecessor's term and an additional one-year term, immediately following thereafter. Graduation of a student trustee shall not constitute a vacancy under this paragraph.

AMENDED ANALYSIS

This bill revises the student membership on the university system of New Hampshire board of trustees from one rotating member to one permanent member from the university of New Hampshire, and one member chosen on a rotating basis from Keene state college and Plymouth state college.

Adopted.

On a division vote, 280 members having voted in the affirmative and 52 in the negative, the report was adopted.

Ordered to third reading.

HB 1414, relative to review of non-renewal of teachers contracts. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Susan B. Durham for the Majority of Education: The underlying intent of this bill is to help local school boards maintain excellent teachers in our schools. Local school boards recommending the non-renewal of a teacher must provide a full and fair hearing for the teacher thereby guaranteeing that the teacher is afforded all rights of due process. This bill provides that the exclusive remedy from a local school board non-renewal decision is a review by the state board of education. The amendment was added to clarify that the review will make sure that the decision of the local board is based on proper procedure and is not clearly erroneous, arbitrary or capricious, or in violation of law. (A further review by the supreme court also remains available to an aggrieved teacher.) The bill eliminates another review of local school board decisions by prohibiting grievances of the failure of a teacher to be renewed to be subject to binding arbitration. This does not interfere with existing collective bargaining agreements because a provision in the bill specifically provides that all current teacher contracts with binding arbitration provisions remain valid until the expiration of the contracts. This bill has the support of the NH School Boards Association and the NH School Administrators. The committee believes that this bill guarantees teachers receive a full and fair process for review of non-renewal decisions while at the same time streamlining the currently cumbersome process for local school boards to non-renew a teacher which is costly and time-consuming to the local school districts. Vote 15-3.

Rep. Arthur J. Pelletier for the Minority of Education: The minority recognizes that although there may be some problems with the current system regarding teacher non-renewals, the bill, even as amended, doesn't protect the rights of teachers who are non-renewed for other than poor performance. Still more serious, though, is the provision regarding grievance procedures which states, "no grievance resulting from the failure of a teacher to be renominated or reelected pursuant to RSA 189:14-a, shall be subject to arbitration or any other binding resolution, except as provided by RSA 189:14-a and RSA 189:14-b. Any such provision in force as of the effective date of this section shall be null and void upon the expiration date of that collective bargaining agreement." This is an unwarranted interference by the state in local affairs, as it restricts the terms of a local contract while eliminating previously negotiated provisions upon expiration of a contract.

Amendment (0904h)

Amend RSA 189:14-b as inserted by section 1 of the bill by replacing it with the following:

189:14-b Review by State Board.

I. A teacher aggrieved by such decision may request the state board of education for review thereof. Such request for review by the state board of education shall be the exclusive remedy available to a teacher on the matter of the failure of such teacher to be renominated or reelected. Such request must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The state board shall issue its decision within 15 days after the request for review is filed, and the decision of the state board shall be final and binding upon both parties.

II. The review by the state board of education shall be limited to:

(a) Determining if the school district has provided adequate notice and hearing regarding its decision not to renew the teacher's contract; and

(b) Determining if the school district's findings of fact are clearly erroneous, or that the reasons given for the decision not to reelect or renominate the teacher are arbitrary, capricious, or contrary to law. For the purposes of this paragraph, "arbitrary" or "capricious" means a willful and unreasonable action unsupported by or in disregard of relevant facts and evidence.

Adopted.

Reps. William Riley and Burling offered a floor amendment.

Floor Amendment (0988h)

Amend the bill by replacing section 1 with the following:

1 Review by State Board; Teacher Renomination or Rehiring; Appointment of Fair Hearing Officer. Amend RSA 189:14-b as follows:

189:14-b Review by State Board.

I. A teacher aggrieved by such decision may request the state board of education for review thereof. Such request must be in writing and filed with the state board within 10 days [after the issuance] of receipt of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to [a consideration of the matter. Such consideration shall include a hearing if either party shall request it] review whether there is reasonable cause for non-renewal of the teacher. Such review shall be based on the full and complete record of the proceeding before the local school board. If on review the record is found to be in any way less than full and complete, the state board shall hold a de novo hearing on the issue of whether there is reasonable cause for non-renewal of the teacher. The state board shall issue its decision within [15] 30 days after the [request for review is filed, and the] review or hearing. The decision of the state board shall be final and binding upon both parties.

II. The state board may appoint any impartial person as a hearing officer pursuant to RSA 186:10-a. If either party objects to the person appointed by the state board on the basis of partiality, the state board shall appoint another person to act as a hearing officer.

III. A request for review under this section shall be the exclusive remedy available to a teacher on the matter of the failure of such teacher to be renominated or reelected.

AMENDED ANALYSIS

This bill designates the state board review of a teacher's contract as the exclusive remedy in cases where a teacher is not renominated or reelected, provides for the appointment of a hearing officer to review such cases, and prohibits a teacher's grievance based on failure to be renominated or reelected from being subject to binding arbitration.

Reps. William Riley and Burling spoke in favor.

Reps. Hoadley and O'Hearn spoke against and yielded to questions.

Rep. Burling requested a roll call; sufficiently seconded.

The question being the adoption of the floor amendment.

YEAS 137 NAYS 203

YEAS 137

BELKNAP			
Salatiello, Thomas			
CARROLL			
None			
CHESHIRE			
Bonneau, Sarah	Burnham, Daniel	DePecol, Benjamin	Doucette, Richard
Lynch, Margaret	Lynott, Margaret	McGuirk, Paul	Pratt, John
Richardson, Barbara	Riley, William	Robertson, Timothy	Vogl, John
COOS			
Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Hawkinson, Marie
Mears, Edgar	Moynihan, Wayne		
GRAFTON			
Akins, Ralph	Almy, Susan	Below, Clifton	Copenhaver, Marion
Guest, Robert	LaMott, Paul	Lovett, Sidney	Luker, Elsa
Nordgren, Sharon			
HILLSBOROUGH			
Allen, W. Gordon	Ameen, W.	Baroody, Benjamin	Buckley, Raymond
Clemons, Jane	Cote, David	Cote, Peter	D'Allesandro, Lou
Daigle, Robert	Drabinowicz, A. Theresa	Dwyer, Paul, Sr.	Foster, Joseph
Foster, Linda	Franks, Suzan	Gage, Ruth	Ginsburg, Ruth
Gosselin, Gerald	Haettenschwiller, Alphonse Hall, Betty	Hart, Nick	
Jean, Claudette	Konys, Christine	Lefebvre, Roland	Leishman, Peter
Leonard, Peter	Lynde, Harold	Martin, Mary	McCarthy, William
McDonald, James, Sr.	Melcher, Harold	Murphy, Robert	Perkins, Paul
Reidy, Frank	Turgeon, Roland	Vaillancourt, Steve	Welch, Donald
White, Jay	Williams, Carol		
MERRIMACK			
Daneault, Gabriel	DeStefano, Stephen	Dunn, Miriam	Fraser, Marilyn
French, Barbara	Gile, Mary	Jacobson, Alf	Moore, Carol

Owen, Derek	Reardon, Tara	Rogers, Katherine	Seldin, Gloria
St. Cyr, Gerard	Wallin, Jean	Wallner, Mary Jane	Yeaton, Charles
ROCKINGHAM			
Abbott, Dennis	Blanchard, MaryAnn	Clark, Martha	Cooney, Richard
Cushing, Robert	Dowling, Patricia	Gibbons, Paul	Heath, John
Hutchinson, Rebecca	Kane, Cecelia	Kelley, Jane	Micklon, Stephanie
Norelli, Terie	Pitts, Jacqueline	Sabella, Norma	Schanda, Frank
Syracusa, Anthony	Vaughn, Charles	Weatherspoon, Jackie	
STRAFFORD			
Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Grassie, Anne
Hemon, Roland	Heon, Richard	Keans, Sandra	Knowles, William
Lundborn, Raymond	McCann, William, Jr.	Merrill, Amanda	Merritt, Deborah
Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Sullivan, Henry	Taylor, Kathleen
Tsiros, William	Twardus, Joseph	Vachon, Dennis	Vincent, Francis
Wall, Janet			
SULLIVAN			
Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Palmer, Lorraine	Wiggins, Celestine	
NAYS 203			
BELKNAP			
Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Calvert, Alice
Clark, Charles	Golden, Paul	Holbrook, Robert	Laflam, Robert
Lawton, David	Lawton, Robert	Pilliod, James	Rice, Thomas, Jr.
Rosen, Ralph	Thomas, John	Turner, Robert	Veazey, John
CARROLL			
Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Cooper, Kipp
Dickinson, Howard, Jr.	Howard, Godfrey	Kenney, Joseph	Lyman, L. Randy

MacDonald, Kenneth	Mock, Henry	Patten, Betsey	Philbrick, Donald
CHESHIRE			
Hunt, John	Manning, Joseph	McNamara, Wanda	Meadar, David
Metzger, Katherine	Royce, H. Charles	Smith, Edwin	
COOS			
Davis, Perley	Guay, Lawrence	Horton, Lynn	Merrill, Gerald
Pratt, Leighton	St. Hilaire, Paul	Tholl, John, Jr.	
GRAFTON			
Alger, John	Chase, Paul, Jr.	Cobbin, Philip	Eaton, Stephanie
Guaraldi, Lawrence	Hill, Richard	Hinman, Harry	MacNeil, Allen
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	Bergin, Peter	Boutin, David	Brundige, Robert
Burke, M. Virginia	Calawa, Leon, Jr.	Carlson, Donald	Chabot, Ernest
Chabot, Robert	Christiansen, Lars	Clay, Susan	Daniels, Gary
Dawe, Eileen	Desrosiers, William	Dokmo, Cynthia	Durham, Susan
Dyer, Merton	Emerton, Lawrence, Sr.	Fenton, James	Fields, Dennis
Flora, Kathleen	Gagnon, Eugene	Golding, William	Goulet, Maurice
Herman, Keith	Holley, Sylvia	Holt, David	Jean, Loren
Johnson, Lionel	Kelley, Robert	Kurk, Neal	L'Heureux, Robert
LaRose, Richard	Lessard, Rudy	Letendre, Evelyn	Lozeau, Donnalee
Luebker, Bernard	MacGillivray, Jeffrey	MacIntyre, Doris	Marcinkowski, Michael
McCarty, Winston	McGough, Tim	McRae, Karen	Mercer, Robert
Messier, Irene	Milligan, Robert	Murch, George	O'Hearn, Jane
Peterson, Andrew	Piteri, Dawn	Riley, Frances	Rowe, Robert
Sargent, Maxwell	Searles, Stanley, Sr.	Wheeler, Robert	White, Donald
Wright, George			
MERRIMACK			

Adams, Stephen	Anderson, Eric	Brown, Mary	Chandler, Earle
Colburn, Thomas	Crowell, Peter	Hager, Elizabeth	Hess, David
Hoadley, Elizabeth	Krueger, Patricia	Lamach, Bernard	Langer, Ray
Larrabee, David	Leber, William	Lockwood, Robert	Marshall, Kenneth
Maxfield, Roy	Morrill, Olive	Pfaff, Terence	Whalley, Michael
Whittemore, James			
ROCKINGHAM			
Arndt, Janet	Battles-Peirce, Marjorie	Beaulieu, Jon	Belanger, Ronald
Camm, Kevin	Case, Margaret	Cegelis, Mark	Christie, Andrew, Jr.
Dalrymple, Janeen	Dearborn, Bruce	Dodge, Robert	Dolan, Richard
Dowd, Sandra	Downing, Michael	Dunham, Vivian	Fesh, Robert
Flanagan, Natalie	Flanders, David	Flanders, John, Sr.	Francoeur, Sheila
Frechette, Joseph	Gleason, John	Griffin, Mary	Guthrie, Joseph
Henderson, Warren	Katsakiores, George	Katsakiores, Phyllis	Klemm, Arthur, Jr.
Kobel, Rudolph	Langley, Jane	Langone, John	Letourneau, Robert
Lovejoy, Marian	Major, Norman	Malcolm, Kenneth	McCarthy, John, Jr.
McKinney, Betsy	Mikowski, Walter	Millard, Ralph	Noyes, Richard
Packard, Sherman	Rabideau, Marie	Raynowska, Bernard	Reardon, Neil
Sapareto, Frank	Stickney, Nancy	Stone, Joseph	Stritch, C. Donald
Tufts, J. Arthur	Varrell, Thomas	Verani, Giovanni	Welch, David
Weyler, Kenneth			
STRAFFORD			
Bickford, David	Cossette, Larry	Kaen, Naida	McKinley, Robert
Musler, George	Spear, Barbara	Torr, Ann	Torr, Franklin
SULLIVAN			
Adler, Rudolf	Kibbey, David	Lindblade, Eric	Schotanus, Merle
and the floor amendment failed.			
Rep. Leone declared a conflict of interest and did not participate.			

The question now being the adoption of the report.			
Rep. Doucette requested a roll call; sufficiently seconded.			
YEAS 218 NAYS 122			
YEAS 218			
BELKNAP			
Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Calvert, Alice
Clark, Charles	Golden, Paul	Holbrook, Robert	Laflam, Robert
Lawton, David	Lawton, Robert	Pilliod, James	Rice, Thomas, Jr.
Rosen, Ralph	Thomas, John	Turner, Robert	Veazey, John
CARROLL			
Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Cooper, Kipp
Dickinson, Howard, Jr.	Howard, Godfrey	Kenney, Joseph	Lyman, L. Randy
MacDonald, Kenneth	Mock, Henry	Patten, Betsey	Philbrick, Donald
CHESHIRE			
Hunt, John	Manning, Joseph	McNamara, Wanda	Meador, David
Metzger, Katherine	Pratt, John	Royce, H. Charles	Smith, Edwin
COOS			
Davis, Perley	Guay, Lawrence	Horton, Lynn	Merrill, Gerald
Moynihan, Wayne	Pratt, Leighton	St. Hilaire, Paul	Tholl, John, Jr.
GRAFTON			
Alger, John	Chase, Paul, Jr.	Cobbin, Philip	Eaton, Stephanie
Guaraldi, Lawrence	Hill, Richard	Hinman, Harry	LaMott, Paul
Lovett, Sidney	MacNeil, Allen	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	Bergin, Peter	Boutin, David	Brundige, Robert

Burke, M. Virginia	Calawa, Leon, Jr.	Carlson, Donald	Chabot, Ernest
Chabot, Robert	Christiansen, Lars	Clay, Susan	Daniels, Gary
Dawe, Eileen	Desrosiers, William	Dokmo, Cynthia	Durham, Susan
Dyer, Merton	Emerton, Lawrence, Sr.	Fenton, James	Fields, Dennis
Flora, Kathleen	Foster, Linda	Gagnon, Eugene	Ginsburg, Ruth
Golding, William	Goulet, Maurice	Herman, Keith	Holley, Sylvia
Holt, David	Jean, Loren	Johnson, Lionel	Kelley, Robert
Kurk, Neal	L'Heureux, Robert	LaRose, Richard	Leishman, Peter
Lessard, Rudy	Letendre, Evelyn	Lozeau, Donnalee	Luebker, Bernard
MacGillivray, Jeffrey	MacIntyre, Doris	Marcinkowski, Michael	McCarty, Winston
McGough, Tim	McRae, Karen	Mercer, Robert	Messier, Irene
Milligan, Robert	Murch, George	O'Hearn, Jane	Peterson, Andrew
Piteri, Dawn	Riley, Frances	Rowe, Robert	Sargent, Maxwell
Searles, Stanley, Sr.	Wheeler, Robert	White, Donald	Wright, George
MERRIMACK			
Adams, Stephen	Anderson, Eric	Brown, Mary	Chandler, Earle
Colburn, Thomas	Crowell, Peter	Daneault, Gabriel	Hager, Elizabeth
Hess, David	Hoadley, Elizabeth	Jacobson, Alf	Krueger, Patricia
Lamach, Bernard	Langer, Ray	Larrabee, David	Lavoie, Gerard
Leber, William	Lockwood, Robert	Marshall, Kenneth	Maxfield, Roy
Morrill, Olive	Pfaff, Terence	Whalley, Michael	Whittemore, James
ROCKINGHAM			
Arndt, Janet	Battles-Peirce, Marjorie	Beaulieu, Jon	Belanger, Ronald
Camm, Kevin	Case, Margaret	Cegelis, Mark	Christie, Andrew, Jr.
Cooney, Richard	Dalrymple, Janeen	Dearborn, Bruce	Dodge, Robert
Dolan, Richard	Dowd, Sandra	Dowling, Patricia	Dunham, Vivian
Fesh, Robert	Flanagan, Natalie	Flanders, David	Flanders, John, Sr.
Francoeur, Sheila	Frechette, Joseph	Gleason, John	Griffin, Mary
Guthrie, Joseph	Henderson, Warren	Katsakiores, George	Katsakiores, Phyllis
Klemm, Arthur, Jr.	Kobel, Rudolph	Langley, Jane	Langone, John
Letourneau, Robert	Lovejoy, Marian	Major, Norman	Malcolm, Kenneth

McCarthy, John, Jr.	McKinney, Betsy	Mikowski, Walter	Millard, Ralph
Noyes, Richard	Packard, Sherman	Rabideau, Marie	Raynowska, Bernard
Reardon, Neil	Sapareto, Frank	Stickney, Nancy	Stone, Joseph
Stritch, C. Donald	Syracusa, Anthony	Tufts, J. Arthur	Varrell, Thomas
Vaughn, Charles	Verani, Giovanni	Welch, David	Weyler, Kenneth
STRAFFORD			
Bickford, David	Cossette, Larry	Kaen, Naida	McKinley, Robert
Musler, George	Spear, Barbara	Torr, Ann	Torr, Franklin
Tsiros, William	Vincent, Francis		
SULLIVAN			
Adler, Rudolf	Kibbey, David	Lindblade, Eric	Schotanus, Merle
NAYS 122			
BELKNAP			
Salatiello, Thomas			
CARROLL			
None			
CHESHIRE			
Bonneau, Sarah	Burnham, Daniel	DePecol, Benjamin	Doucette, Richard
Lynch, Margaret	Lynott, Margaret	McGuirk, Paul	Richardson, Barbara
Riley, William	Robertson, Timothy	Vogl, John	
COOS			
Bradley, Paula	Coulombe, Henry	Hawkinson, Marie	Mears, Edgar
GRAFTON			
Akins, Ralph	Almy, Susan	Below, Clifton	Copenhaver, Marion
Guest, Robert	Luker, Elsa	Nordgren, Sharon	
HILLSBOROUGH			
Allen, W. Gordon	Ameen, W.	Baroody, Benjamin	Buckley, Raymond
Clemons, Jane	Cote, David	Cote, Peter	D'Allesandro, Lou

Daigle, Robert	Drabinowicz, A. Theresa	Dwyer, Paul, Sr.	Foster, Joseph
Franks, Suzan	Gage, Ruth	Gosselin, Gerald	Haettenschwiller, Alphonse
Hall, Betty	Hart, Nick	Jean, Claudette	Konys, Christine
Lefebvre, Roland	Leonard, Peter	Lynde, Harold	Martin, Mary
McCarthy, William	McDonald, James, Sr.	Melcher, Harold	Murphy, Robert
Perkins, Paul	Reidy, Frank	Turgeon, Roland	Vaillancourt, Steve
Welch, Donald	White, Jay	Williams, Carol	
MERRIMACK			
DeStefano, Stephen	Dunn, Miriam	Fraser, Marilyn	French, Barbara
Gile, Mary	Moore, Carol	Owen, Derek	Reardon, Tara
Rogers, Katherine	Seldin, Gloria	St. Cyr, Gerard	Wallin, Jean
Wallner, Mary Jane	Yeaton, Charles		
ROCKINGHAM			
Abbott, Dennis	Blanchard, MaryAnn	Clark, Martha	Cushing, Robert
Downing, Michael	Gibbons, Paul	Heath, John	Hutchinson, Rebecca
Kane, Cecelia	Kelley, Jane	Micklon, Stephanie	Norelli, Terie
Pitts, Jacqueline	Sabella, Norma	Schanda, Frank	Weatherspoon, Jackie
STRAFFORD			
Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Grassie, Anne
Hemon, Roland	Heon, Richard	Keans, Sandra	Knowles, William
Lundborn, Raymond	McCann, William, Jr.	Merrill, Amanda	Merritt, Deborah
Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Sullivan, Henry	Taylor, Kathleen
Twardus, Joseph	Vachon, Dennis	Wall, Janet	
SULLIVAN			
Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Palmer, Lorraine	Wiggins, Celestine	

and the report was adopted.

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

HB 1420-L, establishing a committee to study the impact of class sizes on overall educational performance. INEXPEDIENT TO LEGISLATE

Rep. Bernard J. Luebker for Education: Much of the comment was that class size is a local issue and should not be mandated by the state. The committee recognizes that class size is important in the educational process but a study of the issue is not necessary at this time. Vote 14-4.

Adopted.

HB 1441, establishing a committee to study reporting requirements for communities which pay for special education costs and the impacts of court-ordered placements and services. INEXPEDIENT TO LEGISLATE

Rep. Arthur Tufts for Education: The costs of special education are being assessed and are available to all. A subcommittee of the house education committee met from April 24 to October 8 of 1997 and held fifteen meetings. Most of the single proponent's testimony concerned federal concerns and not New Hampshire's concerns. Vote 16-1.

Adopted.

HB 1476-L, enabling school districts to allow parental choice among public and nonpublic schools. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Susan B. Durham for the Majority of Education: During an all-day hearing the committee heard from many New Hampshire residents and two experts from out-of-state. The supporters say this is just enabling, but it would allow a school district to pass this by majority vote at a special meeting. Many testified that this would cost taxpayers more overall because special education costs would remain with the local education agency. Charter schools could provide choice in public schools if the local voters felt it would be beneficial fiscally or educationally. Vote 12-5.

Rep. Phil A. Weber for the Minority of Education: School choice, and competition with the current monopolistic public school structure, is a must. We will never be able to provide quality educational opportunities until the public school system has accountability. An outstanding method of improving public education would be if parents had the ability to choose the best educational opportunities for their kids. The current system of confiscatory taxation to support a closed monopolistic structure will in the end fail, even as it has in the former Soviet Union. We must be willing to admit the truth about the shortcomings of our current system and have the courage to change.

Reps. Weber and Mary Brown spoke against.

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

Rep. Mary Brown requested a roll call; sufficiently seconded.

The question being the adoption of the Majority report.

YEAS 227 NAYS 109			
YEAS 227			
BELKNAP			
Boriso, Thomas	Calvert, Alice	Holbrook, Robert	Pilliod, James
Salatiello, Thomas	Thomas, John	Turner, Robert	
CARROLL			
Babson, David, Jr.	Bradley, Jeb	Chandler, Gene	Lyman, L. Randy
MacDonald, Kenneth	Patten, Betsey	Philbrick, Donald	
CHESHIRE			
Bonneau, Sarah	Burnham, Daniel	DePecol, Benjamin	Doucette, Richard
Lynch, Margaret	Lynott, Margaret	Manning, Joseph	McGuirk, Paul
Meador, David	Metzger, Katherine	Pratt, John	Richardson, Barbara
Riley, William	Robertson, Timothy	Royce, H. Charles	Smith, Edwin
Vogl, John			
COOS			
Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Davis, Perley
Guay, Lawrence	Hawkinson, Marie	Horton, Lynn	Mears, Edgar
Merrill, Gerald	Moynihan, Wayne	Pratt, Leighton	
GRAFTON			
Almy, Susan	Below, Clifton	Brown, Channing	Copenhaver, Marion
Eaton, Stephanie	Guest, Robert	Hill, Richard	LaMott, Paul
Lovett, Sidney	Luker, Elsa	MacNeil, Allen	Nordgren, Sharon
Phinney, William	Trelfa, Richard		
HILLSBOROUGH			
Allen, W. Gordon	Ameen, W.	Amidon, Eleanor	Belvin, William
Bergin, Peter	Brundige, Robert	Buckley, Raymond	Calawa, Leon, Jr.

Carlson, Donald	Clay, Susan	Clemons, Jane	Cote, David
Cote, Peter	D'Allesandro, Lou	Daigle, Robert	Dawe, Eileen
Dokmo, Cynthia	Drabinowicz, A. Theresa	Durham, Susan	Dwyer, Paul, Sr.
Dyer, Merton	Emerton, Lawrence, Sr.	Fields, Dennis	Foster, Joseph
Foster, Linda	Franks, Suzan	Gage, Ruth	Gagnon, Eugene
Ginsburg, Ruth	Gosselin, Gerald	Goulet, Maurice	Haettenschwiller, Alphonse
Hall, Betty	Hart, Nick	Herman, Keith	Holt, David
Jean, Claudette	Johnson, Lionel	Kelley, Robert	Konys, Christine
Kurk, Neal	L'Heureux, Robert	LaRose, Richard	Leishman, Peter
Leonard, Peter	Lessard, Rudy	Lozeau, Donnalee	Lynde, Harold
MacIntyre, Doris	McCarthy, William	McCarty, Winston	McDonald, James, Sr.
Melcher, Harold	Mercer, Robert	Messier, Irene	Milligan, Robert
Murphy, Robert	O'Hearn, Jane	Perkins, Paul	Peterson, Andrew
Reidy, Frank	Sargent, Maxwell	Searles, Stanley, Sr.	Turgeon, Roland
Vaillancourt, Steve	Welch, Donald	Wheeler, Robert	White, Jay
Williams, Carol			
MERRIMACK			
Anderson, Eric	Chandler, Earle	Crowell, Peter	Daneault, Gabriel
Dunn, Miriam	Fraser, Marilyn	French, Barbara	Gile, Mary
Hager, Elizabeth	Hess, David	Jacobson, Alf	Moore, Carol
Morrill, Olive	Owen, Derek	Reardon, Tara	Rogers, Katherine
Seldin, Gloria	St. Cyr, Gerard	Wallin, Jean	Wallner, Mary Jane
Whalley, Michael	Whittemore, James	Yeaton, Charles	
ROCKINGHAM			
Abbott, Dennis	Belanger, Ronald	Blanchard, MaryAnn	Case, Margaret
Christie, Andrew, Jr.	Clark, Martha	Cooney, Richard	Cushing, Robert
Dearborn, Bruce	Dowd, Sandra	Downing, Michael	Flanagan, Natalie
Flanders, John, Sr.	Francoeur, Sheila	Frechette, Joseph	Gleason, John
Guthrie, Joseph	Heath, John	Hutchinson, Rebecca	Kane, Cecelia

Kelley, Jane	Klemm, Arthur, Jr.	Kobel, Rudolph	Langley, Jane
Langone, John	Major, Norman	Malcolm, Kenneth	McCarthy, John, Jr.
Micklon, Stephanie	Norelli, Terie	Pitts, Jacqueline	Sabella, Norma
Stone, Joseph	Stritch, C. Donald	Syracusa, Anthony	Tufts, J. Arthur
Vaughn, Charles	Weatherspoon, Jackie		
STRAFFORD			
Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
Cossette, Larry	DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris
Grassie, Anne	Hemon, Roland	Heon, Richard	Keans, Sandra
Knowles, William	Lundborn, Raymond	McCann, William, Jr.	Merrill, Amanda
Merritt, Deborah	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	Cloutier, John	Donovan, Thomas	Ferland, Brenda
Leone, Richard	Lindblade, Eric	Palmer, Lorraine	Wiggins, Celestine
NAYS 109			
BELKNAP			
Bartlett, Gordon	Boyce, Robert	Clark, Charles	Golden, Paul
Laflam, Robert	Lawton, David	Lawton, Robert	Rice, Thomas, Jr.
Rosen, Ralph	Veazey, John		
CARROLL			
Cooper, Kipp	Dickinson, Howard, Jr.	Howard, Godfrey	Kenney, Joseph
Mock, Henry			
CHESHIRE			
Hunt, John	McNamara, Wanda		
COOS			

St. Hilaire, Paul	Tholl, John, Jr.		
GRAFTON			
Alger, John	Chase, Paul, Jr.	Cobbin, Philip	Guaraldi, Lawrence
Hinman, Harry	Mirski, Paul	Root, John	Teschner, Douglass
Weber, Phil	Williams, William, Jr.		
HILLSBOROUGH			
Alukonis, David	Arnold, Thomas, Jr.	Batula, Peter	Boutin, David
Burke, M. Virginia	Chabot, Ernest	Chabot, Robert	Christiansen, Lars
Daniels, Gary	Desrosiers, William	Fenton, James	Flora, Kathleen
Golding, William	Holley, Sylvia	Jean, Loren	Letendre, Evelyn
Luebker, Bernard	MacGillivray, Jeffrey	Marcinkowski, Michael	Martin, Mary
McGough, Tim	McRae, Karen	Murch, George	Piteri, Dawn
Riley, Frances	Rowe, Robert	White, Donald	Wright, George
MERRIMACK			
Adams, Stephen	Brown, Mary	Colburn, Thomas	DeStefano, Stephen
Hoadley, Elizabeth	Krueger, Patricia	Lamach, Bernard	Langer, Ray
Larrabee, David	Lavoie, Gerard	Leber, William	Lockwood, Robert
Maxfield, Roy	Pfaff, Terence		
ROCKINGHAM			
Arndt, Janet	Beaulieu, Jon	Camm, Kevin	Cegelis, Mark
Dalrymple, Janeen	Dolan, Richard	Dowling, Patricia	Dunham, Vivian
Fesh, Robert	Flanders, David	Gibbons, Paul	Griffin, Mary
Henderson, Warren	Katsakiores, George	Katsakiores, Phyllis	Letourneau, Robert
Lovejoy, Marian	McKinney, Betsy	Mikowski, Walter	Millard, Ralph
Noyes, Richard	Packard, Sherman	Rabideau, Marie	Raynowska, Bernard
Reardon, Neil	Sapareto, Frank	Schanda, Frank	Stickney, Nancy
Varrell, Thomas	Verani, Giovanni	Welch, David	Weyler, Kenneth
STRAFFORD			
Bickford, David	Kaen, Naida	McKinley, Robert	
SULLIVAN			

Adler, Rudolf	Burling, Peter	Kibbey, David	
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and the Majority report was adopted.

HB 1478, recognizing American sign language as the primary language of deaf citizens. INEXPEDIENT TO LEGISLATE

Rep. Warren C. Henderson for Education: The committee heard testimony that there are many variations of language used by the hearing impaired. Designating one as superior to the others seemed unwarranted. The bill also would permit American sign language to satisfy the college foreign language requirement. The University of New Hampshire already offers such a course for credit. It is also not the duty of the legislature to direct colleges or schools as to what to offer for credit courses. Vote 11-4.

Adopted.

HB 1479, establishing education partnership agreements to encourage and enhance the study of scientific and technological discipline in the public schools. INEXPEDIENT TO LEGISLATE

Rep. Susan B. Durham for Education: The committee is in favor of encouraging schools in New Hampshire to establish educational partnership with federal laboratories but legislation is not needed. The information about these opportunities will be sent to the school technology plan oversight committees around the state. The person in charge of technology transfer at the Cold Regions Lab in Hanover is willing to be a conduit for inquiries about partnerships with federal laboratories around the country. Vote 17-2.

Adopted.

HB 1501, relative to amending certain provisions of the charter school law. OUGHT TO PASS

Rep. Marie Rabideau for Education: This bill amends charter school law by clarifying school districts will be "held harmless" from charter school action or inaction. It also clarifies that no duties are to be added to those of the school board and revises the method used to determine cost per pupil to reflect most recent and available data. The committee felt this was a "housekeeping" bill which refines charter school law. Vote 17-2.

Adopted and ordered to third reading.

HB 1530, regarding the reappointment of teachers in their probationary period. INEXPEDIENT TO LEGISLATE

Rep. Stanley N. Searles for Education: Although this bill had some support in committee, its features have some overlap with HB 1414 and certain Senate bills. The committee chose to ITL this bill and deal with these features in the Senate bills. Vote 12-5.

Adopted.

HB 1618-L, requiring schools to provide evaluative materials to non-custodial parents of pupils. INEXPEDIENT TO LEGISLATE

Rep. Elizabeth K. Hoadley for Education: This bill allows non-custodial parents access to evaluative materials concerning their children. The bill provides those parents will also have access to notices of school-based activities. The committee found several unresolved problems with the bill. Accordingly, the study committee investigating parental involvement in schools will be asked to consider the issues raised by this bill. Vote 17-2.

Adopted.

HR 52, encouraging school districts to include special education students in drug education programs. INEXPEDIENT TO LEGISLATE

Rep. William A. Riley for Education: School districts must include special education students in drug education programs by law. Therefore, HR 52 was considered to be unnecessary by the majority of the committee. Vote 15-4.

Adopted.

HB 1145, relative to the definition of "livestock." OUGHT TO PASS WITH AMENDMENT

Rep. Perley E. Davis for Environment and Agriculture: This bill expands the definition of "livestock" to more clearly define the term as it is used today in agriculture, by including domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yak, elk, fallow deer and reindeer. Vote 19-1.

Amendment (0877h)

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

1 Livestock; Definition; Humane Slaughter. Amend RSA 427:33, II to read as follows:

II. The term "livestock" means cattle, horses, swine, sheep, goats, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), reindeer (*Rangifer taradus*), and other species of animals susceptible of use in the production of meat and meat products;

2 Livestock; Definition; Livestock Auction. Amend RSA 427:38, III to read as follows:

III. "Livestock" shall mean all cattle, goats, sheep, swine, horses[,] or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), reindeer (*Rangifer taradus*).

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

AMENDED ANALYSIS

This bill expands the definition of "livestock" to include domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk, fallow deer, red deer, and reindeer.

Adopted.

Report adopted and ordered to third reading.

HB 1225, restricting the land application of solid wastes within certain distances of natural, rural, and community rivers. OUGHT TO PASS WITH AMENDMENT

Rep. Peter R. Leishman for Environment and Agriculture: This bill would exempt current approved sludge and septage agricultural application practices from the 250 foot set-back requirements along rural/community rivers. This exemption would continue for five years only for past agricultural uses and indefinitely for research done by the University of New Hampshire. The committee believes before we prohibit the use of sludge and biosolids from some of our agricultural lands, more research needs to be conducted. However, to remove the 250 foot protective set-back for new applications of sludge and bio-solids from the comprehensive Shoreland Protection Act would be unwise. Vote 20-0.

Amendment (0774h)

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

AN ACT restricting the land application of solid wastes within certain distances of natural, rural, rural-community, and community rivers and exempting certain uses allowed under prior interpretations of the law.

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

1 Findings and Intent.

I. The general court recognizes that land application of septage and sludge within 250 feet of the rivers designated under the rivers management and protection program was allowed under rules adopted by the department of environmental services, and that the practice has recently been prohibited due to the department reinterpreting portions of the rivers management and protection program statute.

II. The general court finds that this prohibition may create an economic hardship for those farmers who have been land applying septage and sludge in accordance with the department's rules and who are now forced to discontinue use of these materials. This prohibition will also halt a valuable research project being conducted by the University of New Hampshire concerning the land application of sludge.

III. The general court finds that it is reasonable to allow such farmers, for a 5-year period, and research scientists, for an indefinite period, to continue applying septage and sludge within 250 feet of these designated rivers, and that such allowances will not create an undue risk of harm to the public or the environment. Furthermore, the general court intends to reexamine this issue at the end of the 5-year period, taking into account all creditable scientific information concerning the safety and environmental effects of land applying septage and sludge near rivers.

2 Natural Rivers Protection; Application of Solid Waste. RSA 483:9, VI(c) is repealed and reenacted to read as follows:

(c) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

3 Rural River Protection; Application of Solid Waste. RSA 483:9-a, VII(b) is repealed and reenacted to read as follows:

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

4 Rural-Community Rivers Protection; Application of Solid Waste. RSA 483:9-aa, VII(b) is repealed and reenacted to read as follows:

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

5 Community Rivers Protection; Application of Solid Waste. Amend RSA 483:9-b, VII(b) is repealed and reenacted to read as follows:

(b) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXIV, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes.

6 Temporary Use Authorization. The septage and sludge land application restrictions contained in RSA 483:9, VI(c), RSA 483:9-a, VII(b), RSA 483:9-aa, VII(b), and RSA 483:9-b, VII(b) shall not apply until 5 years after the effective date of this act to any land upon which septage or sludge has been spread in accordance with all applicable rules adopted by the federal Environmental Protection Agency and the New Hampshire department of

environmental services, during any portion of the 3-year period prior to January 1, 1998. In addition, there shall be no termination of this restriction exemption for qualifying land that is used for scientific research on septage or sludge. Any continued application of septage and sludge pursuant to this section shall comply with all applicable federal and state laws and any best management practices published by the university of New Hampshire cooperative extension.

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

AMENDED ANALYSIS

This bill restricts the land application of solid wastes within certain distances of natural, rural, rural-community, and community rivers.

The bill also allows current septage and sludge application practices which have been used by farmers and researchers to continue, for the next 5 years for farmers and indefinitely for researchers.

Adopted.

Report adopted and ordered to third reading.

HB 1346, relative to the definition of disposal under the solid waste management act. OUGHT TO PASS WITH AMENDMENT

Rep. Harold P. Melcher for Environment and Agriculture: This bill is an agency bill to make clear and consistent the regulations of incineration and disposal of solid waste. It changes no regulation and is necessary housekeeping. Vote 21-0.

Amendment (0725h)

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

AN ACT relative to certain definitions under the solid waste management act.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Definition Added; Incineration. Amend RSA 149-M:4 by inserting after paragraph X the following new paragraph:

XI. "Incinerator" means a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

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

AMENDED ANALYSIS

This bill removes incineration from the definition of disposal under RSA 149-M, the solid waste management act and adds a definition of incinerator.

This bill is a request of the department of environmental services.

Adopted.

Report adopted and ordered to third reading.

HB 1431, prohibiting the aerial spraying of herbicides for forestry purposes.
INEXPEDIENT TO LEGISLATE

Rep. David L. Babson for Environment and Agriculture: The committee felt that the revised rules on aerial spraying of herbicides which will be in place in the near future should be given an opportunity to work. Vote 14-6.

Adopted.

HB 1453, relative to products from sludge-treated soil. INEXPEDIENT TO
LEGISLATE

Rep. Peter R. Leishman for Environment and Agriculture: The committee felt the bill as written was unworkable and could raise issues with labeling unwarranted from evidence presented. However, there may be merit in the concept and as a result the Committee Chairman has created a study committee on labeling to report back with potential legislation next session. Vote 18-3.

Adopted.

HB 1454, relative to the spreading of sludge or biosolids. REFER FOR INTERIM
STUDY

Rep. Betty B. Hall for Environment and Agriculture: This controversial issue, landspreading of sludge, has so many ramifications a moratorium is only one solution. More study is needed to review evolving research. New rules are in the process of adoption, random testing is currently happening and results need to be carefully analyzed. Vote 19-2.

Adopted.

HB 1477, clarifying the waste reduction goals for the state of New Hampshire.
REFER FOR INTERIM STUDY

Rep. Betty B. Hall for Environment and Agriculture: The recycling sub-committee has been studying clarifying recycling goals and needs more time to complete its work. Therefore the committee recommends interim study. Vote 21-1.

Adopted.

HB 1606-L, relative to liability for response to hazardous materials accidents. OUGHT TO PASS WITH AMENDMENT

Rep. Richard T. Trelfa for Environment and Agriculture: As introduced this bill modified existing statutes to broaden liability for contamination of equipment and personnel gear occurring during response of police, fire, emergency preparedness or emergency response equipment to a discharge of hazardous or toxic wastes, and to include certain personnel costs. The bill also changed the initial appeal process for the liable person from the Commissioner of the Department of Environmental Services to the Commissioner of the Department of Safety. The amendment clarifies definition of the person liable, clarifies and limits that liable person's financial exposure and sets up appropriate mechanisms for control. Vote 17-2.

Amendment (0847h)

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

1 Public Safety and Welfare; Firewards, Firefighters, and Fire Hazards; Liability Concerning Hazardous Materials Accidents. RSA 154:8-a, II-a is repealed and reenacted to read as follows:

II-a.(a) Any person whose act or omission caused the actual discharge of hazardous materials or toxic wastes which resulted in the response of police, fire, emergency preparedness, or emergency response equipment shall be responsible for payment of the cost of the equipment use or replacement of the equipment used, if damaged or expended, in containing the hazardous materials or toxic wastes.

(b) Any person whose act or omission caused the actual discharge of hazardous materials or toxic wastes shall be responsible for payment of the personnel costs of police, fire, public safety, and municipal personnel, including mutual aid standby personnel, directly involved in the emergency response, except that costs for on-duty paid personnel who have responded to the emergency involving the discharge of hazardous materials during their assigned duty shift shall not be costs eligible for reimbursement.

(c) The response to fires or other emergencies where the discharge of hazardous materials is incidental to the fire or other emergency and does not require the use of specialized hazardous materials response equipment or personnel specially trained pursuant to 40 C.F.R. section 311 shall not be costs eligible for reimbursement.

(d) Within 30 days after the equipment leaves the site of the incident, the municipality, organization, or mutual aid district which seeks payment shall submit a bill for cost of equipment use, equipment cleanup, or equipment replacement and the costs of personnel, if applicable, to the person responsible for the equipment contamination under subparagraph (a) and the costs of personnel under subparagraph (b). At the time of billing, the municipality, organization, or mutual aid district which seeks payment shall notify the billed party that an appeal may be filed with the commissioner of safety within 30 days of the receipt of the bill. Payment shall be made directly to the municipality, to the organization, or to the mutual aid district. A municipality, organization, or mutual aid district

within whose jurisdiction the incident occurs is authorized to collect payment on behalf of the municipalities, organizations, or mutual aid districts that participated in the response and to disburse payment accordingly.

(e) The person responsible for the equipment contamination may appeal payment for such costs within 30 days of receipt of the bill for the costs to the commissioner of safety. The commissioner shall hold an administrative hearing within 30 days after receiving the appeal, at which time the extent of liability for costs shall be determined. The commissioner shall issue a decision within 30 days after holding the hearing. Any person aggrieved by a decision of the commissioner under this section may appeal the decision to the superior court in the same manner as that prescribed in RSA 263:75, II and III.

(f) If no appeal is filed within 30 days after receipt of the bill, the person responsible for the equipment contamination shall be deemed to have waived all rights to appeal and shall be liable to the municipality, organization, or mutual aid district for the total amount billed.

(g) The commissioner of safety shall establish rates for equipment usage and personnel costs that shall be the maximum amount that may be charged by any municipality, organization, or mutual aid district in accordance with this section. The guidelines for establishing the rates shall be adopted pursuant to RSA 541-A. To the extent possible, the rates shall reflect the actual costs for emergency response to hazardous materials incidents for municipalities throughout the state.

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

Adopted.

Report adopted and ordered to third reading.

HB 1623, relative to a waiting period before a dog or cat may be euthanized and relative to requirements for cats. OUGHT TO PASS WITH AMENDMENT

Rep. Richard T. Trelfa for Environment and Agriculture: As introduced, this bill required a waiting period before an animal care center could consider an unlicensed cat or dog to be abandoned. It also required outdoor cats to have identification and to be spayed or neutered. The amendment replaces the original bill and accomplishes the following: 1.) Increases the waiting period before euthanization for cats which have a form of positive identification. 2.) Mandates that all animal shelter facilities (as defined in RSA 437:2, I) shall have on premises a microchip scanner (no charge to the shelter) and a file of recognized pet retrieval agencies. Where an owner is not known all shelters shall inspect for tattoos, ear tags or other forms of positive identification and shall scan for a microchip upon admission of an animal and prior to transferring ownership of an unclaimed or abandoned animal. 3.) Sets up safeguards for transfer of ownership of a cat to include a) inoculation b) issuance of a health certificate and c) establishing a form of positive identification including but not limited to a tattoo, collar microchip, ear tag, or any other permanent form of identification approved by

the commissioner of agriculture, markets and food. 4.) Changes the holding period for vaccinated ferrets from 45 days to 10 days to reflect increased knowledge of ferret immune reactions pursuant to studies by the USDA. Vote 18-1.

Amendment (0797h)

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

AN ACT relative to a waiting period before a cat or ferret may be euthanized, relative to requirements for cats, ferrets, and dogs transferred from animal shelter facilities, and relative to ferret rabies suspects.

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

1 Ferret Rabies Suspects. Amend RSA 436:105-b, II and III to read as follows:

II. Any apparently healthy ferret not vaccinated or whose vaccination status is unknown which has bitten any person and caused a puncture of the skin or which has caused a nonbite exposure of the person shall be seized and, if the owner consents, impounded under the supervision of the local authorities for a period of not less than 10 days. If, upon examination by a licensed veterinarian, the ferret has no signs of rabies at the end of the impoundment, it may be released to the owner. Any illness in the ferret during confinement or before release shall be evaluated by a licensed veterinarian. If signs suggestive of rabies develop, the ferret shall be euthanized and the head sent for examination to the public health laboratory, department of health and human services. It shall be the responsibility of the owner for any expense for the examination and for the impoundment of the ferret. If the owner of the ferret is not known or if the owner does not consent to impoundment, the ferret shall be euthanized upon seizure and the head sent for examination to the public health laboratory, department of health and human services. It shall be the responsibility of the owner for any expense for euthanizing the ferret and for preparing the head for shipment to the public health laboratory. If the owner of the ferret is not known, the state shall be responsible for the expense.

III. Any healthy ferret vaccinated in accordance with RSA 436:100, which has bitten any person and caused a puncture of the skin or which has caused a nonbite exposure, shall be confined by the owner or other responsible person as required by the local authorities for a period of [45] 10 days, at which time the ferret shall be examined by a licensed veterinarian. If no signs of rabies are observed by the veterinarian, the ferret may be released from confinement. Any illness in the ferret during confinement or before release shall be evaluated by a licensed veterinarian. If signs suggestive of rabies develop, the ferret shall be euthanized and the head sent for examination to the public health laboratory, department of health and human services. It shall be the responsibility of the owner for any expense for the examination and the impoundment of the ferret, for euthanizing the ferret and for preparing the head for shipment to the public health laboratory. If the owner of the ferret does not consent to the confinement or if the owner of the ferret is not known, the state shall be responsible for the expense.

2 Abandoned Cats and Ferrets; Waiting Period. Amend RSA 437:18, IV to read as follows:

IV. "Abandoned animal" means:

(a) Any animal whose owner neglects or refuses to reclaim it within 7 days after the mailing of the notification provided for in RSA 437:19[; or].

(b) Any animal left in an animal care center by a person unknown or by an owner who, when leaving the animal, gives a false name or false address.

(c) Any ferret in the custody of the animal care center for at least 7 days.

(d) Any cat in the custody of the animal care center for at least 7 days which has a form of positive identification including, but not limited to a tattoo, collar, microchip, eartag, or any other form of identification approved by the commissioner of agriculture, markets, and food pursuant to rules adopted under RSA 466:13-a.

3 Exemption for Animal Shelters; Importation and Sale of Dogs, Cats, and Ferrets. RSA 437:10, III is repealed and reenacted to read as follows:

III. Animal shelter facilities, as defined in RSA 437:2, I, are exempt from the requirements of this subdivision relative to accepting, selling, or transferring dogs, cats, and ferrets except that:

(a) All animal shelter facilities shall have on premises a microchip scanner and shall maintain a file of recognized pet retrieval agencies including but not limited to national tattoo or microchip registries.

(b) Where an owner is not known, all animal shelter facilities shall inspect for tattoos, ear tags, or other permanent forms of positive identification and shall scan for a microchip upon admission of an unclaimed or abandoned animal as defined in RSA 437:18, IV and prior to transferring ownership of an unclaimed or abandoned animal.

(c) All animal shelters shall comply with the provisions of RSA 437:13-a, IV.

4 Health Certificates for Cats; Section Heading Changed. Amend RSA 437:13-a to read as follows:

437:13-a [Breeder's] Health Certificate for Cats.

I. No cat shall be [sold] transferred by any person in the state or out of the state [by a breeder] for a fee without first being inoculated against infectious diseases using a vaccine approved by the state veterinarian and unless accompanied by an official health certificate issued by a licensed veterinarian within 14 days. Said health certificate shall be in triplicate, of which one copy shall be sent to the state veterinarian, one

copy shall be kept by the [breeder] person transferring ownership of said cat for a period of at least 3 years, and one copy shall be given to the [purchaser] new owner.

II. For purposes of this section, an official health certificate means a certificate signed by a licensed veterinarian on a form approved by the state veterinarian, containing the name and address of the [breeder] person transferring ownership of the cat, the age, sex, breed and description of the cat, a list of all types of vaccines or medication administered to the cat, and the certification of the veterinarian that the cat is free from visual evidence of any communicable diseases.

III. No [breeder] person shall deliver or cause to be delivered any cat less than 8 weeks of age.

IV. All incorporated or chartered humane societies with operating shelters in the state of New Hampshire are exempt from the requirements of this section relative to selling or transferring cats except that all cats transferred out of an animal shelter facility shall have a form of positive identification, including but not limited to a tattoo, collar, microchip, ear tag, or any other permanent form of identification approved by the commissioner of agriculture, markets, and food and shall have been vaccinated against rabies in accordance with RSA 436.

V. [In this section, "breeder" means any person who breeds cats for sale.

VI.] The commissioner of the department of agriculture, markets, and food or [his] designee is hereby authorized on [his] the commissioner's own initiative or pursuant to complaints of other persons to investigate any complaints made pursuant to this section and to enforce the penalties of RSA [437:13-a, VII] 437:13-a, VI. The commissioner shall adopt rules under RSA 541-A relative to the procedures for such investigations.

[VII.]VI. Notwithstanding the provisions of RSA title LXII, any person violating any of the provisions of this section shall be fined not less than \$100 for the first offense, \$200 for the second offense, and \$500 for each succeeding offense. Each violation shall be considered a separate offense. Fines and penalties under this section shall be delivered to the state treasurer for deposit into the general fund.

5 Section Heading Changed; Reclaiming of Animals; Application to Cats. Amend RSA 437:19 to read as follows:

437:19 Notice to Owner; Reclaiming of Animals. The operator of an animal care center having custody of an animal, the owner of which has refused or neglected to reclaim the animal for a period of 7 days, or has refused or neglected to pay the just fees and charges due for boarding, grooming, surgical, medical or other care of the animal for a period of 7 days, shall notify the owner by certified mail of the intention of the operator to treat the animal as an abandoned animal within the meaning of this subdivision if the owner does not reclaim the animal or pay the charges and fees within 7 days after the mailing of the notification. Any cat not licensed in accordance with RSA 466:13-a and which is reclaimed from an animal care center shall be released to the owner only upon proof of a

current, valid rabies vaccination or upon being vaccinated against rabies in accordance with RSA 436.

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

AMENDED ANALYSIS

This bill:

(a) Adds requirements for a waiting period before an animal care center may consider a cat or ferret to be abandoned.

(b) Adds new requirements for cats relative to reclaiming, health certificates, and identification.

(c) Changes the procedure for ferret rabies suspects.

(d) Adds requirements for animal shelter facilities relative to dogs, cats, and ferrets.

Adopted.

Report adopted and ordered to third reading.

HB 1438, establishing a committee to study the regulation of personnel employed in early care and education including, but not limited to, center and family-based child care and preschools. OUGHT TO PASS WITH AMENDMENT

Rep. Miriam D. Dunn for Executive Departments and Administration: This bill creates a study committee to examine the issues of regulating personnel employed in early child care and education, including, but not limited to, center and family-based child care and preschools. The committee will review relevant research and national studies with specific attention to the role of regulation in improving the quality of care for our youngest children. The amendment expands the committee's duties to include input from the public, professionals, parents and related state agencies. Vote 14-4.

Amendment (0838h)

Amend the bill by replacing section 3 with the following:

3 Duties.

I. The committee shall examine the implications of implementing occupational regulation of personnel employed in early childhood programs, including directors, teachers, teacher assistants, and child care workers. Other duties shall include, but not be limited to, review and documentation of the effects of occupational regulation on the health, safety, and quality of care and education of young children; the position of the National Association for the Educators of Young Children (NAEYC) with regard to occupational regulation in early childhood education; and preparation of a report of the studies of occupational regulation and certification in early

childhood education in other states with special attention to possible agreements of reciprocity.

II. The committee shall consult with the following individuals and groups to obtain additional information:

(a) The commissioner of the department of education, or designee.

(b) The commissioner of the department of health and human services, or designee.

(c) The president of the New Hampshire Association for the Education of Young Children.

(d) The president of the New Hampshire Child Care Association, or designee.

(e) The president of the New Hampshire Child Care Directors Association, or designee.

(f) The president of the New Hampshire Family Child Care Association, or designee.

(g) A faculty member from an institution of higher education who teaches early childhood education.

(h) Individual parents as the committee deems necessary.

(i) Members of the New Hampshire Child Care Advisory Committee as established by RSA 126-A:17.

Adopted.

Report adopted and ordered to third reading.

HB 1556-FN, transferring the division of fire standards and training to the department of regional community-technical colleges. INEXPEDIENT TO LEGISLATE

Rep. Ray F. Langer for Executive Departments and Administration: Except for the sponsor all of the testimony the committee heard was opposed to the bill for various reasons: (1) there were no funds to support the division if the transfer was approved, (2) the firemen would have difficulties meeting training standards, and (3) such a move would place training for firefighters back 20 to 40 years. Vote 17-0.

Adopted.

HB 1640-FN, prohibiting the use of public resources for political purposes. REFER FOR INTERIM STUDY

Rep. Howard C. Dickinson, Jr. for Executive Departments and Administration: This bill as written made little sense, so the committee focused on the

sponsor's amendment which prohibits public employees or appointed officials of the state or its political subdivisions from working on political agendas or committees for candidates. Also, these same employees or officials would be prevented from using public facilities or their office equipment or supplies or from soliciting contributions for their purposes. While this may seem to make good sense and many were surprised to discover that this was not already on the books, the amendment goes on to say that the prohibitions shall not apply to public employees who work for elected officials. Clearly, this leads to some very strange places and situations, and the committee wished to explore these further during the interim. Vote 15-3.

Adopted.

HB 1653, relative to the composition of the board of barbering, cosmetology, and esthetics. OUGHT TO PASS

Rep. Sylvia A. Holley for Executive Departments and Administration: This bill changes the make up of the Board of Barbering, Cosmetology and Esthetics. One of two licensed barbers members is replaced by a licensed manicurist. This change in make up of the board more accurately reflects the membership of those licensed by the board. No other changes are made. Vote 12-5.

Rep. Goulet spoke against.

The report failed.

Rep. Goulet moved ought to pass with amendment and offered a floor amendment.

Floor Amendment (0974h)

Amend the bill by replacing sections 1 and 2 with the following:

1 Board Composition Changed; Licensed Manicurist and Additional Public Member Added. Amend RSA 313-A:2, I to read as follows:

I. There shall be a board of barbering, cosmetology, and esthetics consisting of 7 members as follows: [2] one licensed [barbers] barber, [2] one licensed [cosmetologists] cosmetologist, one licensed esthetician, one licensed manicurist, one licensed cosmetology school owner who shall be a resident of New Hampshire or a designee of such owner who shall be a licensed cosmetologist and a resident of New Hampshire, and [one] 2 public [member] members, each to be appointed by the governor with the consent of the council to a term of 5 years. No board member shall be appointed to more than 2 consecutive terms. Only board members provided for in this paragraph shall have the authority to vote in board determinations.

2 Application; Current Board Members. Barber members and cosmetologist members of the board of barbering, cosmetology, and esthetics serving on the effective date of this act shall serve for the remainder of their terms. The appointment of a manicurist member of the board as required by RSA 313-A:2, I as amended in section 1 of this act shall be made upon the first expiration of the term, or other vacancy, of a barber member occurring on the board. The appointment of the additional public member of the board as required by RSA 313-A:2, I as amended in section 1 of this act shall be made upon the first

expiration of the term, or other vacancy, of a cosmetologist member occurring on the board, who is not the cosmetology school owner or designee.

AMENDED ANALYSIS

This bill changes the membership on the board of barbering, cosmetology, and esthetics by replacing a member who is licensed barber with a member who is a licensed manicurist and by replacing a member who is a licensed cosmetologist with an additional public member.

Rep. Dodge spoke in favor.

Adopted.

Report adopted and ordered to third reading.

CACR 40, relating to imposing limitations on state government spending. Providing that the legislative and executive budgets cannot be more than 98 percent of the previous year's revenues, with the remainder being placed into a stabilization fund. INEXPEDIENT TO LEGISLATE

Rep. Arthur P. Klemm, Jr. for Finance: This bill, if passed, would limit the legislative and executive budgets to 98 percent of the previous year's revenues with the remainder being placed into a stabilization fund. The committee felt that we already have the power to do this and we would not be giving ourselves any new authority that we don't already possess and that there must be some flexibility to deal with the budget in good times as well as bad. Vote 17-5.

Adopted.

HB 1217, relative to balancing the operating budget. OUGHT TO PASS WITH AMENDMENT

Rep. Arthur P. Klemm, Jr. for Finance: This bill puts into statute what is the legislature's current practice. This bill states that the General Court must pass a balanced budget not only from the Finance Committee but the entire House and Senate. The amendment puts into statute that in creating a balanced budget neither the Governor nor the General Court can bond indebtedness to fund operating appropriations. The amendment also states that projected lapses may be used in balancing the budget. Vote 16-6.

Amendment (0894h)

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

1 Gender-Neutral; Governor's Budget; Transmission to the Legislature.
Amend RSA 9:2 to read as follows:

9:2 Transmission to the Legislature. Not later than February 15 of the year of each biennial legislative session, the governor shall transmit to the legislature a document to be known as a budget setting forth [his] the

governor's financial program for each of the fiscal years of the ensuing biennium and having the character and scope hereinafter set forth.

2 Governor's Budget; Form and Contents. Amend RSA 9:3 to read as follows:

9:3 Form and Contents. The budget shall consist of 3 parts, the nature and contents of which shall be as follows:

I. Part I shall consist of the governor's budget message, in which [he] the governor shall set forth:

[(1) His] (a) The governor's program for meeting all the expenditure needs of the government for each of the years of the biennium to which the budget relates, indicating the classes of funds, general or special, from which such appropriations are to be made and the means through which such expenditures shall be financed;

[(2)] (b) Financial statements giving in summary form:

[(a)] (1) The condition of the treasury at the end of the last completed fiscal year, the estimated condition of the treasury at the end of the year in progress, and the estimated condition of the treasury at the end of each of the 2 years to which the budget relates if [his] the governor's budget proposals are put into effect;

[(b)] (2) Statements showing the bonded indebtedness of the state, debt authorized and unissued, debt redemption and interest requirements, and condition of the sinking funds, if any;

[(c)] (3) A summary of appropriations recommended for each of the years of the biennium to which the budget relates for each department and for the state as a whole in comparison with actual expenditures for the last completed fiscal year and estimated expenditures for the year in progress;

[(d)] (4) A summary of the revenue estimated to be received by the state during each of the 2 years of the biennium to which the budget relates, classified according to sources in comparison with the actual revenue received by the state during the last completed fiscal year and estimated income during the year in progress, and

[(e)] (5) Such other financial statements, data, and comments as in [his] the governor's opinion are necessary or desirable in order to make known in all practicable detail the financial condition and operations of the state and the effect that the budget as proposed by [him] the governor will have on such condition and operations. If the estimated revenues of the state for the ensuing biennium as set forth in the budget on the basis of existing laws, plus the estimated amounts in the treasury at the close of the year in progress available for expenditure in the ensuing biennial period is less than the aggregate recommended for the ensuing biennial period as contained in the budget, the governor shall make recommendations to the legislature in respect to the manner in which such

deficit shall be met, whether by an increase in the state tax or the imposition of new taxes, increased rates on existing taxes, or otherwise; and if the aggregate of such estimated revenues, plus estimated balances in the treasury is greater than such recommended appropriations for the ensuing biennial period, [he] the governor shall make such recommendations in reference to the application of such surplus to the reduction of debt or otherwise, to the reduction in taxation, or to such other action as in [his] the governor's opinion is in the interest of the public welfare. The governor's operating budget shall not use bonded indebtedness to fund operating appropriations. Nothing contained herein shall prohibit the use of projected lapses in determining compliance with this section.

II. Part II shall present in detail [his] the governor's recommendations for appropriations to meet the expenditure needs of the state from each general class of funds, classified by departments, and indicating for each the appropriations recommended for[: (a)] meeting the cost of administration, operation, and maintenance of such departments.

III. Part III shall embrace a draft or drafts of appropriation bills having for their purpose to give legal sanction to the appropriations recommended to be made in parts I and II. Such appropriation bills shall indicate the funds, general or special, from which such appropriations shall be paid, but such appropriations need not be in greater detail than to indicate the total appropriation to be made for[: (a)] administration, operation, and maintenance of each department for each fiscal year of the biennium.

3 New Section; Legislature; Adoption of Operating Budget. Amend RSA 9 by inserting after section 8-a the following new section:

9:8-b Adoption of Operating Budget. The general court shall not adopt an operating budget for any fund, or any other legislation which provides for appropriations, which exceed the state's total estimated revenues from existing, increased, or new taxes, fees, operating income and other sources. If the estimated revenues of the state for the ensuing biennium as set forth in the budget on the basis of existing laws, plus the estimated amounts in the treasury at the close of the year in progress available for expenditure in the ensuing biennial period is less than the aggregate recommended for the ensuing biennial period as contained in the budget, the general court shall adopt a budget in which such deficit shall be met, whether by an increase in the state tax or the imposition of new taxes, increased rates on existing taxes, or otherwise; and if the aggregate of such estimated revenues, plus estimated balances in the treasury is greater than such recommended appropriations for the ensuing biennial period, the general court shall adopt a budget applying such surplus to the reduction of debt or otherwise, to the reduction in taxation, or to such other action as is in the interest of the public welfare. Such operating budget shall not use bonded indebtedness to fund operating appropriations. Nothing contained herein shall prohibit the use of projected lapses in determining compliance with this section.

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

AMENDED ANALYSIS

This bill prohibits the governor from proposing and the legislature from adopting an operating budget for any fund or any other legislation which provides for appropriations which exceed the total estimated revenues from taxes, fees, operating income, and other sources. The bill also prohibits the use of bonded indebtedness to fund operating appropriations.

Adopted.

Report adopted and ordered to third reading.

HB 1295-FN, relative to reimbursing the state medical assistance program.
OUGHT TO PASS

Rep. William S. Belvin for Finance: This bill is a clarification that allows the state to recover Medicaid payments from third parties, typically insurance companies. It requires that timely notice be given to the Department of Health and Human Services prior to disbursement of any third party funds to recipients. No attorneys' fees shall be deducted from the amount due the state from such award or settlement. \$250,000 of annual revenue is estimated, half of which will be returned to the federal government as their Medicaid match. Vote 12-5.

Adopted and ordered to third reading.

HB 1300, relative to the revenue stabilization reserve account. OUGHT TO PASS
WITH AMENDMENT

Rep. Arthur P. Klemm, Jr. for Finance: This bill, as amended, is an attempt by the Finance Committee to build up our reserves in the "rainy day" fund and the Health Care Transition Fund. It will require at the end of the biennium any surplus be divided as follows: 25% would go into the General Fund surplus account, and the remaining 75% would be split 50/50 between the Revenue Stabilization Reserve Account and the Health Care Transition Fund. There is a cap of \$100,000,000 of principal being placed on the Health Fund with any extra money going into the Revenue Stabilization Reserve Account. The amendment also changes the cap on the "rainy day" fund from 5 to 10% of the actual General Fund unrestricted revenues for the most recently completed fiscal year as well as changing the name of the Health Care Transition Fund to the Health Care Fund. Vote 19-3.

Rep. Kurk moved Recommit to Committee and spoke in favor.

Adopted.

HB 1310, relative to legislative approval of expenditure of federal and other funds. OUGHT TO PASS WITH AMENDMENT

Rep. O. Alan Thulander for Finance: This bill adds the Legislative Fiscal Committee to the present procedure utilized for the acceptance and expenditure of non-state funds, i.e., federal aid, bequests, gifts, etc. by the Governor and Council for sums exceeding \$100,000. Vote 13-9.

Amendment (0886h)

Amend the bill by replacing sections 2 and 3 with the following:

2 New Paragraph; Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 From Any Non-State Source. Amend RSA 14:30-a by inserting after paragraph V the following new paragraph:

VI. Any non-state funds in excess of \$100,000, whether public or private, including refunds of expenditures, federal aid, local funds, gifts, bequests, grants, and funds from any other non-state source, which under state law require the approval of governor and council for acceptance and expenditure, may be accepted and expended by the proper persons or agencies in the state government only with the prior approval of the fiscal committee.

3 Fiscal Committee Approval Required for Expenditure of Federal Aid. Amend RSA 124:4 to read as follows:

124:4 Application for[,] and Administration of Federal Aid. Notwithstanding any other provision of law, the governor and council are hereby authorized to designate from time to time, as they may deem in the best interest of the state, the proper persons or agencies in the state government to take all necessary action to apply for, receive and administer any federal benefits, facilities, grants-in-aid, or other federal appropriations or services made available to assist state activities, for which the state is, or may become eligible. All such moneys in excess of \$100,000 made available, after designation by the governor and council, may be expended by the proper persons or agencies in the state government only with the prior approval of the joint legislative fiscal committee. In addition to such other instruments, documents and agreements as may be executed [hereunder] under the authority of this section, such persons or agencies may[, whenever the same shall be required as a condition to the receipt of such federal assistance, with the approval of the governor and council] execute indemnification agreements, with the approval of governor and council, in the name of the state with and for the benefit of the United States whenever such execution is required as a condition of receipt of such federal assistance.

AMENDED ANALYSIS

This bill requires that acceptance and expenditures of federal aid and any other non-state funds in excess of \$100,000 be approved by the joint legislative fiscal committee.

Adopted.

Report adopted and ordered to third reading.

SPECIAL ORDER

Rep. Kurk moved that HB 1397-FN-A-L, reestablishing the investment tax credit against the business profits tax under the community development finance authority, be made a Special Order in regular calendar order for Thursday, March 12, 1998.

Adopted.

HB 1399-FN, revising certain information required in the state operating budget. OUGHT TO PASS WITH AMENDMENT

Rep. Margaret A. Lynch for Finance: This bill provides for the elimination of all but Class 90 accounts in the University System of New Hampshire budget. The USNH budget will show only the General Fund activity within the Class 90 accounts. This change recognizes the reality of the existing situation, which is that the state funds the University System on a grant basis. All budget details, however, would be available for executive and legislative review. The amendment removes the section of the bill requiring all departments to prepare a supplemental schedule of equipment inventories. This addition would have required the establishment of a Supervisor I labor grade 18 position. Because of the fiscal impact, this section was removed from the original bill. Vote 22-0.

Amendment (0906h)

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

1 New Section; General Fund Accounts; Higher Education. Amend RSA 9 by inserting after section 4-d the following new section:

9:4-e General Fund Income Accounts for Higher Education. Beginning with fiscal year 2000, for the higher education fund (06-06) the state operating budget shall show only the class 90 general fund income accounts. Nothing in this section shall prevent a legislative or executive request for detailed budgets of the institutions included in higher education.

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

AMENDED ANALYSIS

This bill provides for the elimination of all but class 90 accounts in the higher education portions of the budget.

Adopted.

Report adopted and ordered to third reading.

HB 1400-FN, relative to the powers and duties of the commissioner of health and human services. OUGHT TO PASS WITH AMENDMENT

Rep. Mary Jane Wallner for Finance: This bill as amended makes several changes to the powers and duties of the Commissioner of Health and Human Services. The first change is restoring to the transfer of funds process the need for Fiscal Committee approval before funds are transferred. This process will end at the end of this biennium (June 30, 1999). In 1995 with HB 32, the legislature took away the bumping privileges of the employees of Health and Human Services. This bill will restore the bumping privileges. The bill also provides that a department will not need prior authorization from the Governor and Council for out-of-state trip expenses unless four or more employees are traveling. This provision of the bill pertains to all departments. In addition, the bill requires the Department of Health and Human Services to produce quarterly reports on accounts payable and how

promptly bills are being paid to providers of services. The bill also repeals the rule-making authority given to the Commissioner of Health and Human Services in HB 32. Vote 20-1.

Amendment (0911h)

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

AN ACT relative to the powers and duties of the commissioner of health and human services and relative to out-of-state trips by state officials or employees.

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

1 Statement of Intent. In 1995, the general court granted broad powers to the commissioner of health and human services to reorganize the department and institute budgetary efficiencies while maintaining citizen services. The general court recognizes that the increased authority has largely served its purpose with respect to reorganization. It is the intent of the general court to restore comparability in powers among state agencies and reestablish the traditional system of checks and balances among the branches of government.

2 Out-of-State Trips. Amend RSA 9:25 to read as follows:

9:25 Out-of-State Trips. Expenses for [out-of-the-state] out-of-state trips by 4 or more state officials or employees shall not be a charge against the state, unless advance authorization for such trips has been procured from the governor and council.

3 Transfer Authority. Amend RSA 126-A:1(a) to read as follows:

(a) Make such transfer among any and all accounts and program appropriation units of the department as the commissioner shall deem necessary and appropriate to effect a reorganization of the department, address present or projected budget deficits, or respond to changes in federal laws, regulations or programs and otherwise as necessary for the efficient management of the department. [At least 10 days prior to executing such transfer, the commissioner shall notify the legislative fiscal committee of such transfer and of the impact of such transfer on programs and services of the department. Within 10 days of the commissioner's notification to the legislative fiscal committee, the committee shall determine whether the transfer will eliminate or substantially reduce a departmental program or service. If the committee determines that the transfer eliminates or substantially reduces a departmental program or service, the committee shall inform the commissioner of its determination before the 10-day period lapses, and the commissioner shall not execute the transfer without obtaining the approval of the legislative fiscal committee and the governor. If the legislative fiscal committee makes a determination that the transfer does not eliminate or substantially reduce a departmental program or service, the committee shall notify the commissioner that the commissioner may execute the transfer. If the legislative fiscal committee does not make a determination on the transfer within the 10-day period, the commissioner may execute the transfer without the approval of the legislative fiscal committee and the governor.] The commissioner shall not execute a transfer without obtaining

the approval of the legislative fiscal committee and the governor and council.

4 New Paragraph; Quarterly Reports on Grants Required. Amend RSA 126-A:5 by inserting after paragraph II the following new paragraph:

II-a. The commissioner shall produce a quarterly report, starting with the quarter ending September 30, 1998, which shall list the quarterly and fiscal year-to-date expenditures and payables for each of the separate class 90 grant accounts administered by the department exceeding \$1,000,000 for the fiscal year. The report shall be on an accrual basis. Payables shall be aged in standard 30-day increments and aging of payables shall start with the date the bill is received by the department without regard to whether the bill is subsequently adjusted. The report shall be submitted to the legislative budget assistant, the house and senate finance committees, the house speaker, senate president, and the governor.

5 Repeal. RSA 126-A:1(a), relative to the commissioner's transfer authority is repealed.

6 Repeals. The following are repealed:

I. RSA 9:26, relative to an exception to out-of-state trips.

II. RSA 126-A:16, III relative to departmental rules.

III. RSA 99:9, IV, relative to bumping privileges.

IV. 1995, 310:3, I, relative to the prospective repeal on December 31, 1998, of the commissioner's transfer authority.

7 Effective Date.

I. Section 5 of this act shall take effect June 30, 1999.

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

AMENDED ANALYSIS

This bill makes certain changes in the powers and duties of the commissioner of the department of health and human services. Specifically, this bill:

(1) Amends the provision of law authorizing broad transfer authority within program appropriation units.

(2) Repeals certain aspects of the commissioner's rulemaking authority.

(3) Repeals the provision of law limiting bumping privileges.

This bill requires out-of-state trips by 4 or more state officials or employees to be approved by the governor and council.

This bill also requires the commissioner of health and human services to produce certain quarterly reports.

Adopted.

Reps. Perkins and Kurk spoke in favor.

Report adopted and ordered to third reading.

Reps. Flora and Salatiello declared conflicts of interest and did not participate.

HB 1439-FN-A, relative to reducing the amount of meals and rooms tax retained by operators and designating the moneys to a nonlapsing fund in the department of resources and economic development for the promotion of tourism. INEXPEDIENT TO LEGISLATE

Rep. Marie C. Hawkinson for Finance: The Department of Revenue Administration requires businesses to keep records and submit taxes collected by them. This bill would reduce the amount of meals and rooms tax retained by operators from 3% to 11/2% and put the other 11/2% into a non-lapsing fund in the Department of Resources and Economic Development for the promotion of tourism. This would affect harshly many small businesses which receive the small reimbursement fee. During the last session DRED received substantial increases in its budget for printing and advertising, joint promotion advertising, and international tourism. Additional funds for this biennium are unnecessary. Vote 17-0.

Adopted.

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

HB 1563, prohibiting physicians from prescribing or administering cannabis-type drugs. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Alphonse A. Haettenschwiller for the Majority of Health, Human Services and Elderly Affairs: This bill was recommitted to consider more information. The original bill called for repeal of the schedule allowing physicians to prescribe cannabis derivatives, mainly Marinol, which has been law since 1981, for treatment of some post-treatment cancer patients. As amended by the committee, the bill was passed 18-0 to permit prescribing for other medical conditions. After receiving further information, the committee majority decided to retain the bill as originally amended. Vote 15-1.

Rep. Robert K. Boyce for the Minority of Health, Human Services and Elderly Affairs: All discussion in the committee revolved around the schedule II drug, Marinol, a derivative of marijuana. There was question about whether this section allows the prescriptive use of marijuana. The consensus was that it should not. The committee rejected an amendment stating that this RSA does not allow prescriptive use of marijuana.

Majority Amendment (0479h)

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

AN ACT relative to the professional use of cannabis-type drugs.

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

1 Professional Use of Cannabis-Type Drugs. Amend RSA 318-B:10, VI to read as follows:

VI. Notwithstanding any other law to the contrary, an attending physician, in good faith and in the course of [his] the attending physician's professional practice only, may prescribe and administer cannabis-type drugs, or the attending physician may cause such drugs to be administered by a nurse or intern under [his] such physician's direction and supervision[, to a patient who is receiving radiation or chemotherapy treatment for cancer].

2 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill clarifies the professional use of cannabis-type drugs for illness.

Rep. Emerton spoke against the Majority amendment.

The amendment failed.

Rep. Emerton offered a floor amendment.

Floor Amendment (0929h)

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

AN ACT relative to the professional use of cannabis-type drugs.

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

1 Professional Use of Cannabis-Type Drugs. Amend RSA 318-B:10, VI to read as follows:

VI. Notwithstanding any other law to the contrary, an attending physician, in good faith and in the course of [his] the attending physician's professional practice only, may prescribe and administer federal Food and Drug Administration approved and classified cannabis-type drugs, or the attending physician may cause such drugs to be administered by a nurse or intern under [his] such physician's direction and supervision[, to a patient who is receiving radiation or chemotherapy treatment for cancer].

2 Effective Date. This act shall take effect January 1, 1999.

AMENDED ANALYSIS

This bill clarifies the professional use of cannabis-type drugs for illness.

Rep. Emerton spoke in favor and yielded to questions.

Rep. Boyce spoke in favor.

Adopted.

Report adopted and ordered to third reading.

HB 1658-FN, relative to prohibiting the cloning of human beings in New Hampshire. OUGHT TO PASS WITH AMENDMENT

Rep. Thomas E. Donovan for Health, Human Services and Elderly Affairs: This bill establishes a 5-year moratorium relative to the cloning of a human being. The bill also establishes a commission to study the issue of cloning and requires the commission to present annual reports to the house, senate and governor. Vote 11-6.

Amendment (0859h)

Amend the bill by replacing all after section 1 with the following:

2 New Chapter; Human Cloning Prohibited. Amend RSA by inserting after chapter 141-H the following new chapter:

CHAPTER 141-I

HUMAN CLONING PROHIBITED

141-I:1 Human Cloning.

I. No person shall clone a human being.

II. No person shall purchase, sell, offer, make available, or have in his or her possession an ovum, zygote, embryo, or fetus for the purpose of cloning a human being.

III. For purposes of this chapter:

(a) "Clone" means the practice of creating or attempting to create a human being by transferring the nucleus from a human cell from whatever source into a human egg cell from which the nucleus has been removed for the purpose of, or to implant, the resulting product to initiate a pregnancy that could result in the birth of a human being.

(b) "Commissioner" means the commissioner of the department of health and human services.

141-I:2 Commission Established.

I. There is hereby established a commission on human cloning. The commission shall consist of the following members:

(a) The commissioner, or designee.

(b) Two members of the house of representatives, appointed by the speaker of the house.

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

(d) Eight members appointed by the governor and council, one licensed physician, one each representing the fields of religion, biotechnology, genetics, law, and bioethics, and 2 public members. The term of the members in subparagraphs (a) - (c) shall be coterminous with their terms in office. The term of office of each member appointed by the governor and council shall be 3 years and until a successor is appointed. Vacancies shall be filled in the same manner and for the unexpired terms. The legislative members of the commission shall be reimbursed for mileage when attending to the duties of the commission.

II. The commission shall evaluate the medical, ethical, and social implications of human cloning and shall review public policy of such implications.

III. The commission shall make an annual report on or before January 1 of each year to the speaker of the house of representatives, the president of the senate, and the governor.

141-I:3 Civil Penalty; Disciplinary Actions.

I. Any person who violates the provisions of this chapter shall be subject to a civil penalty not to exceed \$250,000 if a natural person or \$1,000,000 if any other person. In addition, any person who derives pecuniary gain from a violation of this chapter shall be assessed a civil penalty of not more than an amount equal to the amount of the gross gain multiplied by 2. All penalties collected under this section shall be deposited in the general fund.

II. Any physician, licensed pursuant to RSA 329, who violates this chapter shall be subject to disciplinary action under RSA 329:17.

III. Any business incorporated pursuant to RSA 293-A which violates the provisions of this chapter shall have its certificate of authority revoked.

3 New Subparagraph; Human Cloning. Amend RSA 329:17, VI by inserting after subparagraph (k) the following new subparagraph:

(l) Has violated the provisions of RSA 141-I.

4 Applicability. The commissioner of health and human services shall call the first meeting of the commission established in section 2 of this act

within 30 days after passage of this act. The members of the commission shall elect a chairperson at the first meeting.

5 Funding. The department of health and human services has determined that no additional funds are necessary to implement this act.

6 Repeal. RSA 141-I, relative to human cloning, is repealed.

7 Effective Date.

I. Section 6 of this act shall take effect January 1, 2004.

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

Adopted.

Rep. Jacobson spoke against.

Reps. Cushing and Donovan spoke in favor and yielded to questions.

On a division vote, 224 members having voted in the affirmative and 89 in the negative, the report was adopted.

Ordered to third reading.

CACR 31, relating to the rulemaking authority of the supreme court. Providing that supreme court rules are effective only when not inconsistent with statute. INEXPEDIENT TO LEGISLATE

Rep. Sandra B. Keans for Judiciary and Family Law: It is inappropriate to put this question before the voters because another bill setting up a study committee has been passed to deal with the same sections of the Constitution. The report of the study is due November 1, 1998. If there is a reason to go forward this CACR can be introduced in January. Vote 10-5.

Rep. Jacobson spoke against and yielded to questions.

Rep. Keans spoke in favor and yielded to questions.

Reps. Cobbin and Mirski spoke against.

Rep. Peterson spoke in favor.

Rep. Weber requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 195 NAYS 118

YEAS 195

BELKNAP			
Bartlett, Gordon	Boriso, Thomas	Calvert, Alice	Golden, Paul
Holbrook, Robert	Lawton, Robert	Pilliod, James	Turner, Robert
CARROLL			
Bradley, Jeb	Cooper, Kipp	Howard, Godfrey	Mock, Henry
Patten, Betsey	Philbrick, Donald		
CHESHIRE			
DePecol, Benjamin	Doucette, Richard	Hunt, John	Lynott, Margaret
Manning, Joseph	McGuirk, Paul	McNamara, Wanda	Meader, David
Metzger, Katherine	Riley, William	Royce, H. Charles	Smith, Edwin
Vogl, John			
COOS			
Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Davis, Perley
Guay, Lawrence	Horton, Lynn	Mears, Edgar	Merrill, Gerald
Moynihan, Wayne			
GRAFTON			
Akins, Ralph	Below, Clifton	Brown, Channing	Copenhaver, Marion
Eaton, Stephanie	Ham, Bonnie	LaMott, Paul	Luker, Elsa
Nordgren, Sharon	Teschner, Douglass		
HILLSBOROUGH			
Alukonis, David	Ameen, W.	Amidon, Eleanor	Brundige, Robert
Buckley, Raymond	Calawa, Leon, Jr.	Chabot, Robert	Clay, Susan
Clemons, Jane	Cote, David	Cote, Peter	Dawe, Eileen
Drabinowicz, A. Theresa	Durham, Susan	Dwyer, Paul, Sr.	Dyer, Merton
Emerton, Lawrence, Sr.	Fenton, James	Fields, Dennis	Foster, Joseph
Foster, Linda	Franks, Suzan	Gage, Ruth	Gagnon, Eugene
Ginsburg, Ruth	Gosselin, Gerald	Goulet, Maurice	Haettenschwiller, Alphonse
Hall, Betty	Hart, Nick	Jean, Claudette	Johnson, Lionel
Kelley, Robert	Kurk, Neal	L'Heureux, Robert	LaRose, Richard

Leonard, Peter	Lozeau, Donnalee	MacIntyre, Doris	McCarty, Winston
McDonald, James, Sr.	Melcher, Harold	Messier, Irene	Milligan, Robert
Murphy, Robert	O'Hearn, Jane	Perkins, Paul	Peterson, Andrew
Reidy, Frank	Riley, Frances	Sargent, Maxwell	Searles, Stanley, Sr.
Turgeon, Roland	Vaillancourt, Steve	Welch, Donald	Wheeler, Robert
White, Jay	Williams, Carol	Wright, George	
MERRIMACK			
Chandler, Earle	Daneault, Gabriel	Dunn, Miriam	Fraser, Marilyn
French, Barbara	Hess, David	Lockwood, Robert	Marshall, Kenneth
Moore, Carol	Morrill, Olive	Owen, Derek	Pfaff, Terence
Reardon, Tara	Rogers, Katherine	Seldin, Gloria	Wallner, Mary Jane
Whalley, Michael	Whittemore, James	Yeaton, Charles	
ROCKINGHAM			
Arndt, Janet	Blanchard, MaryAnn	Case, Margaret	Christie, Andrew, Jr.
Clark, Martha	Dalrymple, Janeen	Dowd, Sandra	Downing, Michael
Flanders, John, Sr.	Frechette, Joseph	Gleason, John	Griffin, Mary
Guthrie, Joseph	Heath, John	Henderson, Warren	Hutchinson, Rebecca
Kane, Cecelia	Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane
Klemm, Arthur, Jr.	Kobel, Rudolph	Langone, John	Lovejoy, Marian
McKinney, Betsy	Micklon, Stephanie	Millard, Ralph	Norelli, Terie
Noyes, Richard	Rabideau, Marie	Reardon, Neil	Sabella, Norma
Sapareto, Frank	Stone, Joseph	Syracusa, Anthony	Tufts, J. Arthur
STRAFFORD			
Berube, Roger	Brennan, William	Brown, Julie	Cossette, Larry
DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Grassie, Anne
Hemon, Roland	Heon, Richard	Keans, Sandra	Knowles, William
Merrill, Amanda	Pelletier, Arthur	Pelletier, Marsha	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Spear, Barbara	Sullivan, Henry
Taylor, Kathleen	Torr, Ann	Torr, Franklin	Tsiros, William
Twardus, Joseph	Wall, Janet		

SULLIVAN			
Burling, Peter	Cloutier, John	Donovan, Thomas	Ferland, Brenda
Leone, Richard	Lindblade, Eric	Palmer, Lorraine	Schotanus, Merle
Wiggins, Celestine			
NAYS 118			
BELKNAP			
Boyce, Robert	Clark, Charles	Laflam, Robert	Lawton, David
Rice, Thomas, Jr.	Rosen, Ralph		
CARROLL			
Babson, David, Jr.	Kenney, Joseph	Lyman, L. Randy	
CHESHIRE			
Bonneau, Sarah	Burnham, Daniel	Richardson, Barbara	Robertson, Timothy
COOS			
Pratt, Leighton	St. Hilaire, Paul	Tholl, John, Jr.	
GRAFTON			
Alger, John	Almy, Susan	Chase, Paul, Jr.	Cobbin, Philip
Guaraldi, Lawrence	Hill, Richard	Hinman, Harry	Lovett, Sidney
Mirski, Paul	Phinney, William	Root, John	Trelfa, Richard
Weber, Phil	Williams, William, Jr.		
HILLSBOROUGH			
Arnold, Thomas, Jr.	Batula, Peter	Belvin, William	Bergin, Peter
Burke, M. Virginia	Carlson, Donald	Christiansen, Lars	Daigle, Robert
Daniels, Gary	Desrosiers, William	Dokmo, Cynthia	Flora, Kathleen
Golding, William	Herman, Keith	Holley, Sylvia	Holt, David
Jean, Loren	Konys, Christine	Lefebvre, Roland	Leishman, Peter
Lessard, Rudy	Letendre, Evelyn	Luebkert, Bernard	Lynde, Harold
MacGillivray, Jeffrey	Martin, Mary	McCarthy, William	McGough, Tim
McRae, Karen	Mercer, Robert	Murch, George	Rowe, Robert

White, Donald			
MERRIMACK			
Adams, Stephen	Anderson, Eric	Brown, Mary	Crowell, Peter
DeStefano, Stephen	Gile, Mary	Hoadley, Elizabeth	Jacobson, Alf
Krueger, Patricia	Lamach, Bernard	Langer, Ray	Larrabee, David
Lavoie, Gerard	Leber, William	Maxfield, Roy	St. Cyr, Gerard
ROCKINGHAM			
Abbott, Dennis	Beaulieu, Jon	Belanger, Ronald	Camm, Kevin
Cooney, Richard	Cushing, Robert	Dearborn, Bruce	Dodge, Robert
Dolan, Richard	Dowling, Patricia	Dunham, Vivian	Fesh, Robert
Flanders, David	Francoeur, Sheila	Gibbons, Paul	Langley, Jane
Letourneau, Robert	Major, Norman	Malcolm, Kenneth	Mikowski, Walter
Packard, Sherman	Pitts, Jacqueline	Raynowska, Bernard	Schanda, Frank
Stickney, Nancy	Stritch, C. Donald	Varrell, Thomas	Verani, Giovanni
Weatherspoon, Jackie	Welch, David	Weyler, Kenneth	
STRAFFORD			
Bickford, David	Kaen, Naida	McCann, William, Jr.	McKinley, Robert
Merritt, Deborah	Rogers, Rose Marie	Vachon, Dennis	
SULLIVAN			
Kibbey, David			

and the report was adopted.

PROTEST

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

The notion that the people amending the Constitution would provoke a constitutional crisis is, of course, ludicrous as is the report of the Committee and the vote of the House.

REMARKS

Rep. Hill moved that the remarks made by Rep. Jacobson be printed in the Journal.

Adopted.

If you are feeling confused about the changes in the committee report regarding CACR 31, you can relax. It is only a demonstration of the power of the court's lobbyist and that of the Bar Association. The lobbyist is an attractive young woman and if it were not for the fact that I am so irascible, I also may have succumbed. In 1969 when I came to the Legislature, I was under the naïve assumption that the public good is the standard for measuring the validity of a measure, but after 24 years the public good still seems shadowy and distant as a criterion for the passage or defeat of proposed legislation. I have also learned that even if the public good is there, it oftentimes does not have a lobbyist. CACR 31, which seeks some legislative input into certain questions in the court's rule-making power with respect to Part II, Article 73-a, has, since its adoption, been more controversial than any other amendment to the New Hampshire Constitution. May I also say that this is going to be very stodgy and boring, so do not feel that I will be offended if you get up and leave for more charming conversations. So, for those who are willing to endure and in order that each member has an opportunity to understand the issue, a little bit of history is in order. For 194 years the court operated successfully without Part II, Article 73-a without much controversy. In the 1974 Constitutional Convention, Resolution 141 was introduced which said that the Chief Justice of the Supreme Court "shall be the administrative head of the courts." Nothing was said about any rules of procedure. However, when it came out of committee it had the following sentence: "The rules so promulgated shall have the force and effect of law." As many of us know this sentence has been the source of continuing controversy because it fundamentally changed the historic relationship between the court and the legislature. At this 1974 meeting, Delegate Martin Gross asked what effect that sentence would have on the legislature's ability in providing statutes on court procedures in the future. "Is my understanding correct that this amendment, if adopted, would not deprive the legislature of its right that it presently has, to regulate court procedure by statute?" Delegate Nighswander answered: "I would think that any power that they have now, they would still have." But it certainly did not turn out that way as the court now, under this amendment, claims exclusive power. Now in the 1984 Constitutional Convention there was Resolution 100 in which the majority report suggested that there be a legislative review of the rules so promulgated. Again, Delegate Martin Gross said, "The issue is whether authority over court procedures is to be allowed to slip from the exclusive control of the courts themselves, or whether we will continue to allow the legislature to step into reform procedures when necessary." On the other hand, Delegate Conti argued that "The court, in a government of separate powers, does not and cannot intrude on these internal rules of the legislature. The Legislature in turn, in my judgment, is without constitutional authority to intrude on the court's power to make rules." What is interesting about this is the comparison of judicial rules and legislative rules. Our constitutional right to make rules affects only those who are the members whereas the rules of court can affect every individual. The meeting failed to adopt that by a vote of 130 to 189. Now we come to 1996 when the House passed HB 1549 which had to do with the rule of evidence with respect to sexual assault. It passed the House. When it got to the Senate, the bill was sent up for an advisory judicial opinion. In January of 1997 the court said that HB 1549 was unconstitutional. There was a wave of anguish in the legislature over the decision. Our distinguished House Speaker, Donna Sytek, had a wonderful response. This is what she said. "This was an attempt to walk on the rocks of this raging stream of judicial opinion and not get wet. We got splashed on this one. We may have to find some other rocks. We may have to build a bridge over that stream." The court argued that "The legislature has no more right to break down the rules prescribed by the court to assure fundamental due process in criminal trials than the court has to prescribe the mode and manner in which the legislature shall perform its legislative duties." That is exactly the same kind of thing that was argued before. I think it is important to remember that the New Hampshire Constitution's separation of powers as in Part I, Article 37 is bound in by the consent of the governed, and the only direct appeal that the people have is through its legislature. If that be not so, we are confronted by a dangerous philosophy. What is most fascinating about this 1997 decision in

support of the court with regard to judicial opinions is that the classic one used was Merrill v. Sherburne in 1818. I say classic because this is the case that established the power of judicial review in New Hampshire that is consistent with Marbury v. Madison on the federal level, and with which I agree. Prior to that, this legislature actually acted as though it were judicially and legislatively as well, a court. But in that decision it contained some very interesting words and I would like to quote these. "Nor can they be both judicial and legislative; because a marked difference exists between the employments of judicial and legislative tribunals. The former decide upon the legality of claims and conduct; the latter make rules upon which, in connection with the constitution, those decisions should be founded." In other words, it affirmed the right of the legislature to make rules with regards to procedure. What is also fascinating about this 1997 decision was that if you read it through never once does it utilize Part II, Article 73-a in its argument, but solely relied on this decision and Part I, Article 37. One could well conclude from that argument that Part II, Article 73-a is actually unnecessary. I read this rather than just talk because it is a complicated subject. What I am saying to you is, and what I believe is, that we ought to have, that is the people of New Hampshire, ought to have an opportunity to review this most controversial amendment and let them affirm it or let them deny it. Then the matter can be settled. I leave it up to you to make that kind of decision. Thank you.

REGULAR CALENDAR (CONT'D.)

HB 1144, relative to protecting personal privacy. INEXPEDIENT TO LEGISLATE

Rep. Andrew R. Peterson for Judiciary and Family Law: The committee deadlocked twice on this piece of legislation which concerns personal privacy issues to which we are all sensitive. However, the majority found that this bill, if enacted, would leave the State of New Hampshire an island in the broad ocean of credit (and other) practices in the United States and could result in serious unintended consequences to the flow of commerce. The aims of this bill, in the opinion of the majority, are better pursued through Federal legislation, as it presupposes changes which would indeed be national in scope. Vote 9-7.

Rep. Sabella spoke against and yielded to questions.

Rep. Peterson spoke in favor.

Rep. McGough requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 174 NAYS 124

YEAS 174

BELKNAP			
Bartlett, Gordon	Boriso, Thomas	Calvert, Alice	Clark, Charles

Golden, Paul	Holbrook, Robert	Lawton, David	Lawton, Robert
Pilliod, James	Turner, Robert		
CARROLL			
Bradley, Jeb	Chandler, Gene	Cooper, Kipp	Kenney, Joseph
Lyman, L. Randy	Patten, Betsey	Philbrick, Donald	
CHESHIRE			
Burnham, Daniel	DePecol, Benjamin	Doucette, Richard	Hunt, John
Lynott, Margaret	Manning, Joseph	McGuirk, Paul	McNamara, Wanda
Metzger, Katherine	Robertson, Timothy	Royce, H. Charles	Smith, Edwin
COOS			
Bradley, Paula	Coulombe, Henry	Coulombe, Yvonne	Davis, Perley
Guay, Lawrence	Horton, Lynn	Merrill, Gerald	Moynihan, Wayne
Pratt, Leighton			
GRAFTON			
Almy, Susan	Below, Clifton	Brown, Channing	Eaton, Stephanie
Guaraldi, Lawrence	Ham, Bonnie	Hill, Richard	LaMott, Paul
Phinney, William	Trelfa, Richard	Williams, William, Jr.	
HILLSBOROUGH			
Alukonis, David	Amidon, Eleanor	Bergin, Peter	Brundige, Robert
Calawa, Leon, Jr.	Chabot, Robert	Christiansen, Lars	Clay, Susan
Clemons, Jane	Dawe, Eileen	Durham, Susan	Dyer, Merton
Emerton, Lawrence, Sr.	Fenton, James	Fields, Dennis	Foster, Linda
Franks, Suzan	Gagnon, Eugene	Golding, William	Gosselin, Gerald
Goulet, Maurice	Haettenschwiller, Alphonse Hart, Nick	Herman, Keith	
Holley, Sylvia	Jean, Claudette	Johnson, Lionel	Kelley, Robert
L'Heureux, Robert	Letendre, Evelyn	Lozeau, Donnalee	MacIntyre, Doris
McCarty, Winston	McDonald, James, Sr.	Melcher, Harold	Milligan, Robert
Murphy, Robert	O'Hearn, Jane	Peterson, Andrew	Reidy, Frank
Riley, Frances	Rowe, Robert	Sargent, Maxwell	Searles, Stanley, Sr.

Turgeon, Roland	Welch, Donald	Wheeler, Robert	White, Jay
Wright, George			
MERRIMACK			
Anderson, Eric	Chandler, Earle	Daneault, Gabriel	DeStefano, Stephen
Dunn, Miriam	Fraser, Marilyn	Hess, David	Hoadley, Elizabeth
Jacobson, Alf	Krueger, Patricia	Larrabee, David	Leber, William
Lockwood, Robert	Marshall, Kenneth	Maxfield, Roy	Morrill, Olive
Reardon, Tara	St. Cyr, Gerard	Whalley, Michael	Whittemore, James
ROCKINGHAM			
Arndt, Janet	Belanger, Ronald	Camm, Kevin	Case, Margaret
Christie, Andrew, Jr.	Clark, Martha	Cooney, Richard	Dodge, Robert
Dowd, Sandra	Downing, Michael	Flanders, John, Sr.	Frechette, Joseph
Gleason, John	Griffin, Mary	Guthrie, Joseph	Heath, John
Henderson, Warren	Hutchinson, Rebecca	Kane, Cecelia	Katsakiores, George
Klemm, Arthur, Jr.	Kobel, Rudolph	Langley, Jane	Major, Norman
Malcolm, Kenneth	Millard, Ralph	Norelli, Terie	Noyes, Richard
Packard, Sherman	Raynowska, Bernard	Schanda, Frank	Stickney, Nancy
Stone, Joseph	Syracusa, Anthony	Tufts, J. Arthur	Welch, David
Weyler, Kenneth			
STRAFFORD			
Berube, Roger	Brown, Julie	Cossette, Larry	Dunlap, Patricia
Heon, Richard	Knowles, William	Rollo, Michael	Smith, Marjorie
Snyder, Clair	Spear, Barbara	Sullivan, Henry	Torr, Ann
Torr, Franklin	Wall, Janet		
SULLIVAN			
Ferland, Brenda	Lindblade, Eric	Palmer, Lorraine	Schotanus, Merle
Wiggins, Celestine			
NAYS 124			
BELKNAP			

Boyce, Robert	Laflam, Robert	Rice, Thomas, Jr.	Rosen, Ralph
CARROLL			
Babson, David, Jr.	Mock, Henry		
CHESHIRE			
Meader, David	Richardson, Barbara	Riley, William	Vogl, John
COOS			
Mears, Edgar	Tholl, John, Jr.		
GRAFTON			
Akins, Ralph	Alger, John	Chase, Paul, Jr.	Cobbin, Philip
Hinman, Harry	Lovett, Sidney	Mirski, Paul	Root, John
Teschner, Douglass	Weber, Phil		
HILLSBOROUGH			
Ameen, W.	Arnold, Thomas, Jr.	Batula, Peter	Belvin, William
Buckley, Raymond	Burke, M. Virginia	Carlson, Donald	Cote, Peter
Daigle, Robert	Daniels, Gary	Dokmo, Cynthia	Drabinowicz, A. Theresa
Dwyer, Paul, Sr.	Flora, Kathleen	Foster, Joseph	Hall, Betty
Holt, David	Jean, Loren	Konys, Christine	Kurk, Neal
LaRose, Richard	Lefebvre, Roland	Leishman, Peter	Leonard, Peter
Lessard, Rudy	Luebkert, Bernard	Lynde, Harold	MacGillivray, Jeffrey
Martin, Mary	McCarthy, William	McGough, Tim	McRae, Karen
Messier, Irene	Murch, George	Perkins, Paul	Vaillancourt, Steve
White, Donald	Williams, Carol		
MERRIMACK			
Adams, Stephen	Brown, Mary	Crowell, Peter	French, Barbara
Gile, Mary	Lamach, Bernard	Langer, Ray	Lavoie, Gerard
Moore, Carol	Rogers, Katherine	Seldin, Gloria	Yeaton, Charles
ROCKINGHAM			
Abbott, Dennis	Beaulieu, Jon	Blanchard, MaryAnn	Cushing, Robert
Dalrymple, Janeen	Dolan, Richard	Dowling, Patricia	Dunham, Vivian

Fesh, Robert	Flanders, David	Francoeur, Sheila	Gibbons, Paul
Katsakiores, Phyllis	Langone, John	Letourneau, Robert	Lovejoy, Marian
McKinney, Betsy	Micklon, Stephanie	Mikowski, Walter	Pitts, Jacqueline
Rabideau, Marie	Reardon, Neil	Sabella, Norma	Sapareto, Frank
Stritch, C. Donald	Varrell, Thomas	Verani, Giovanni	Weatherspoon, Jackie
STRAFFORD			
Bickford, David	Brennan, William	DeChane, Marlene	Estabrook, Iris
Grassie, Anne	Hemon, Roland	Kaen, Naida	Keans, Sandra
McCann, William, Jr.	McKinley, Robert	Merrill, Amanda	Merritt, Deborah
Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie	Taylor, Kathleen
Tsiros, William	Twardus, Joseph	Vachon, Dennis	
SULLIVAN			
Burling, Peter	Cloutier, John	Donovan, Thomas	Kibbey, David
Leone, Richard			

and the report was adopted.

HB 1376, relative to co-parenting of children. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Terence R. Pfaff for the Majority of Judiciary and Family Law: In 99% of divorce cases joint legal custody is granted. This bill presumes we can legislate better communication between parents when it is the breakdown in communications which frequently precedes divorces. While the intent of this bill is to have more and better contact between children and parents, this isn't the appropriate method to achieve that. The committee believes that within the context of the best interest of the child the custody issues are extremely important and urge the court to ensure that judges and masters take advantage of every possible opportunity to receive training that will help them render fair and impartial decisions based on the very real individual circumstances of each family. Vote 13-2.

Rep. David A. Bickford for the Minority of Judiciary and Family Law: This bill recognizes the value of both parents and would create a policy to assure minor children could have frequent and significant time with each parent on a shared basis whenever possible, but not necessarily equal in time and hours.

Majority report adopted.

HB 1452, relative to expanding the court's authority for debt collection by including license revocation and suspension. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Sandra B. Keans for the Majority of Judiciary and Family Law: The committee is sympathetic with the intent of the sponsor to use the threat of removal of a driver's license to collect debts between individuals. The courts do use this system to enforce child support payments because the state sees this as in the best interests of the child's security. However, we don't believe there is a compelling state reason to enter into the middle of financial matters between two adults. Vote 11-1.

Rep. David A. Bickford for the Minority of Judiciary and Family Law: License revocation is a collection method presently used for the benefit of custodial parents which helps alleviate jail overcrowding. This bill expands this tool to benefit all citizens. It would be of particular help to non-custodial parents to collect debts owed to them thereby reducing the need to lower child support payments. The collection of debts owed to all members of a family is paramount to supporting families.

Majority report adopted.

HB 1470, relative to protection of religious freedoms. INEXPEDIENT TO LEGISLATE

Rep. Marjorie K. Smith for Judiciary and Family Law: This bill alludes to some serious and complex issues relating to balancing potentially competing constitutional rights. However, it was not heard by the committee until the Friday before the reporting deadline, leaving no time for appropriate consideration. There was testimony that the bill might not adequately address the issue. Some suggested that a constitutional amendment might be the appropriate solution, others favored legislation under consideration in other states. Because this is the second year of the biennium and the Judiciary and Family Law has already committed to interim study on six bills, the committee concluded that it would be appropriate to ask the sponsor to work with interested parties both within and outside of the legislature in order to come back in the next session with a bill which more closely meets the goals of the sponsors. Vote 10-3.

Adopted.

HB 1471, allowing loss of familial relationship damages in wrongful death actions. OUGHT TO PASS

Rep. Benjamin J. DePecol for Judiciary and Family Law: At times our legal system seems to treat our children as economic property. In our non-agrarian society this concept is outdated. This bill says to the courts that our children provide we parents with comfort, society, affection, guidance, companionship and many other qualities as the parents provide to our children. This puts all concerned on an equal legal level of recovery in wrongful death cases. Vote 9-5.

Adopted and ordered to third reading.

HB 1486, establishing a committee to study joint physical custody and child support guidelines. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Irene A. Pratt for the Majority of Judiciary and Family Law: It appears premature to establish another study committee regarding joint physical custody and child support guideline issues when the 1995 study and findings are presently addressed in SB 774. Vote 14-1.

Rep. David F. Bickford for the Minority of Judiciary and Family Law: This bill would have merely studied what 14 other states have adopted in whole or part.

Majority report adopted.

HB 1622-FN, relative to remedies and appeals under the whistleblowers' protection act. OUGHT TO PASS

Rep. David A. Bickford for Judiciary and Family Law: This bill allows compensation and attorneys' fees for employees under the whistleblowers' protection act and permits appeals to the superior court. Vote 7-5.

Rep. DePecol yielded to questions.

Adopted and ordered to third reading.

HB 1417-L, relative to involvement in mediation in collective bargaining negotiations by certain municipalities. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Robert E. Clegg, Jr. for the Majority of Labor, Industrial and Rehabilitative Services: This bill only pertains to those municipalities where the employer is also the legislative body. Under current law a mediator can require that the full employer body attend mediation in public bargaining. Being that the employer is also the legislative body, the result is that anything done during negotiations is done as a legislative body, making it impossible to separate the two functions. In at least a couple of cases the mediator has called the full body into negotiations. In those cases the employer body, recognizing the conflict, refused to participate as a whole and sent a representative(s) instead. While those known cases came to agreement, had they not the employer body could have been hit with an unfair labor practice for not following the mediator's instructions. It is worthy of noting that while mediators have instructed full employer/legislative bodies to participate in negotiations, no such requirement has ever been placed upon the union's bargaining unit-that the full legislative body of the union participate in negotiations. Those individuals serving in governing positions within municipalities currently affected want nothing more than to make the process fair, even, and beneficial for those they were elected to represent. This bill will do that. Vote 10-9.

Rep. Edgar H. Mears for the Minority of Labor, Industrial and Rehabilitative Services: The Minority contends that no compelling testimony was given to justify changes to RSA 273-A:12. Under current law, mediation is a voluntary process where either party can walk away. Furthermore, the Labor Committee is currently sponsoring public sessions to further study the public employee labor relations law. We feel it is premature to change the law at this time.

Rep. Daniels spoke against the Majority report.

The report failed.

Rep. Daniels moved Ought to Pass with Amendment and offered a floor amendment.

Floor Amendment (0942h)

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

1 Mediation with Certain Municipalities. Amend RSA 273-A:12, IV to read as follows:

IV. If the impasse is not resolved following the action of the legislative body, negotiations shall be reopened. Mediation may be requested by either party and may, at the mediator's option, involve the board of the public employer [if the mediator so chooses]. In cases where the board of the public employer also serves as the legislative body of a political subdivision, the mediator may request no more than one less than a quorum of the legislative body to participate in the mediation.

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

AMENDED ANALYSIS

This bill provides that in mediation in collective bargaining negotiations, where the public employer also serves as the legislative body of a political subdivision, the mediator may request no more than one less than a quorum of the legislative body to participate in the mediation.

Rep. Daniels spoke in favor.

Adopted.

Report adopted and ordered to third reading.

HB 1446, relative to certain private employers under workers' compensation. OUGHT TO PASS

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: This allows small farmers with an aggregate payroll of less than \$2,000. per calendar year to elect to carry private insurance instead of Workers' Compensation Insurance. Vote 13-5.

Adopted and ordered to third reading.

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, March 12, 1998 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

HB 1147, relative to corporate filings with the secretary of state.

HB 1165, relative to the incorporation, management, branching and merger of banks.

HB 1311, adopting the 1994 revisions to article 8 of the uniform commercial code relative to investment securities.

HB 1312, adopting the 1995 revisions to article 5 of the uniform commercial code relative to letters of credit.

HB 1314, relative to enforceable provisions in retail installment contracts for motor vehicles.

HB 1536, establishing a committee to study women's health care.

HB 1551-FN, adding dental insurance to the continuing insurance coverage for certain employees.

HB 1129, relative to the penalty and substance abuse treatment for multiple DWI offenders who have previously successfully completed a multiple DWI offender intervention detention center program.

HB 1149, relative to the power to detain an accused person without a warrant for breach of conditions of release on bail.

HB 1307, relative to penalties for habitual offenders.

HB 1448, relative to confidential communication between victims and counselors.

HB 1561-FN, preventing computer pornography and child exploitation and increasing penalties for possession under the child pornography laws.

HB 1588-FN, relative to causing injury to a police dog or horse.

HB 1209, revising the interagency agreement for special education.

HB 1320, amending provisions of the advisory committee on the education of students with disabilities.

HB 1428, establishing requirements for teachers and teacher preparation programs to ensure that teachers are prepared to teach to a broad range of students including exceptional learners.

HB 1429, amending state board of education rulemaking authority relative to certain educational personnel.

HB 1121, making technical corrections to the election laws.

HB 1124, relative to disposal of septage or sludge.

HB 1160, relative to the definitions of the terms "farm," "agriculture," and "farming."

HB 1229, exempting biological control agents from registration requirements for pesticides.

HB 1238, establishing a committee to study ways to manage land use and to preserve and protect the state's farmland, rural and community character, and environmental quality against low density sprawl and the loss of sense of place.

HB 1299, requiring members of executive branch councils to file annual financial statements and relative to certain person's who fail to file annual financial statements.

HB 1361, relative to rulemaking authority, subpoena powers, and establishment of civil penalties by the board of professional engineers.

HB 1455, relative to the publication of administrative rules.

HB 1459, relative to the specificity of administrative rules and the identification of state and federal law in the rule making process.

HB 1303-FN-A-L, continually appropriating boating fees and other revenues to the division of safety services.

HB 1326, relative to applications for exemption to the state hiring delay.

HB 1384-FN-A, making an appropriation for use by the New Hampshire Commission on the Smithsonian Festival of American Folklife.

HB 1456, relative to the budget making process.

HB 1118, relative to the expiration of contact lens prescriptions.

HB 1150, establishing a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services.

HB 1166, relative to the oversight committee on health and human services.

HB 1298-FN-L, requiring health care providers to wear identification.

HB 1498, authorizing emergency medical care providers to inform patients of transport options.

HB 1408, requiring a criminal background investigation for certain child care agencies.

HB 1423-FN, modifying the definition of employment under the unemployment compensation statute and assignment of unemployment compensation payments for a claimant's child support obligations.

HB 1109, allowing prepayment of property taxes before April 1.

HB 1122, relative to the licensure of charitable organizations to conduct bingo games or sell lucky 7 tickets in towns and cities in which the organizations have been conducting charitable activities.

HB 1131, relative to the sale of liquor and beverages and relative to enforcement of the liquor laws.

HB 1469-L, establishing a committee to examine the valuation of public utility property.

HB 1111, relative to the types of investments allowable by local treasurers.

HB 1112, relative to the placement of articles on the official ballot.

HB 1113, relative to reports of town and school district meetings to be certified to the department of revenue administration.

HB 1126-L, relative to municipal debt limits.

HB 1172-L, relative to the number of members on a municipal budget committee.

HB 1236-L, relative to limitations on the amendment of warrant articles in official ballot voting.

HB 1434-L, simplifying the charter amendment procedure for the purpose of establishing official ballot voting.

HB 1447-L, relative to approval by the legislative body of cost items in a collective bargaining agreement.

HB 1568, relative to the timing of special school district meetings.

HB 1608, providing that the membership on any charter commission established in a multi-town school district shall reflect each town's proportionate membership of the district's school board.

HB 1496, relative to energy facility evaluation.

HB 1281, requiring managed care plans to permit a woman to select an obstetrician-gynecologist as a primary care physician or to obtain access for certain obstetrical or gynecological services.

HB 1411, establishing a committee to study the feasibility of creating a nonprofit, public corporation to facilitate the availability of affordable health insurance for the uninsured and underinsured by organizing large purchasing groups of subsidized and non-subsidized subscribers and establishing the individual health insurance market mandatory risk sharing plan.

HB 1011-FN, making it a felony to operate certain gambling businesses and prohibiting possession of gambling machines unless specifically authorized under state law.

HB 1543-FN-L, relative to disbursement of income of persons held or imprisoned in a county department of corrections facility.

HB 1562, excepting cannabis-type drugs from forfeited drugs which may be delivered to the department of health and human services for medical use.

HB 1215, establishing a committee to study the shortage of qualified and certified personnel in the delivery of services related to special education.

HB 1280-L, clarifying the procedures for background criminal checks for school employees and volunteers.

HB 1369, revising the student membership of the university system of New Hampshire board of trustees.

HB 1414, relative to review of non-renewal of teachers contracts.

HB 1501, relative to amending certain provisions of the charter school law.

HB 1145, relative to the definition of "livestock."

HB 1225, restricting the land application of solid wastes within certain distances of natural, rural, rural-community, and community rivers and exempting certain uses allowed under prior interpretations of the law.

HB 1346, relative to certain definitions under the solid waste management act.

HB 1606-L, relative to liability for response to hazardous materials accidents.

HB 1623, relative to a waiting period before a cat or ferret may be euthanized, relative to requirements for cats, ferrets, and dogs transferred from animal shelter facilities, and relative to ferret rabies suspects.

HB 1438, establishing a committee to study the regulation of personnel employed in early care and education including, but not limited to, center and family-based child care and preschools.

HB 1653, relative to the composition of the board of barbering, cosmetology, and esthetics.

HB 1217, relative to balancing the operating budget.

HB 1295-FN, relative to reimbursing the state medical assistance program.

HB 1310, relative to legislative approval of expenditure of federal and other funds.

HB 1399-FN, revising certain information required in the state operating budget.

HB 1400-FN, relative to the powers and duties of the commissioner of health and human services and relative to out-of-state trips by state officials or employees.

HB 1563, relative to the professional use of cannabis-type drugs.

HB 1658-FN, relative to prohibiting the cloning of human beings in New Hampshire.

HB 1471, allowing loss of familial relationship damages in wrongful death actions.

HB 1622-FN, relative to remedies and appeals under the whistleblowers' protection act.

HB 1417-L, relative to involvement in mediation in collective bargaining negotiations by certain municipalities.

HB 1446, relative to certain private employers under workers' compensation.

UNANIMOUS CONSENT

Rep. Burling moved that the remarks made by Rep. Dunn on February 18, 1998 be printed in the Journal.

Adopted.

Rep. Dunn: Thank you, Madam Speaker. I also apologize for the lateness of the hour, although it is not my fault either. Rep. Jacobson mentioned an historic event and I would like to briefly mention another historic event which is the 1998 Olympics, the women's Team USA ice hockey which won the gold and I'm sure that you are all aware of it. I would like to use a four-letter word, Madam Speaker, with your permission, because sometimes a word is very important. The word is spelled G I R L. If you listened to the male sportscasters on this hockey game, you'll see how hard they tried not to use this no-no word. I have no problem, whatsoever. I looked at the roster last night of 25 players and counted nine from New Hampshire. That is almost one-third. Not only is that unusual, I think it is quite incredible. There are two from Dartmouth College. There are four from UNH and there are three homegrown New Hampshire women, or girls, on that team. I thought that without

New Hampshire there would be no gold medal. There might not even be a Team USA for women's hockey. The three women who are on that team are from three towns with which I have a particular personal affiliation and I have never met. Tricia Dunn, who is not a relative in any way, is from Derry. I spent two fine years at Pinkerton Academy in Derry. The second is Katie King from the town of Salem. I lived in Windham in the 1940s and we used to go the race track, my doctor dad and I, at 4:00 in the morning to watch the thoroughbreds exercise. That is before pacers and trotters came in and it is before Route 93 ever came in. And last, but not least, I am a Concord representative incidentally, is Tara Mounsey. I have been a Concord resident since 1966. I would like to suggest, Madam Speaker, that this House consider a New Hampshire House party. I don't mean a slumber party, but I mean a non-partisan, non-sexist party. I think that when the girls return home from their week in Hawaii, they may be available for some kind of a celebration. I have not polled the Concord Delegation to see if we would team up with the Derry and the Salem Delegations to work on some kind of a celebration. Some of you may or may not realize that the Concord Delegation involves 13 representatives here, all girls. I did not split out the Derry and Salem Delegations by sex, but I do know that a former classmate of mine at Pinkerton Academy is a Derry delegate, and George Katsakiores is no girl. We could also invite the Governor, she's a girl, and we have a Senator for this district who is a girl on the other side. I only hope that perhaps we could work together. This is a team to be really proud of and the State of New Hampshire is responsible for the gold medal that Team USA has won. Thank you very much.

Clerk's note: The remarks made by Rep. Dunn are printed here for the benefit of the members. In the permanent Journal they will appear in the Journal of February 18th.

RECESS MOTION

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

Adopted.

The House recessed at 5:20 p.m.

RECESS

BILLS SIGNED BY THE GOVERNOR

Chap. 1, SB 84, revising the uniform simultaneous death act. (eff. 1/1/99)

Chap. 2, HB 1119, relative to the town line between the towns of Groton and Plymouth, New Hampshire. (eff. 3/6/98)

Chap. 3, HB 1664, authorizing salary increases for state law enforcement officers. (eff. sec. 3, 5/14/98; remainder 3/6/98)

