

# HOUSE RECORD

Second Year of the 155<sup>th</sup> Session of the General  
Court

Calendar and Journal of the 1998 Session

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Concord N.H. Thursday, April 23, 1998

No. 38

## HOUSE JOURNAL No. 10 (cont.)

Thursday, April 9, 1998

(Rep. Kurk in the Chair)

### RESOLUTION

Rep. Hawkinson offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 367 and 409 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 367**, relative to the public protection fund administered by the New Hampshire Bar Association.  
(Judiciary and Family Law)

**SB 409-FN**, relative to long-term care and extending the moratorium on new nursing home beds.  
(Health, Human Services and Elderly Affairs)

### RECESS

(Rep. Hill in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 132, 544 and 802 and Senate Bill numbered 414.

Rep. Nowe for the Committee

RECESS

**(Rep. Keans in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 734, 1159 and 1192.

Rep. Nowe, Sen. Barnes for the Committee

RECESS

**(Rep. Nowe in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 1150, 1222, 1247 and HJR 21.

Rep. Nowe, Sen. Barnes for the Committee

RECESS

**(Rep. Packard in the Chair)**

**ENROLLED BILL AMENDMENTS**

***HB 1393***, extending the reporting date for the postsecondary educational assistance for members of the New Hampshire national guard study committee and extending the repeal date relative to such assistance.

**Amendment (1365-EBA)**

Amend section 2 of the bill by replacing line 1 with the following:

2 Repeal Date Extended. Amend 1996, 237:7, I to read as follows:

Adopted.

***HB 1394***, extending the reporting date for the school building aid system study committee.

**Amendment (1387-EBA)**

Amend 1997, 145:5 as inserted by section 1 of the bill by replacing line 2 with the following:

legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the

Adopted.

**HB 1497**, establishing a committee to study adoption of a single factor method of apportionment for business taxation purposes.

**Amendment (1400-EBA)**

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

AN ACT            establishing a committee to study adoption of a single sales factor method of apportionment for business taxation purposes.

Adopted.

**RECESS**

**(Rep. Royce in the Chair)**

**RESOLUTION**

Rep. Whalley offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 356, 423, 427, 437, 471, 472, 488, 501 and 503 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 356-L**, relative to the bond required as a condition for filing an intent to cut or receiving a permit to cut. (Local and Regulated Revenues)

**SB 423-FN**, relative to eligibility for cost of living adjustments for retired members or beneficiaries in the New Hampshire retirement system. (Executive Departments and Administration)

**SB 427**, establishing a revolving fund for loans for intrastate energy pipeline facilities improvements. (Commerce)

**SB 437**, requiring a one year mandatory prison sentence for a third DWI conviction. (Criminal Justice and Public Safety)

**SB 471-FN**, creating the presumption that a juvenile charged with a driving while intoxicated felony offense, shall be certifiable as an adult. (Criminal Justice and Public Safety)

**SB 472-FN-L**, relative to filing security interests under the Uniform Commercial Code. (Commerce)

***SB 488-FN***, directing the department of environmental services to create a model for managing the flow of water in the Winnepesaukee River watershed and creating an advisory committee. (Resources, Recreation and Development)

***SB 501-FN-A***, relative to authorizing an attorney for prosecutions by the board of medicine and making an appropriation therefor. (Executive Departments and Administration)

***SB 503-FN***, relative to the New Hampshire community technical college system. (Education)

RECESS

(Speaker Sytek in the Chair)

Rep. Lozeau moved that the House adjourn.

Adopted.

# HOUSE JOURNAL No. 11

Thursday, April 23, 1998

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

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

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

O God of startling grace, help us to live fully in the sacrament of the present moment. Save us from clinging to the past or striving too greedily for the future. But, fill us with the fullness of Your presence in this time, in this place so that we may be with each other as You are with us and for each other as You are for us. Amen.

Reps. Ferland and Hill led the Pledge of Allegiance.

## LEAVES OF ABSENCE

Reps. Belvin, Julie Brown, Champagne, Cooper, Dalrymple, Flint, Robert Foster, Gibbons, Healy, Cecelia Kane, Langley, O'Rourke, Pepino, Perkins, Paul Taylor and Carol Williams, the day, illness.

Reps. Adler, Allen, Bonneau, Carney, Case, Cegelis, Coes, Dawe, Franks, Fraser, Guay, Hager, Ham, Hoadley, Hurt, Claudette Jean, Robert Kelley, Klemm, Lefebvre, MacNeil, William McCarthy, James McDonald, Nowe, Pantelakos, Marsha Pelletier, Simmons, Ann Torr, Donald Welch and Whittemore, the day, important business.

Reps. Cushing, Irene Pratt and Rice, the day, illness in the family.

## INTRODUCTION OF GUESTS

Vincent Dunn, Jr. and Patrick Dunn, son and grandson of Rep. Dunn. Rodney Woodill, guest of Rep. DeChane. Gail Currier, daughter of Rep. Kathleen Taylor. Hon. Joan Quennell, guest of Rep. Lovett. Gerard Murphy, guest of Rep. Hess. Brenda Leighton, guest of members of the Legislative Speechcrafter Class.

### **SPECIAL GUESTS**

The American Studies Class from Hollis/Brookline High School and their advisors, guests of the House.

### **SENATE MESSAGES**

### **CONCURRENCE**

**HB 111**, establishing a committee to study the preservation of and access to records of legislation in the state archives.

**HB 152**, relative to permissible fireworks.

**HB 552-L**, clarifying the authority of municipalities to regulate the use of their highways which provide sole access to properties in adjoining municipalities.

**HB 579-FN-L**, providing that a person who, having made all reasonable efforts to preserve employment, leaves a job in order to protect himself or herself from domestic abuse, shall not be denied unemployment compensation.

**HB 642**, clarifying the effect of subdivision on property tax assessment and collection.

**HB 734-FN**, establishing a study committee on district court evening sessions.

**HB 1111**, relative to the types of investments allowable by local treasurers.

**HB 1115-L**, relative to boundary markers.

**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 1124**, relative to disposal of septage or sludge.

**HB 1125**, repealing laws relative to trading stamp companies and solar equipment warranties.

**HB 1130-FN**, relative to the distribution of beverages.

**HB 1135**, relative to the use of watercraft and boats on Ledge Pond in the town of Sunapee.

**HB 1146**, relative to the use of capital reserve funds for multiple payments of lease/purchase agreements.

**HB 1150**, establishing a committee to study the authority, functions, duties, funding, and responsibilities of the bureau of emergency medical services.

**HB 1154**, establishing a committee to study the issue of updating New Hampshire laws related to fences.

**HB 1155**, relative to wastewater in low flow areas.

**HB 1157**, relative to the layout of highways.

**HB 1159**, establishing a committee to study strategies for increasing parental involvement in public education.

**HB 1162**, relative to permit applications before the hazardous waste facility siting board.

**HB 1192**, permitting the city of Concord to combine the positions of tax collector and treasurer.

**HB 1213**, relative to the authority of a town to appoint agents to expend funds for certain purposes.

**HB 1247**, establishing a study committee relative to access to public school facilities and programs by home school students.

**HB 1313**, requiring brew pub licensee's to report delinquencies by wholesale distributors.

**HB 1340-L**, establishing a committee to study the upgrade of Dean Memorial Airport in NorthHaverhill, New Hampshire.

**HB 1394**, extending the reporting date for the school building aid system study committee.

**HB 1395**, relative to property tax exemptions for water and pollution control facilities.

**HB 1406**, increasing the maximum amount for a small claim action.

**HB 1457**, permitting physician assistants to possess, compound, administer, or distribute prescription drugs.

**HB 1480**, allowing a city or town to petition the liquor commission to revoke the liquor license of a licensee located within the city or town.

**HB 1497**, establishing a committee to study adoption of a single factor method of apportionment for business taxation purposes.

**HB 1502**, extending the reporting date for the statewide school technology plan study committee.

**HB 1518-L**, increasing the minimum purchase amount by a county requiring competitive bidding.

**HB 1526**, requiring the department of education to publish an annual report of special education statistics.

**HB 1592**, relative to the enhanced 911 data base.

**HB 1634**, relative to amending the definition of "educational institution" under the New Hampshire municipal bond bank educational institutions bond financing act.

**HB 1651**, establishing a committee to study the protection of cable consumers and the enhancement of cable electronic services.

**HJR 21**, requesting that the United States Congress return to the states the authority to regulate campaign finance.

**HJR 23**, supporting the state's petition to the federal Environmental Protection Agency to reduce interstate transport of air pollutants from other states, requesting that Congress make certain changes in the federal Clean Air Act, and requesting that the Environmental Protection Agency enforce certain existing provisions of the Clean Air Act regarding interstate transport of air pollution.

**HCR 25**, requesting the U.S. Postal Service to issue a stamp commemorating the 200th anniversary of the United States naval shipyards.

### **REQUESTS CONCURRENCE WITH AMENDMENTS**

**HB 1126-L**, relative to municipal debt limits. (Amendment printed SJ 10, 4/9/98)

Rep. Metzger moved that the House concur.

Adopted.

**HB 1330-FN**, naming the bridge over the Newfound River on route 104 west in the town of Bristol, New Hampshire, the Richard W. Musgrove bridge. (Amendment printed SJ 10, 4/9/98)

Rep. Gene Chandler moved that the House concur and spoke in favor.

Adopted.

**HB 1158**, changing the process for designating a part-time district court justice a full-time district court justice. (Amendment printed SJ 10, 4/9/98)

Rep. John McCarthy moved that the House concur.

Adopted.

### **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.

Consent Calendar adopted.

**SB 337**, relative to the order of distribution of claims from an insurer's estate. **OUGHT TO PASS**

Rep. Keith R. Herman for Commerce: A recent U. S. Supreme Court decision forces claims of the federal government to be paid immediately after administration costs and policyholder claims when

an insurance company's assets are liquidated. New Hampshire statute lists the order in which liquidated assets are distributed. This bill simply changes the order to comply with the Supreme Court ruling. Vote 14-0.

**SB 357**, establishing a committee to study insurance coverage for infertility. OUGHT TO PASS

Rep. Martha Fuller Clark for Commerce: Treatment for infertility is a rapidly evolving science dealing with one of life's personal issues, the ability to have children. This is an issue which involves both women and men and has profound emotional, social and economic issues for individuals and for society. The cost of infertility treatment and the ability of insurance companies to provide or deny coverage of such services is also of critical concern. Opponents to the bill were anxious that such a study would automatically lead to another insurance mandate. The majority of the committee disagreed, believing that before any infertility legislation could be introduced, a comprehensive study of the issue, both within the state and nationwide, is essential. Vote 12-3.

**SB 452-FN-L**, allowing students to choose alternatives to dissection as part of a course exercise. INEXPEDIENT TO LEGISLATE

Rep. Stanley N. Searles, Sr. for Education: The committee feels that it is important to review the current statutory requirement regarding vivisection which is found in the criminal code as well as the provision of this bill relating to dissection and to place the provision within the context of education laws. In order to do this the education committee has asked the Department of Education to prepare a legislative proposal to address both vivisection and dissection. Vote 14-0.

**SB 91-FN**, relative to the water well board. OUGHT TO PASS

Rep. Howard C. Dickinson, Jr. for Executive Departments and Administration: This bill and the passage of HB 632 last year resolved previous problems between the water well board, the drillers and Department of Environmental Services. This also assures that the public have a vehicle to easily present difficulties or concerns they may have with faulty wells. Vote 14-0.

**SB 310**, relative to the licensure of micropigmentation practitioners. INEXPEDIENT TO LEGISLATE

Rep. Nancy C. Stickney for Executive Departments and Administration: Micropigmentation is another name for cosmetic tattooing. (That is placing inert, non-toxic dye under the skin of a living being). Licensing requirements, hygienic standards for establishments and practitioners are already in place under RSA 314-A with special rules in place for cosmetic tattooing, therefore, the committee decided this bill is not necessary. Vote 18-0.

**SB 397**, relative to the composition of the pharmacy board. OUGHT TO PASS WITH AMENDMENT

Rep. Sylvia A. Holley for Executive Departments and Administration: The amended senate bill would have increased the pharmacy board from six to nine members. Testimony before our committee indicated there were no problems with the current composition of the board. The committee decided, as it has with other licensing boards, that more public representation would be helpful. The amendment replaces the senate bill and adds one more public member to the board.. Vote 18-0.

**Amendment (1232h)**

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

1 Pharmacy Board; Public Member Added. Amend RSA 318:2 to read as follows:

318:2 Board. There shall be a pharmacy board consisting of ~~[6]~~ **7** members; including 5 practicing pharmacists and ~~[one]~~ **2** public ~~[member]~~ **members**, each to be appointed by the governor, with the approval of the council, to a term of 5 years. No member shall be appointed to more than 2 consecutive terms. Only board members provided for in this section shall have the authority to vote in board determinations.

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

#### AMENDED ANALYSIS

This bill adds a public member to the pharmacy board.

**SB 431-FN-A**, establishing a statewide database licensing program of the New Hampshire automated information system and making an appropriation therefor **REFER FOR INTERIM STUDY**

Rep. Miriam D. Dunn for Executive Departments and Administration: This bill has full support of the committee with all testimony in favor. Interim study accomplishes two things: first by keeping the bill alive, the state library can continue its research relative to licensed program vendors for this data base, which will then be available to municipalities through libraries and schools, as well as to the general public. Savings will be realized when the data base replaces the need for subscriptions to newspapers, periodicals and other publications which now cost a considerable portion of library and school budgets. Secondly, although a one-dollar appropriation is in the bill, the fiscal impact projections are large. Interim study allows time for more realistic figures to be presented for implementation of the project. Vote 13-0.

**SB 373**, protecting quality assurance information of home health care providers from discovery. **OUGHT TO PASS**

Rep. Daniel M. Burnham for Health, Human Services and Elderly Affairs: This bill extends the quality assurance process now provided hospitals to home health care providers. The process excludes the scrutiny of the legal profession from documents and records utilized during quality assurance procedures. Vote 12-0.

**SB 311**, establishing the Uniform International Wills Act. **OUGHT TO PASS**

Rep. Andrew R. Peterson for Judiciary and Family Law: The bill, which establishes the Uniform International Wills Act, is permissive legislation which allows New Hampshire residents the option to attach to their will a certificate which conforms to language agreed to by international convention. This would be particularly helpful to individuals who, for example, own real estate in other countries and wish to provide for expedited probate processes for their foreign-held assets. Vote 14-0.

**SB 433-FN**, relative to computing average weekly wages for the purpose of determining workers' compensation benefits, **INEXPEDIENT TO LEGISLATE**

Rep. Wanda McNamara for Labor, Industrial and Rehabilitative Services: The committee found this bill inexpedient to legislate based on three factors. When HB 630 passed in 1985, it was the intent of

the legislature to ensure that all of the people government depends on to serve and protect the public do not suffer financial loss if injured performing that service. People who serve part-time, or volunteer, are recognized in this law to receive maximum benefits. The administrative hearing that raised the issue that prompted SB 433, has been overturned by the Department of Labor Appeals Board which ruled that RSA 105:1 includes all police and fire-fighters, whether full or part-time. The Department of Labor and the Attorney General's Office both agreed that the original intent of the existing statute included part-time police and fire personnel. The committee has a letter from the Department of Labor stating that further rulings will be based on statutory intent. Therefore, this bill is not needed. Vote 14-0.

**SB 73-FN**, providing that telecommunications poles and lines be subject to the property tax. OUGHT TO PASS WITH AMENDMENT

Rep. Linda T. Foster for Local and Regulated Revenues: The amendment, which replaces the bill, upholds the House position on this issue. This position has passed the house twice as recommended by both the policy and finance committees. Vote 15-1.

#### **Amendment (1283h)**

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

AN ACT            relative to municipal taxation of telecommunications poles and conduits.

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

1 New Section; Property Taxation of Telecommunications Poles and Conduits. Amend RSA 72 by inserting after section 8 the following new section:

72:8-a Telecommunications Poles and Conduits. All structures, poles, towers, and conduits employed in the transmission of telecommunication or cable services shall be taxed as real estate in the town in which such property or any part of its is situated. Wires, fiber optics, switching equipment, and other telecommunications or cable services transmission devices and equipment owned by a person or corporation operating as a telecommunications or cable services provider shall not be taxable as real property.

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

#### **AMENDED ANALYSIS**

This bill clarifies the types of telecommunications property which are subject to property taxation by municipalities.

**SB 332**, requiring that the real estate transfer questionnaire be provided to the municipality in which the property is located. OUGHT TO PASS

Rep. Stephen G. Avery for Local and Regulated Revenues: This legislation will, with a minimum of effort, allow tax assessors and selectmen immediate access to the selling price of property and relevant conditions of the sale within their jurisdiction so that they may keep property assessments current. Vote 15-1.

**SB 412**, designating skiing as the official New Hampshire sport. OUGHT TO PASS

Rep. Robert J. Laflam for Resources, Recreation and Development: This bill designates skiing as the official New Hampshire sport. The Committee recognized the contribution of all forms of outdoor recreation to the economic development and quality of life to New Hampshire's residents and visitors. Recognizing the dynamic impact this sport has had over all the state for over 60 years from its youth outreach programs to its major contribution to economic development the committee concluded that the sport of skiing in our state was most worthy of being designated as our state sport. Vote 12-3.

**SB 140**, relative to the obligations of joint owners to the nuclear decommissioning finance fund.  
**OUGHT TO PASS WITH AMENDMENT**

Rep. Jeb E. Bradley for Science, Technology and Energy: This bill is the result of much hard work in both the Senate and House Committees. The bill came as a result of a Nuclear Regulatory Commission (NRC) concern that one of the joint owners (Great Bay Power—12% share) of the Seabrook Power Plant does not have retail customers from whom decommissioning charges could be collected. Great Bay sells power into the wholesale market. The NRC gave Great Bay a one (1) year extension in which to solve this funding assurance problem which is of great concern also to members of the committee. Great Bay is currently up-to-date with all payments to the nuclear decommissioning fund. Great Bay has agreed, however, to accelerate funding for decommissioning on the basis of a 25-year life expectancy of the nuclear plant, rather than the current 36 years. The other joint owners will proportionally guarantee Great Bay's twelve percent (12%) share of Seabrook decommissioning costs under the terms of SB 140. The other joint owners have agreed to this accelerated funding mechanism for Great Bay. The other portion of the bill merges the contents of SB 341, which deals with the make-up of the Nuclear Decommissioning Finance Committee (NDFC). Currently, only members of the Fiscal Committee can serve on the NDFC. Under the proposed amendment, one member from each of the respective House and Senate policy committees would be appointed, as would one member from each body. The director of the Governor's Office of Energy and Community Services would replace a representative of the lead joint owners. There was no opposition to these changes in the composition of the NDFC at the public hearing. The Seabrook joint owners are also supporting this bill as amended. Vote 14-0.

#### **Amendment (1421h)**

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

AN ACT           relative to the obligations of joint owners to the nuclear decommissioning financing fund and relative to the membership of the nuclear decommissioning financing committee.

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

1 Public Safety and Welfare; Decommissioning of Nuclear Electric Generating Facilities;  
Committee Established; Composition. Amend RSA 162-F:15, II to read as follows:

II. Each committee shall consist of one person who is a resident of the town or city in which the facility is to be located and who shall be appointed by the selectmen of the town or the mayor and council of the city, the chairman of the public utilities commission, ~~[one senator, who is a member of the legislative fiscal committee]~~ **2 senators, at least one of whom shall be a member of the executive departments and administration committee, or its successor, and one of whom shall be familiar with fiscal issues**, to be appointed by the senate president, ~~[one house member, who is a member of the legislative fiscal committee]~~ **2 house members, at least one of whom shall be a member of the science, technology, and energy committee, or its successor, and one of whom shall be familiar with fiscal issues**, to be appointed by the speaker of the

house, the state treasurer or designee, the commissioner of the department of health and human services or designee, the commissioner of the department of safety or designee, and ~~[a representative of the lead company as designated by the owner or owners of the facility]~~ ***the director of the governor's office of energy and community services or designee.***

2 Decommissioning of Nuclear Electric Generating Facilities; Guarantee of Payment; Default of Payment.

I. As used in this act, "joint owner of the facility without a franchise territory" means an owner of a facility, as defined in RSA 162-F:14, III, which does not have, either directly or indirectly through a subsidiary, affiliate, or contractual relationship, a retail electricity distribution franchise territory from which to collect decommissioning costs, on the effective date of this section.

II. The joint owners of a facility shall be proportional guarantors of the decommissioning obligations of any joint owner of the facility without a franchise territory.

III. The nuclear decommissioning financing committee shall designate the joint owners of a facility as proportional guarantors of any joint owners of the facility that are unable to meet their obligations as proportional guarantors of the decommissioning obligations of any joint owner of the facility without a franchise territory.

IV. If a joint owner of the facility without a franchise territory defaults on its decommissioning obligations, the committee shall require the remaining owners of the facility to submit for the committee's approval a plan for the fulfillment of the defaulting owner's decommissioning obligations. The plan shall be submitted within 30 days after the default. The plan may include the sale of the defaulting owner's share of the power generated by the facility, and the application of the proceeds of such sale to the defaulting owner's decommissioning obligations. For purposes of this section, "default" means the failure by an owner to make 2 consecutive payments to the fund required by RSA 162-F.

V. If there is no plan submitted and approved pursuant to paragraph III, the committee may prepare and implement a plan for recovering the decommissioning costs in default.

VI. Notwithstanding any other provision of law, a utility that is required to pay a proportional share as guarantor pursuant to this section may charge all or some of the amount to customers on a per kilowatt hour basis only upon approval by the public utilities commission after a finding that such a charge is just and reasonable and in the public good.

VII. Any obligation incurred by an owner as a guarantor pursuant to this section shall be enforceable under the provisions of RSA 162-F.

3 Repeal. Section 2, relative to decommissioning of nuclear electric generating facilities, is repealed.

4 Contingency. Section 3 of this act shall take effect 30 days after the chairman of the nuclear decommissioning financing committee has certified to the secretary of state that comprehensive funding assurance for decommissioning has been implemented.

5 Effective Date.

I. Section 3 of this act shall take effect as provided in section 4.

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

#### AMENDED ANALYSIS

This bill designates joint owners of a facility as guarantors of the decommissioning obligations of a joint owner without a franchise territory. This bill provides that the nuclear decommissioning finance committee shall require a plan for the fulfillment of the decommissioning obligations of a joint owner of a facility without a franchise territory that defaults. This bill also changes the membership of the nuclear decommissioning financing committee.

#### REGULAR CALENDAR

**SB 308**, relative to the board of directors of Delta Dental Plan of New Hampshire, Inc. OUGHT TO PASS WITH AMENDMENT

Rep. John B. Hunt for Commerce: Delta Dental Plan of New Hampshire(DDPNH) was enabled by the Legislature through passage of Chapter 345 on 6/30/61. Accordingly, DDPNH is under the purview of the Legislature. DDPNH was incorporated on 7/26/66, recorded as a Voluntary Corporation under RSA 292 on 3/20/68, and was granted its tax exempt status on 2/21/73 as a 501©(4) organization.

In 1992, the Legislature enacted RSA 420-F which brought DDPNH's rate filing and other activities under the jurisdiction of the Department of Insurance. As a not-for-profit, DDPNH has a special obligation to promote the spread of affordable dental care to the citizens of New Hampshire. As documented recently by Michael DeLucia, Director of Charitable Trust, DDPNH's requirements for maintaining its tax exempt status include the promotion of "social welfare" – the activities of the organization must benefit the community as a whole, rather than merely benefiting the organization's membership.

Senate Bill 308, as passed by the Senate, was extremely controversial because it changed the election of board members by the dentists to the election of board members by the subscribers only, leaving the dentists out of the process.

After five(5) Public Work sessions, the Commerce Committee ("Committee of the whole") amended the original SB 308 to address concerns raised by both opponents and proponents of the Senate's version of SB 308.

The committee's amendment is a compromise now supported by the original proponents of the bill, the DDPNH Corporation, group purchasers, subscribers and dentist members, carefully crafted after over one month of negotiations. While retaining the current 7 dentist composition of the DDPNH board – everyone agrees that dentist input on the DDPNH board is important – an External Nominating Committee will now develop board candidates as terms expire and members of the board of directors will elect their own members from a slate developed by this impartial Nominating Committee. The board will no longer be elected by dentists in the state, eliminating perceived and potentially real conflict of interest in the current process. Dentists, however, retain their status as the sole members of the corporation and can approve DDPNH corporate by-laws by a majority vote. The by-laws also must be approved by 2/3 majority of the board. Vote 14-1.

#### Amendment (1409h)

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

1 Definition Clarified. RSA 420-F:1, I(g) is repealed and reenacted to read as follows:

(g) "Public member" means a member of the general public who may or may not be eligible for benefits under a Delta service plan, who shall not be in a position to make the dental plan purchasing decision for a group or be associated with the dental profession. Family members of persons in a position to make group dental plan purchasing decisions and family members of persons associated with the dental profession may not serve as public members.

2 New Subparagraph; Purchaser Member. Amend RSA 420-F:1, I by inserting after subparagraph (g) the following new subparagraph:

(gg) "Purchaser member" means an employer, association, union or other entity which is a current Delta group contract holder.

3 Board of Directors. RSA 420-F:2 is repealed and reenacted to read as follows:

420-F:2 Directors.

I. The board of directors who shall manage the business and affairs of Delta shall be composed of 7 participating dentists, 4 public members, and 4 purchaser members.

II. A nominating committee composed of 2 participating dentists, one member of the general public and 2 purchasers, none of whom are members of the board, selected by a majority vote of the entire board, shall develop recommendations for board nominees, as board vacancies occur, which nominees shall be approved to serve on the board by a majority vote of the entire board. The nominating committee may use an outside consultant in selecting new board members as vacancies occur.

4 New Section; Bylaws. Amend RSA 420-F by inserting after section 2 the following new section:

420-F:2-a Bylaws. Any bylaw developed by the board of directors or developed by the members shall require approval of both 2/3 of the members of the board and a simple majority of all the members of Delta.

5 Initial Board Selection Committee. There shall be an initial board selection committee to select the members enumerated in section 3 of this act which shall be used as vacancies occur and until the provisions of section 3 are in place. The committee shall be composed as follows: the dentist members of the current board of directors, under RSA 420-F:2, shall select 2 participating dentists who are not board members, and Delta's senior management shall select one public member and 2 purchaser members none of whom are board members. In selecting the permanent board, the initial board selection committee shall use an outside consultant.

6 Applicability. The articles of agreement, bylaws, and all governing documents as they exist on the effective date of this act shall survive, except as expressly modified by this law; provided that there shall be no changes to existing bylaws or new bylaws made after March 17, 1998 until the new board is seated.

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

AMENDED ANALYSIS

This bill modifies the qualifications of the board of directors of Delta Dental Plan of NewHampshire, Inc. and changes the composition of the board.

Adopted.

Report adopted and ordered to third reading.

**HB 1663-FN**, relative to rulemaking under the administrative procedures act. OUGHT TO PASS WITH AMENDMENT

Reps. Robert S. Mercer for Executive Departments and Administration: This amendment corrects most of the problems that the original bill addressed without taking away legislative oversight of the administrative rulemaking process: 1. The commissioner of administrative services has been given the responsibility to set up an administrative rules unit to train agencies, boards, and commissions in rule drafting procedures and to help these agencies, boards and commissions in the writing of proposed rules prior to the public hearings and before these rules are presented to the Joint Legislative Committee on Administrative Rules (JLCAR). 2. It directs the Commissioner of Administrative Services to complete his review of the rulemaking manual and to fulfill his obligation to have rules for all of his respective departments. 3. Several sections of the bill make technical changes to RSA 541-A which some agencies requested. These changes simplify and streamline the rule making process without jeopardizing legislative oversight, or the protection of the interests of the legislature, business, and the public. 4. To strengthen legislative oversight we included a "sunset provision" for agencies, boards and commissions that do not comply with the statutory authority to promulgate rules granted them by the legislature. 5 The original bill cut JLCAR staff by three people. This amendment leaves the staff intact and authorizes them to notify the chair of appropriate standing committees in the house and senate when agencies do not comply with 541-A or when JLCAR recommendations are made to agencies relative to legislation as a result of JLCAR's review of proposed or adopted rules. 6. JLCAR and its staff should be reviewing all proposed legislation dealing with rulemaking and assisting legislative policy committees in their consideration of such legislation. This will help policy committees draft proper rulemaking authority in pending legislation so that it is clear what authority will be given to the agency, board, or commission. 7. Finally, a legislative study committee is recommended to oversee the new responsibilities granted to the Commissioner of Administrative Services and to make recommendations for further changes to the rule making process if the need is justified. Vote 16-1.

#### **Amendment (1318h)**

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

AN ACT            relative to rulemaking under the administrative procedures act and the responsibilities of the office of legislative services and the department of administrative services, and establishing a committee to study procedures in administrative rulemaking.

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

1 Findings and Purpose. It is the understanding of both the legislative and executive branches of state government that administrative rules and the rulemaking process are important and that both branches are committed to providing the necessary resources and expertise to prepare, review, and enforce administrative rules, with the understanding that rules have the force and effect of law and profoundly impact the lives and livelihoods of every citizen of New Hampshire.

2 Office of the Commissioner of Administrative Services; Number of Units Deleted. Amend the introductory paragraph of RSA 21-I:4 to read as follows:

21-I:4 Office Established. There is hereby established an office of the commissioner consisting of the following [5] units:

3 New Paragraph; Administrative Rules Unit. Amend RSA 21-I:4 by inserting after paragraph V the following new paragraph:

VI. Administrative rules.

4 New Section; Administrative Rules Unit. Amend RSA 21-I by inserting after section 7-b the following new section:

21-I:7-c Administrative Rules Unit.

I. There is hereby established in the office of the commissioner of administrative services an administrative rules unit. The commissioner is authorized to employ personnel as necessary.

II. The administrative rules unit shall be responsible for:

(a) Developing and operating a training program to train and improve all executive branch departments, boards, and commissions in the appropriate rulemaking procedures according to RSA 541-A.

(b) Assisting all executive branch departments, boards, and commissions in drafting proposed rules under RSA 541-A.

(c) Carrying out the duties of the commissioner in developing a user friendly drafting and procedures manual pursuant to RSA 541-A:8 with the director of legislative services or staff of the office of legislative services and the joint legislative committee on administrative rules.

(d) Drafting all administrative rules required to be adopted by the commissioner of administrative services pursuant to RSA 541-A.

III. To carry out the responsibilities under subparagraphs II(a)-(c), the commissioner shall receive the full support and assistance of all executive branch departments, boards, and commissions, including but not limited to the use of personnel, equipment, and facilities.

5 New Paragraph; Definition Added; Department. Amend RSA 541-A:1 by inserting after paragraph V the following new paragraph:

V-a. "Department" means the department of administrative services.

6 Joint Legislative Committee on Administrative Rules. Amend RSA 541-A:2 to read as follows:

541-A:2 Joint Legislative Committee on Administrative Rules.

I. There is hereby created a joint legislative committee to be known as the joint legislative committee on administrative rules. The committee shall be composed of 10 members of the general court and 4 alternates to be appointed for 2-year terms ending on the first Wednesday in December of even-numbered years as follows: 5 members of the house of representatives, appointed by the speaker of the house in consultation with the minority leader, not more than 3 of whom shall be from the same party; 5 members of the senate, appointed by the senate president in consultation with the minority leader, not more than 3 of whom shall be from the same party; 2 alternate members of the house of representatives appointed by the speaker of the house in consultation with the minority leader, not more than one of whom shall be from the same party; and 2 alternate members of the senate, appointed by the senate president in consultation with the minority leader, not more than one of whom shall be from the same party. If a member of the committee is unable, for any reason, to attend a meeting or a portion of a meeting of the committee, the ~~[chairman]~~ **chair** shall designate an alternate member to serve ~~[in his place]~~ regardless of the number of other senators or representatives who attend the meeting. The committee shall elect a ~~[chairman]~~ **chair** and a ~~[vice-chairman]~~ **vice-chair** from among its members, provided that the ~~[chairmanship]~~ **chair** shall rotate biennially between the house and senate members.

II. The committee shall meet at least once each month and more often as necessary for the prompt discharge of its duties ~~[and may use the staff and services of the director of legislative services]~~. **The director of legislative services shall provide services and shall employ full-time staff, including clerical support and specially designated committee legal counsel, in a division of administrative rules established within the office of legislative services, to the extent the committee deems necessary.** The committee shall adopt rules to govern its operation and organization. A quorum of the committee shall consist of 6 members. Members of the committee shall be entitled to legislative mileage as provided to members for attendance at sessions of the general court.

III. The committee may hold public hearings on a proposed or previously adopted rule on its own initiative. The committee shall give public notice of any hearing at least 7 days in advance in the rulemaking register. Any public hearing shall be scheduled at a time and place chosen to afford opportunity for affected persons to present their views. As appropriate, the committee may consult with the standing legislative committee having jurisdiction in the area of the rule under review.

IV. In addition to its ongoing review of proposed and adopted rules, the committee shall:

(a) Petition an agency under RSA 541-A:4 to adopt rules if the agency has clear rulemaking authority which it has not used.

(b) Review statutory passages granting rulemaking authority. On the basis of this review, the committee shall, before each regular legislative session, make written recommendations to the president of the senate and the speaker of the house as to how such passages should be amended to eliminate confusing, inefficient, or unnecessary statutory language.

(c) Make written recommendations, when appropriate, to the president of the senate and the speaker of the house as to how the legislative oversight of rulemaking might be improved. These recommendations may include proposed amendments to RSA 541-A.

(d) Have the authority to amend and provide the final approval of the drafting and procedure manual developed by the director of legislative services and the commissioner of administrative services under RSA 541-A:8.

***(e) Notify the chairpersons of appropriate standing committees of the general court in writing when committee recommendations are made to agencies relative to legislation as a result of reviewing proposed and adopted rules.***

***(f) Make written recommendations, when appropriate, to the president of the senate, the speaker of the house of representatives, and the chairs of standing committees of the general court having jurisdiction over the subject matter of an agency concerning the amendment or repeal of the statutory authority of an agency that has enforced rules which are not effective or not otherwise valid, or that has not commenced rulemaking or adopted rules as required by statute.***

7 Petition for Adoption of Rules. Amend RSA 541-A:4 to read as follows:

541-A:4 Petition for Adoption of Rules.

***I.*** Any interested person may petition an agency to adopt, amend, or repeal a rule. Within 30 days of receiving the petition, the agency shall determine whether to grant or deny the petition and notify the petitioner. If the agency decides to deny the petition, the agency shall notify the petitioner of its decision in writing and shall state its reasons for denial. If the agency grants the petition, it shall notify the petitioner and commence the rulemaking proceeding by requesting a fiscal impact statement pursuant to RSA 541-A:5 within 120 days of receipt of the petition and continuing the proceeding as specified in RSA 541-A:3.

***II. Notwithstanding paragraph I, if the committee petitions an agency to adopt, amend, or repeal a rule, and the agency does not notify the committee that rulemaking has commenced within one year of receiving the petition, or does not file a final proposal under RSA 541-A:12 within 2 years of receiving the petition, the committee may file legislation to repeal the agency's rulemaking authority or otherwise amend the agency authority.***

8 Gender Neutral. Amend RSA 541-A:5, I and II to read as follows:

***I.*** The agency shall provide the legislative budget assistant with adequate details of the intended action and supporting data to enable ~~[him]~~ ***the legislative budget assistant*** to prepare a fiscal impact statement.

***II.*** The legislative budget assistant shall develop a form which shall specify the details and supporting data necessary ~~[for him]~~ to assess the fiscal impact of the proposed rule.

9 Gender Neutral. Amend the introductory paragraph of RSA 541-A:5, IV to read as follows:

***IV.*** The fiscal impact statement issued by the legislative budget assistant shall not be limited to dollar amounts, but shall include a discussion of the methodology used ~~[by him and the agency]~~ to reach any stated amounts. In addition, the fiscal impact statement shall consist of:

10 Gender Neutral. Amend RSA 541-A:6, II and III to read as follows:

***II.*** The director of legislative services may refuse to publish a notice if ~~[he]~~ ***the director*** determines that there is significant noncompliance with the requirements of paragraph I ~~[above]~~.

III. The agency shall send notice to the director of legislative services, to the president of the senate, to the speaker of the house of representatives, to the ~~[chairman]~~ **chair** of the fiscal committee, to the ~~[chairmen]~~ **chairs** of the legislative committees having jurisdiction over the subject matter, and to all persons who have made timely request for advance notice of rulemaking proceedings and to all persons regulated by the proposed rules who hold occupational licenses issued by the agency. Notice shall be made not less than 20 days before the first agency public hearing required by RSA 541-A:11. Notice to occupational licensees shall be by U.S. Mail, agency bulletin or newsletter, public notice advertisement in a publication of daily statewide circulation, or in such other manner deemed sufficient by the committee.

11 Drafting and Procedure Manual. Amend RSA 541-A:8 to read as follows:

541-A:8 Drafting and Procedure Manual.

***I. Each agency shall conform to a drafting and procedure manual for rules, developed by the director of legislative services and the commissioner of administrative services, subject to amendment and final approval by the committee. **The manual shall be submitted for approval by the committee no later than December 31, 1998. If no manual is submitted by such date, the committee shall have the authority to develop, and approve the manual. In either case, the committee shall provide final approval of the drafting and procedure manual no later than March 31, 1999. After March 31, 1999, the committee may propose further amendments to the manual. Any further amendments shall be subject to final approval by the committee.*****

***II. The department shall assist an agency as often as necessary both prior to and during a rulemaking proceeding in drafting proposed rules to conform to the manual.***

***III. The director may require any agency to rewrite any rule submitted for filing to conform to this manual until that rule is adopted and filed under RSA 541-A:14 or RSA 541-A:19.***

12 New Subparagraph; Rulemaking Register; List of Proposals. Amend RSA 541-A:9, I by inserting after subparagraph (i) the following new subparagraph:

(j) A list of proposals filed under RSA 541-A:12, I and proposed interim rules filed under RSA 541-A:19, II, and placed on the agenda for committee review at a regularly scheduled or special committee meeting.

13 Proposed Rule Text; Review by Department of Administrative Services. Amend RSA 541-A:10 to read as follows:

541-A:10 Filing of Proposed Rule Text.

***I. At the same time the notice required by RSA 541-A:6, I is filed, the agency shall file the text of the proposed rule with the director of legislative services **who shall provide copies for staff designated to the committee and to the department.*****

***II. The department shall review the proposed rule for compliance with the drafting and procedure manual pursuant to RSA 541-A:8.***

**III.** The text as filed shall not be changed or established as the text of the final proposal until after the conclusion of the public comment period established pursuant to RSA 541-A:11 **and after certification by the department pursuant to RSA 541-A:12, II(f).**

14 Submission of Materials to Board or Commission. Amend RSA 541-A:11, I to read as follows:

I. Each agency shall hold at least one public hearing on all proposed rules and shall afford all interested persons reasonable opportunity to testify and to submit data, views, or arguments in writing **or, if practicable for the agency, in electronic format**, in accordance with the terms of the notice and the provisions of this section. **The legal counsel designated to the committee may provide oral or written comments on potential bases for committee objection under RSA 541-A:13, IV. Each agency shall require all materials submitted in writing to be signed by the person who submits them, and the agency shall transfer to hard copy, if practicable for the agency, all materials submitted as diskette, electronic mail, or other electronic format. Copies of the proposed rule shall be available to the public under RSA 91-A and at least 5 days prior to the hearing.** For rules proposed by a board or commission, a period of at least ~~[5]~~ **7** days after the hearing shall be provided for the submission of ~~[such written]~~ materials **in writing or electronic format**, unless a shorter period is specified in the notice. If a shorter period is specified in the notice, the deadline for the submission of ~~[written]~~ **such** materials shall not be earlier than the scheduled conclusion of the public hearing. For rules proposed by an agency official, a period of at least ~~[5]~~ **7** days after the hearing shall be provided in all instances. If a hearing is continued or postponed as provided in paragraph III or IV of this section, the period for the submission of ~~[written]~~ materials **in writing or electronic format** shall be extended.

15 Public Comment; Extension of Deadlines. Amend RSA 541-A:11, III to read as follows:

III. To provide reasonable opportunity for public comment, the agency may continue a public hearing past the scheduled time or to another date, **or may extend the deadline for submission of written comment**. If the agency continues the hearing **or extends the deadline**, it shall notify the public by any means it deems appropriate, including notice in the rulemaking register whenever practicable.

16 New Paragraph; Filing Final Proposal; Placement on Agenda. Amend RSA 541-A:12, I to read as follows:

I. After considering fully public comment **and any committee or designated legal counsel comments** received pursuant to RSA 541-A:11, and any other relevant information, a quorum of the members of the agency or the agency official having rulemaking authority shall establish the text of the final proposed rule. After the text of the final proposed rule has been established, the agency shall file the final proposal no earlier than 21 days and no later than 150 days after the date of publication of the notice in the rulemaking register. If an agency is required to rewrite a rule in accordance with RSA 541-A:8, the agency shall have up to 180 days after the date of publication of the notice in the rulemaking register to file the final proposal. The agency shall file the final proposal with the director of legislative services, **who shall provide copies to staff designated to the committee and to the department**. Final proposals filed no later than ~~[14]~~ **28** days before a regularly scheduled committee meeting shall be placed on the agenda for that meeting. Final proposals filed fewer than ~~[14]~~ **28** days before a regularly scheduled committee meeting shall be placed on the agenda of the following regularly scheduled committee meeting, **unless included on the agenda of an earlier meeting if the committee determines that such action is appropriate**.

***I-a. Legal counsel designated to the committee shall review the final proposal and identify potential bases for committee objection pursuant to RSA 541-A:13, IV. Legal counsel shall notify the committee and the agency filing the rule as soon as possible of any potential bases for objection.***

17 New Paragraph. Amend RSA 541-A:12 by inserting after paragraph II (e) the following new paragraph:

***(f) Certification from the department that the rule has been reviewed by the department and conforms to the requirements in the drafting and procedures manual under RSA 541-A:8.***

18 Procedure Changed; Review by Joint Legislative Committee on Administrative Rules. RSA541-A:13 is repealed and reenacted to read as follows:

541 -A:13 Review by the Joint Legislative Committee on Administrative Rules.

I. Within 60 days of the filing of a final proposal with the director of legislative services, the committee may approve the rule or object under paragraph V. Objections to a rule may be made only once.

II.(a) After filing a final proposal pursuant to RSA 541-A:12, an agency may file a proposed amendment to the final proposal with the director for review by the committee and request that the committee approve the rule with the amendment. Both the request and the amendment shall be in writing and shall be filed at least 7 days prior to the regularly scheduled meeting or special meeting for which the final proposal has been placed on the agenda.

(b) The committee may:

(1) Approve the rule as originally filed pursuant to RSA 541-A:12;

(2) Approve the rule with the amendment; or

(3) Object under paragraph V.

(c) If the committee approves the rule as filed pursuant to RSA 541-A:12, or with the amendment, it shall notify the agency in writing of its approval.

(d) Failure to give take action under subparagraph II(a) by the end of the 60-day period shall be deemed approval.

III. If the rule is approved under subparagraph II(c) or (d), the agency may adopt the rule.

IV. The committee may object to a proposed rule if the rule is:

(a) Beyond the authority of the agency;

(b) Contrary to the intent of the legislature;

(c) Determined not to be in the public interest; or

(d) Deemed by the committee to have a substantial economic impact not recognized in the fiscal impact statement.

V. The following procedures shall govern committee objections:

(a) If the committee objects to the rule, it shall promptly send the agency a preliminary written objection stating the basis for the objection. A preliminary objection shall require the assent of a majority of the votes cast, a quorum being present.

(b) The agency shall respond to the preliminary objection by withdrawing the rule, by amending the rule to remove the basis for objection, or by making no change. The agency shall respond to a committee objection only once, except as provided in subparagraph V(d).

(c) The quorum of the board or commission or the agency official having rulemaking authority may respond in writing prior to the adjournment of the committee meeting during which the preliminary objection was made. The committee may address the response in the same meeting. The agency shall otherwise report its response in writing to the committee within 45 days of the committee's vote to make a preliminary objection. Failure to respond to the committee within 45 days shall mean the rulemaking procedure for that proposed rule is invalid; however, the agency is not precluded from initiating the process over again for a similar rule. After receipt of the agency response, the committee may modify its objections made under paragraph IV or approve the rule.

(d) After submitting its preliminary objection response and prior to the final committee vote on the final proposal, and in all cases, prior to the adoption of the rule by the agency, the agency may request the committee to approve the rule with further amendment or to issue a revised objection. The committee may approve the rule with further amendment only if the agency submits the request and proposed amendment in writing to the committee at least 7 days prior to the committee meeting at which the agency presents the rule. Submission of such a request shall not preclude the agency from requesting a revised objection if the committee does not approve the rule as requested.

(e) A revised objection may be made only once by the committee and may be made only at the request of the agency. The agency shall respond and the committee may review the response in the same manner as a preliminary objection. No further amendment may be made by the agency after it responds to the committee except as provided in RSA 541-A:14, II.

(f) If the agency responds but the basis for the committee's preliminary or revised objection has not been removed or the response creates a new basis for objection, the committee may, by majority vote of the entire committee, file a final objection. The final objection shall be filed in certified form with the director of legislative services, who shall publish the objection in the next issue of the rulemaking register.

VI. After a final objection by the committee to a provision in the rule is filed with the director under subparagraph V(f), the burden of proof shall be on the agency in any action for judicial review or for enforcement of the provision to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the legislature, is in the public interest, or does not have a substantial economic impact not recognized in the fiscal impact statement. If the agency fails to meet its burden of proof, the court shall declare the whole or a portion of the rule objected to invalid. The failure of the committee to object to a rule shall not be an implied legislative authorization of its substantive or procedural lawfulness.

VII.(a) The provisions of this paragraph may be used by the committee as an alternative to or in addition to the final objection procedure employed by the committee in paragraph V.

(b) If an agency responds to a preliminary or revised objection but the basis for objection has not been removed or the response creates a new basis for objection, the committee may, within 45 days from the date on which the objection response was due and by majority vote of the entire committee, recommend legislative action through sponsorship of a joint resolution to implement its recommendation. Such vote shall prevent the rule from being adopted and filed by the agency for the period of time specified in subparagraph VII(c).

(c) If the committee votes to sponsor a joint resolution pursuant to subparagraph VII(b), the agency shall be prevented from adopting and filing such rule until final legislative action is taken on the resolution or the passage of 90 consecutive calendar days during which the general court shall have been in session, whichever occurs first. The 90 calendar day period shall commence on the date such joint resolution has been introduced. If the session of the general court adjourns prior to the sixtieth calendar day after such joint resolution has been introduced, then the agency shall be prevented from adopting and filing such rule until 90 calendar days, beginning with the next session of the general court, have passed.

(d) The provisions of this paragraph shall apply to only the portion of the agency's rule identified in the joint resolution. The provisions of this paragraph shall not prevent an agency from adopting and filing the remainder of the rules in the final proposal under RSA 541-A while the committee pursues legislative action under this paragraph, nor shall it prevent the committee from also voting to enter a final objection pursuant to paragraph V.

(e) Nothing in this section shall prevent the general court from introducing legislation which addresses any matter included in a joint resolution introduced under the provisions of this section.

(f) Notwithstanding any house or senate rules to the contrary, a joint resolution which the committee votes to sponsor under subparagraph VII(b) may be introduced at any time during the legislative session. It shall be subject to the same rules as any other bill introduced at the beginning of the legislative session.

19 Final Adoption of Rules. Amend RSA 541-A:14, I-II to read as follows:

I. An agency may adopt a properly filed final proposed rule after:

(a) The passage of [~~45~~] **60** days from filing of a final proposal under RSA 541-A:12 without receiving notice of objection from the committee;

(b) Receiving notice of approval from the committee ***under RSA 541-A:13***;

(c) Passage of the [~~45-day~~] **60-day** period for committee review of the preliminary objection response, or revised objection response, if applicable, provided that the committee has not voted to sponsor a joint resolution pursuant to RSA 541-A:13, VII; or

(d) Final legislative action, as defined in RSA 541-A:1, VI-a, is taken on the joint resolution sponsored pursuant to RSA 541-A:13, VII(b) or the passage of the 90 consecutive calendar days specified by RSA 541-A:13, VII(c), whichever occurs first.

II. The text of the adopted rule shall be the same as the text of the final proposed rule submitted under RSA 541-A:12, except that any specific change may be made by the agency in direct response to the committee's ~~written~~ **preliminary or revised** objection **or as approved pursuant to RSA 541-A:13**. The director of legislative services may refuse to accept for filing any final rule which contains changes, other than minor editorial changes, that are not specifically authorized in the committee's written objection. The agency shall identify each minor editorial change in writing to the director of legislative services.

III. The agency shall file **2 copies of** all adopted rules with the director of legislative services, **who shall provide copies to staff designated to the committee and to the department**.

20 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.

21 Application of Deadline; Commissioner Added. Amend RSA 541-A:16, IV to read as follows:

IV. If any deadline for action by an agency, the public, ***the commissioner***, or the committee, imposed by this chapter falls on a Saturday, Sunday, or state legal holiday, the deadline for such action shall be extended to the next day that is not a Saturday, Sunday, or state legal holiday.

22 Time Limit; Reference to Manual Added. Amend RSA 541-A:17, I to read as follows:

I. No rule shall be effective for a period of longer than 8 years, but the agency may adopt an identical rule under RSA 541-A:5 through RSA541-A:14, ***in conformance with the drafting and procedure manual***.

23 Emergency Rules. Amend RSA 541-A:18, II to read as follows:

II. Notwithstanding RSA 541-A:16, III, emergency rules adopted under this section shall not remain in effect for more than 120 days from the date and time of filing with the director of legislative services, ***who shall provide copies to staff designated to the committee and to the department.*** An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule, but it shall not adopt the same emergency rule when the emergency rule expires.

24 New Paragraph; Interim Rules. Amend RSA 541-A:19 by inserting after paragraph II the following new paragraph:

II-a. The director of legislative services shall provide copies of proposed interim rules to staff designated to the committee and to the department.

25 Committee Procedure on Interim Rules. Amend RSA 541-A:19, VIII to read as follows:

VIII. The following procedures shall govern committee objections:

(a) If the committee objects to the proposed interim rule, it shall notify the agency promptly by sending the agency a written objection stating the basis for the objection ~~and recommending that the agency amend or withdraw the proposed interim rule~~. An objection shall require the assent of a majority of the votes cast, a quorum being present.

(b) If the committee makes an objection to the proposed interim rule, the agency may cure the defect or withdraw the interim rule. The agency shall respond to a committee objection only once~~[-and]~~. ***The quorum of the board or commission or the agency official having rulemaking authority may respond in writing prior to the adjournment of the committee meeting during which the objection was made. The committee may address the response in the same meeting. The agency shall otherwise*** report its response in writing to the committee prior to its next regularly scheduled meeting. Failure to respond to the committee ~~in accordance with this subparagraph~~ ***prior to the next regularly scheduled committee meeting*** shall mean the rulemaking procedure for that proposed interim rule is invalid; however, the agency is not precluded from initiating the process over again for a similar rule, provided that the conditions in paragraph I are met.

(c) The committee shall review the response and vote to approve the response or continue the objection.

(d) The committee's objection shall not preclude the agency from adopting the substance of an interim rule by meeting the requirements of RSA 541-A:3.

26 Adoption of Proposed Interim Rule; Effective Period Increased. Amend RSA 541-A:19, X to read as follows:

X. No proposed interim rule shall be adopted unless the committee has voted to approve the proposed interim rule. An adopted interim rule shall be filed with the director of legislative services no later than 30 days following committee approval. ***The director shall provide copies of adopted interim rules to the designated staff of the committee and to the department.*** An interim rule shall be effective under RSA 541-A:16, III on the day after filing with the director of legislative services, or at a later date, provided the agency so specifies in a letter to

the director of legislative services and the effective date is within 30 days following committee approval. Interim rules shall be effective for a period not to exceed ~~[120]~~ **180** days. During the time an interim rule shall be in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it shall not adopt another interim rule to replace the expiring interim rule.

27 Gender Neutral; Executive Orders. Amend RSA 541-A:28 to read as follows:

541-A:28 Executive Orders and Opinions of the Attorney General. The secretary of state shall transmit each executive order received from the governor to the director of legislative services, who shall publish the text of the executive order in the register of notice of rulemaking proceedings. The attorney general shall transmit a copy of every non-confidential opinion relative to rulemaking or rulemaking authority issued by ~~[him]~~ **the attorney general** or in ~~[his]~~ **the attorney general's** name to the director of legislative services. The director shall publish such opinions in the rulemaking register.

28 Gender Neutral. Amend RSA 541-A:31, V(b) to read as follows:

(b) In order to facilitate proceedings and encourage informal disposition, the presiding officer may, upon motion of any party, or upon ~~[his]~~ **the presiding officer's** own motion, schedule one or more informal prehearing conferences prior to beginning formal proceedings. The presiding officer shall provide notice to all parties prior to holding any prehearing conference.

29 Gender Neutral. Amend RSA 541-A:35 to read as follows:

541-A:35 Decisions and Orders. A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed promptly to each party and to ~~[his]~~ **a party's** recognized representative.

30 Gender Neutral; Suspension of Provisions. Amend RSA 541-A:40, I to read as follows:

I. To the extent necessary to avoid a denial of funds or services from the United States which would otherwise be available to the state, the governor may suspend, in whole or in part, one or more provisions of this chapter. When the governor determines that a suspension is no longer necessary to prevent the loss of funds or services from the United States, ~~[he]~~ **the governor** shall issue an order specifying the dates of termination of a suspension.

31 Validity of Existing Rules. All rules adopted and effective on the effective date of this act shall remain valid until amended, repealed, or expired.

32 Application of Procedure Changes in Rulemaking Process.

I. The provisions of sections 13, 14, and 17 of this act shall apply beginning on August 1, 1998.

II. The provisions of sections 16, 18, 19, 23, 24, and 26 of this act shall apply beginning on August 10, 1998.

33 Required Information By Department of Administrative Services. The administrative rules unit in the office of the commissioner of administrative services, established in RSA 21-I:7-c, as inserted by section 4 of this act, shall provide, as soon as possible, information to all agencies having rulemaking authority of the procedural and other changes required by this act in order to facilitate rulemaking by agencies.

34 Applicability of Rules Publication Changes. The provisions of RSA 541-A:15 as amended by section 20 of this act shall apply to rules filed and effective after the effective date of this act.

35 Study Committee Established. There is established a committee to study procedures in administrative rulemaking.

I. The members of the committee shall be as follows:

(a) Four members of the house of representatives, one of whom shall be a member of the joint legislative committee on administrative rules, appointed by the speaker of the house.

(b) Four members of the senate, one of whom shall be a member of the joint legislative committee on administrative rules, appointed by the president of the senate

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

III. The duties of the committee shall include but not be limited to:

(a) Examining all relevant aspects of HB 1663-FN of the 1998 session.

(b) Exploring the ways that administrative rulemaking under RSA 541-A may be enforced.

(c) Recommending ways to improve the public notification of and involvement in pending rulemaking under RSA 541-A.

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

V. The committee, in each of the next 2 years, shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the joint legislative committee on administrative rules, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1998, and November 1, 1999.

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

#### AMENDED ANALYSIS

This bill establishes an administrative rules unit in the office of the commissioner of administrative services and changes the rulemaking procedure for agencies under RSA 541-A. This bill also establishes a committee to study the procedures for administrative rulemaking.

Adopted.

Rep. Mercer yielded to questions.

Report adopted and referred to Finance.

**SB 406**, establishing a legislative task force to develop a state government restructuring plan.  
INEXPEDIENT TO LEGISLATE

Rep. James P. Pilliod for Executive Departments and Administration: This bill suggests a task force to develop a state government restructuring plan in about six months with a report due on or before November 1, 1998. The committee considered carefully the merits of such a task force and despite many benefits that might accrue decided that the task assigned was too monumental to accomplish in such a short time. It was noted that a prior effort of a task force in 1991 and 1992 was not eminently successful. Documentation of spotty and early successes elsewhere were considered to be interesting but inconclusive. Many reforms that are needed could probably be initiated without new legislation. The makeup of the task force as proposed does not include members from the executive branch or the public. Vote 12-5.

Rep. Loren Jean requested a roll call; sufficiently seconded.

The question being the adoption of the report.

**YEAS 237 NAYS 71**

**YEAS 237**

**BELKNAP**

Boriso, Thomas Calvert, Alice    Clark, Charles    Golden, Paul

Holbrook, Robert            Lawton, David    Lawton, Robert    Pilliod, James

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

Veazey, John

**CARROLL**

Babson, David, Jr.            Chandler, Gene Howard, Godfrey            Kenney, Joseph

Mock, Henry    Patten, Betsey    Philbrick, Donald

**CHESHIRE**

Avery, Stephen DePecol, Benjamin            Doucette, Richard            Hunt, John

Lynch, Margaret            Lynott, Margaret            Manning, Joseph            McGuirk, Paul

McNamara, Wanda            Meader, David    Metzger, Katherine            Pratt, John

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

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

### **COOS**

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

Hawkinson, Marie    Horton, Lynn    Mears, Edgar    Merrill, Gerald

Moynihan, Wayne    Pratt, Leighton    Tholl, John, Jr.

### **GRAFTON**

Almy, Susan    Brown, Channing    Copenhaver, Marion    Hill, Richard

LaMott, Paul    Lovett, Sidney    Nordgren, Sharon    Phinney, William

Williams, William, Jr.

### **HILLSBOROUGH**

Amidon, Eleanor    Arnold, Thomas, Jr.    Batula, Peter    Bergin, Peter

Briefs, Geoffrey Brundige, Robert    Calawa, Leon, Jr.    Cardin, Lori

Carlson, Donald Chabot, Ernest    Chabot, Robert    Clemons, Jane

Cote, David    Cote, Peter    D'Allesandro, Lou    Daigle, Robert

Daniels, Gary    Desrosiers, William    Dokmo, Cynthia Drabinowicz, A. Theresa

Durham, Susan Dyer, Merton    Emerton, Lawrence, Sr.    Fields, Dennis

Foster, Joseph    Foster, Linda    Gagnon, Eugene    Ginsburg, Ruth

Golding, William    Gosselin, Gerald    Goulet, Maurice Hall, Betty

Hansen, Herbert    Hart, Nick    Herman, Keith    Holt, David

Johnson, Lionel Konys, Christine    Kurk, Neal    L'Heureux, Robert

LaRose, Richard    Lessard, Rudy    Lozeau, Donnalee    Luebker, Bernard

Lynde, Harold    McCarty, Winston    McRae, Karen    Mercer, Robert

Messier, Irene    Morello, Michael    Murch, George    Murphy, Robert

O'Hearn, Jane    Peterson, Andrew    Reidy, Frank    Riley, Frances

Rowe, Robert   Sargent, Maxwell   Searles, Stanley, Sr.   Tate, Joan  
Thulander, O. Alan   Turgeon, Roland   Vaillancourt, Steve   Wheeler, Robert  
Wright, George

#### **MERRIMACK**

Adams, Stephen   Anderson, Eric   Chandler, Earle   Crosby, Toni  
Daneault, Gabriel   Davis, Francis   DeStefano, Stephen   Feuerstein, Martin  
French, Barbara   Gile, Mary   Hess, David   Jacobson, Alf  
Lamach, Bernard   Langer, Ray   Lavoie, Gerard   Lockwood, Robert  
Marshall, Kenneth   Moore, Carol   Morrill, Olive   Nichols, Avis  
Pfaff, Terence   Rogers, Katherine   Seldin, Gloria   St. Cyr, Gerard  
Wallner, Mary Jane   Whalley, Michael

#### **ROCKINGHAM**

Abbott, Dennis   Arndt, Janet   Beaulieu, Jon   Belanger, Ronald  
Carson, Gregory   Clark, Martha   Cooney, Richard   Cote, Patricia  
Dearborn, Bruce   Dodge, Robert   Dolan, Richard   Dowd, Sandra  
Dowling, Patricia   Downing, Michael   Fesh, Robert   Flanders, David  
Flanders, John, Sr.   Francoeur, Sheila   Frechette, Joseph   Gleason, John  
Griffin, Mary   Guthrie, Joseph   Henderson, Warren   Johnson, Robert  
Katsakiores, George   Katsakiores, Phyllis   Kelley, Jane   Kobel, Rudolph  
Langone, John   Letourneau, Robert   Major, Norman   Malcolm, Kenneth  
McCarthy, John, Jr.   McKinney, Betsy   Micklon, Stephanie   Mikowski, Walter  
Millard, Ralph   Moore, Benjamin   Noyes, Richard   O'Keefe, Patricia  
Packard, Sherman   Pitts, Jacqueline   Raynowska, Bernard   Sabella, Norma  
Sapareto, Frank   Schanda, Frank   Stone, Joseph   Stritch, C. Donald  
Syracusa, Anthony   Tufts, J. Arthur   Varrell, Thomas   Vaughn, Charles

Welch, David

### **STRAFFORD**

Cossette, Larry DeChane, Marlene Dunlap, Patricia Heon, Richard

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

Merrill, Amanda Merritt, Deborah Pelletier, Arthur Rogers, Rose Marie

Rollo, Michael Smith, Marjorie Snyder, Clair Spear, Barbara

Sullivan, Henry Taylor, Kathleen Torr, Franklin Tsiros, William

Twardus, Joseph Vincent, Francis Wall, Janet

### **SULLIVAN**

Burling, Peter Cloutier, John Donovan, Thomas Ferland, Brenda

Leone, Richard Lindblade, Eric Palmer, Lorraine Robb-Theroux, Amy

Schotanus, Merle Wiggins, Celestine

### **NAYS 71**

### **BELKNAP**

Bartlett, Gordon Boyce, Robert

### **CARROLL**

Bradley, Jeb Dickinson, Howard, Jr. Lyman, L. Randy MacDonald, Kenneth

### **CHESHIRE**

Burnham, Daniel

### **COOS**

St. Hilaire, Paul

### **GRAFTON**

Akins, Ralph Alger, John Cobbin, Philip Guaraldi, Lawrence

Guest, Robert Mirski, Paul Root, John Teschner, Douglass

Weber, Phil

## **HILLSBOROUGH**

Alukonis, David Ameen, W.      Boutin, David      Buckley, Raymond  
Burke, M. Virginia      Christiansen, Lars      Clegg, Robert, Jr.      Dwyer, Paul, Sr.  
Fenton, James      Flora, Kathleen      Gage, Ruth      Haettenschwiller, Alphonse  
Holley, Sylvia      Hunter, Bruce      Jean, Loren      Leonard, Peter  
Letendre, Evelyn      MacGillivray, Jeffrey      Marcinkowski, Michael      McGough, Tim  
Melcher, Harold      Milligan, Robert      Mittelman, David      White, Donald

## **MERRIMACK**

Brown, Mary      Colburn, Thomas      Crowell, Peter      Krueger, Patricia  
Larrabee, David      Leber, William      Owen, Derek      Reardon, Tara  
Yeaton, Charles

## **ROCKINGHAM**

Bishop, Franklin      Camm, Kevin      Dunham, Vivian      Flanagan, Natalie  
Heath, John      Hutchinson, Rebecca      Lovejoy, Marian      Morris, Debbie  
Rabideau, Marie      Reardon, Neil      Rubin, George      Stickney, Nancy  
Weyler, Kenneth

## **STRAFFORD**

Bickford, David      Brennan, William      Brown, George      Callaghan, Frank  
Estabrook, Iris      Grassie, Anne      McKinley, Robert

## **SULLIVAN**

Allison, David

and the report was adopted.

Rep. DeStefano voted yea and intended to vote nay.

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

**SB 476-FN**, relative to ambulatory surgical facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Alice Z. Calvert for Health, Human Services and Elderly Affairs: After much collaboration an amendment replacing the entire bill was generated. Because the data from the two-year pilot program allowing 24-hour stay in an ambulatory surgical facility was not adequate to reach a conclusion, the pilot will be extended for two years. The facility will continue to offer two 24-hour beds. On October 1, 1999, the health services and review board will issue a report of findings and recommendations. The legislature can use these recommendations to further assure that public protection is in place. In July of 2000 ambulatory surgical centers, still under pilot program regulations, may offer 5 beds for 24-hour stays. As these facilities are already a part of our health care system, this bill will help assure consumer safety. Vote 12-3.

#### **Amendment (1350h)**

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

##### **1 Statement of Intent.**

I. 1996, 299:4 created a 2-year ambulatory surgical facilities pilot program to study the need for and efficiency of overnight beds in ambulatory surgical facilities. The pilot program permits ambulatory surgical facilities licensed on or before July 1, 1996, to provide beds for the overnight stay of patients. The pilot program is due to terminate on July 1, 1998.

II. The general court recognizes that the pilot program established pursuant to 1996, 299:4 regarding overnight beds in ambulatory surgical facilities seeks to:

(a) Reduce health care costs to consumers, costs to third party payors, and aggregate costs to the public;

(b) Improve the standards of health care delivery; and

(c) Provide increased choices and/or access for patients.

III. The pilot program created by 1996, 299:4 began receiving data from some participating facilities pursuant to He-Hea 1500 (effective date 10/13/97) in December, 1997. Pursuant to RSA126:25, hospitals report ambulatory surgical care data on a semi-annual basis, 6 months after the close of the reporting period.

IV. In order to avoid the discontinuation of the pilot program prior to the completion of the study, the general court wishes to extend the pilot program to July 1, 2000, and to include within the pilot program ambulatory surgical facilities licensed after July 1, 1996. The report on the extended pilot program will be due on or before October 1, 1999, to permit legislative action, if any is needed, during the 2000 session of the general court.

##### **2 Ambulatory Surgical Facilities. Amend RSA 151-C:2-a to read as follows:**

##### **151-C:2-a Ambulatory Surgical Facilities.**

I. An ambulatory surgical facility licensed ~~[on or before July 1, 1996]~~ **by the state which is participating in the pilot program established pursuant to 1996, 299:4, as amended**, may provide 2 beds for the overnight stay of patients, not to exceed 24 hours. An individual patient shall be discharged in an ambulatory condition ~~[without danger to the continued well being of the patient]~~ or shall be transferred to a ~~[hospital]~~ **health care facility**.

II. An ambulatory surgical facility licensed ~~[after July 1, 1996]~~ **by the state which is not participating in the pilot program established pursuant to 1996, 299:4, as amended,** shall not provide beds or other accommodations for the overnight stay of patients. An individual patient shall be discharged in an ambulatory condition ~~[without danger to the continued well being of the patient]~~ or shall be transferred to a ~~[hospital]~~ **health care facility.**

3 Pilot Program. Amend 1996, 299:4 to read as follows:

299:4 Ambulatory Surgical Facility Pilot Program. The health services planning and review board (board) shall establish ~~[a 2-year]~~ **an** ambulatory surgical facility pilot program to study ~~[the need for and efficiency of]~~ overnight beds in ambulatory surgical facilities. This pilot program shall terminate July 1, ~~[1998]~~ **2000**. Ambulatory surgical facilities licensed by the state of New Hampshire ~~[on or prior to July 1, 1996]~~, which elect to provide overnight stays under RSA 151-C:2-a, I, shall participate in the pilot program by notifying the board and fulfilling licensure requirements established in accordance with RSA 151. The commissioner of health and human services shall adopt rules, pursuant to RSA 541-A, regarding quality and safety standards for overnight beds in ambulatory surgical facilities. The board shall require participating facilities to submit utilization and financial data in order for the board to complete its study. ~~[Upon completion of the pilot program]~~ **On or before October 1, 1999,** the board shall issue a report **containing findings and recommendations** to the governor, the president of the senate, the speaker of the house, the senate clerk, the house clerk, and the state library regarding ~~[the future need, if any, for overnight beds in ambulatory surgical facilities]:~~

***I. Reduction in health care costs to consumers, costs to third party payors, and aggregate costs to the public;***

***II. Improvement in the standards of health care delivery;***

***III. Provision of increased choices and/or access for patients; and***

***IV. Need for and use of overnight stays in ambulatory surgical facilities.***

4 Ambulatory Surgical Facilities. RSA 151-C:2-a is repealed and reenacted to read as follows:

151-C:2-a Ambulatory Surgical Facilities. An ambulatory surgical facility may provide beds or other accommodations for the overnight stay of up to 5 patients not to exceed 24 hours from the time of admission. Thereafter, an individual patient shall be discharged in an ambulatory condition or shall be transferred to a health care facility. The rules adopted pursuant to 1996, 299:4 regarding quality and safety standards for overnight beds in ambulatory surgical facilities shall remain in effect.

5 Repeals.

I. 1996, 299:3 and 5, relative to ambulatory surgical facilities, are repealed.

II. 1996, 299:6, relative to the effective date of the prospective repeal of overnight stays, is repealed.

6 Effective Date.

I. Section 4 of this act shall take effect July 1, 2000.

II. The remainder of this act shall take effect June 30, 1998.

#### AMENDED ANALYSIS

This bill extends the ambulatory surgical facilities pilot program to July 1, 2000.

Adopted.

Report adopted and ordered to third reading.

**SB 309**, relative to distributors and suppliers of bingo equipment. OUGHT TO PASS

Rep. William J. Desrosiers for Local and Regulated Revenues: This bill would provide for a better tracking system of bingo paper sales in order to prevent possible illegal lost revenue to charitable organizations. Vote 13-3.

Adopted and ordered to third reading.

**SB 467-FN**, requiring the department of transportation to construct sound barriers along certain streets in Nashua. INEXPEDIENT TO LEGISLATE

Rep. Gene G. Chandler for Public Works and Highways: This bill, if enacted, would require the Department of Transportation to construct sound barriers in two locations along the F.E. Everett Turnpike at an estimated cost of \$800,000. Those two areas that are the focus of this bill are the Freshwater Court and Tempo Topaz developments. Testimony before the committee revealed that the Freshwater Court development came well after all hearings regarding the expansion of the turnpike, location of sound barriers, landscaping plans, etc., were finalized. In a letter to residents of the area from the Mayor of Nashua, he states that the New Hampshire Department of Transportation has the right-of-way to all land utilized in the turnpike expansion, and had the expansion plans, including sound walls, completed several years before Freshwater Court was developed. The Mayor also states that the Planing Board of Nashua took several steps to ensure that prospective homeowners were well aware of the turnpike expansion, and the city of Nashua allowed prospective purchasers to make their own decisions concerning the discounted house prices at Freshwater Court due to the location. The committee felt it would be setting a bad precedent to require after the fact sound barriers in the Freshwater Court area. The Tempo Topaz area is a different situation, as the turnpike expansion affected existing homes, and both the committee and the Department of Transportation felt there was an obligation to provide sound relief in this area. The Department met with residents of the area, and the outcome of those discussions was a commitment by the Department of Transportation to construct 1400 feet of treated timber fencing varying in height from eight to ten feet. In addition, further tree planting and landscaping will be done in both areas. The committee feels that both areas highlighted in SB 467 have been taken care of in an appropriate manner, and the bill is unnecessary at this time. Vote 11-5.

Reps. D'Allesandro and Gene Chandler spoke to the report.

Rep. Jane Clemons requested a roll call; sufficiently seconded.

The question being the adoption of the report.

**YEAS 256 NAYS 54**

**YEAS 256**

**BELKNAP**

Bartlett, Gordon Boriso, Thomas Boyce, Robert Calvert, Alice

Clark, Charles Golden, Paul Holbrook, Robert Lawton, David

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

Thomas, John Turner, Robert Veazey, John

**CARROLL**

Babson, David, Jr. Bradley, Jeb Chandler, Gene Dickinson, Howard, Jr.

Howard, Godfrey Kenney, Joseph Lyman, L. Randy MacDonald, Kenneth

Mock, Henry Patten, Betsey Philbrick, Donald

**CHESHIRE**

Avery, Stephen Hunt, John Lynch, Margaret Manning, Joseph

McNamara, Wanda Meader, David Metzger, Katherine Pratt, John

Riley, William Robertson, Timothy Royce, H. Charles Smith, Edwin

Steere, Myron, III

**COOS**

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

Horton, Lynn Merrill, Gerald Moynihan, Wayne Pratt, Leighton

St. Hilaire, Paul Tholl, John, Jr.

**GRAFTON**

Akins, Ralph Alger, John Almy, Susan Brown, Channing

Cobbin, Philip Copenhaver, Marion Guaraldi, Lawrence Hill, Richard

Mirski, Paul Nordgren, Sharon Phinney, William Root, John

Teschner, Douglass Weber, Phil Williams, William, Jr.

## HILLSBOROUGH

Alukonis, David Amidon, Eleanor      Arnold, Thomas, Jr.      Batula, Peter

Bergin, Peter    Boutin, David    Buckley, Raymond      Burke, M. Virginia

Calawa, Leon, Jr.      Carlson, Donald Chabot, Ernest    Chabot, Robert

Christiansen, Lars      Clegg, Robert, Jr.      Cote, Peter      Daigle, Robert

Daniels, Gary    Desrosiers, William      Dokmo, Cynthia Durham, Susan

Dyer, Merton    Emerton, Lawrence, Sr.    Fenton, James    Fields, Dennis

Flora, Kathleen    Gagnon, Eugene      Golding, William      Goulet, Maurice

Hall, Betty      Hansen, Herbert      Hart, Nick      Herman, Keith

Holley, Sylvia    Holt, David      Hunter, Bruce    Jean, Loren

Johnson, Lionel    Kurk, Neal      L'Heureux, Robert      Leonard, Peter

Lessard, Rudy    Letendre, Evelyn      Lozeau, Donnalee      Luebker, Bernard

Lynde, Harold    MacGillivray, Jeffrey      Marcinkowski, Michael    McCarty, Winston

McGough, Tim    McRae, Karen    Melcher, Harold    Messier, Irene

Milligan, Robert    Mittelman, David      Morello, Michael      Murch, George

Murphy, Robert    O'Hearn, Jane    Peterson, Andrew      Reidy, Frank

Riley, Frances    Rowe, Robert    Sargent, Maxwell      Searles, Stanley, Sr.

Tate, Joan      Thulander, O. Alan      Turgeon, Roland      Vaillancourt, Steve

Wheeler, Robert      White, Donald    Wright, George

## MERRIMACK

Adams, Stephen      Brown, Mary    Chandler, Earle    Colburn, Thomas

Crosby, Toni    Crowell, Peter    Daneault, Gabriel      Davis, Francis

DeStefano, Stephen    Feuerstein, Martin      Gile, Mary      Hess, David

Jacobson, Alf    Krueger, Patricia      Lamach, Bernard      Langer, Ray

Larrabee, David    Lavoie, Gerard    Leber, William    Lockwood, Robert

Marshall, Kenneth      Morrill, Olive      Nichols, Avis      Pfaff, Terence

Reardon, Tara      Rogers, Katherine      Whalley, Michael

### **ROCKINGHAM**

Abbott, Dennis      Arndt, Janet      Battles-Peirce, Marjorie      Beaulieu, Jon

Belanger, Ronald      Bishop, Franklin      Camm, Kevin      Carson, Gregory

Cote, Patricia      Dearborn, Bruce      Dodge, Robert      Dolan, Richard

Dowd, Sandra      Dowling, Patricia      Downing, Michael      Dunham, Vivian

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

Johnson, Robert      Katsakiores, George      Katsakiores, Phyllis      Kelley, Jane

Kobel, Rudolph      Langone, John      Letourneau, Robert      Lovejoy, Marian

Major, Norman      Malcolm, Kenneth      McCarthy, John, Jr.      McKinney, Betsy

Mikowski, Walter      Millard, Ralph      Moore, Benjamin      Morris, Debbie

Noyes, Richard      Packard, Sherman      Pitts, Jacqueline      Rabideau, Marie

Raynowska, Bernard      Reardon, Neil      Sabella, Norma      Schanda, Frank

Smith, Kevin      Stickney, Nancy      Stone, Joseph      Stritch, C. Donald

Tufts, J. Arthur      Varrell, Thomas      Welch, David      Weyler, Kenneth

### **STRAFFORD**

Bickford, David      Brennan, William      Callaghan, Frank      Cossette, Larry

DeChane, Marlene      Dunlap, Patricia      Estabrook, Iris      Grassie, Anne

Heon, Richard      Kaen, Naida      Keans, Sandra      Knowles, William

Lundborn, Raymond      McKinley, Robert      Merrill, Amanda      Merritt, Deborah

Pelletier, Arthur      Snyder, Clair      Spear, Barbara      Sullivan, Henry

Taylor, Kathleen      Torr, Franklin      Tsiros, William      Twardus, Joseph

Vincent, Francis

#### **SULLIVAN**

Allison, David   Burling, Peter   Ferland, Brenda Leone, Richard

Lindblade, Eric   Palmer, Lorraine   Robb-Theroux, Amy   Schotanus, Merle

Wiggins, Celestine

#### **NAYS 54**

#### **BELKNAP**

None

#### **CARROLL**

None

#### **CHESHIRE**

Burnham, Daniel   DePecol, Benjamin   Doucette, Richard   Lynott, Margaret

McGuirk, Paul   Richardson, Barbara   Russell, Ronald Vogl, John

#### **COOS**

Hawkinson, Marie   Mears, Edgar

#### **GRAFTON**

Guest, Robert   LaMott, Paul   Lovett, Sidney

#### **HILLSBOROUGH**

Ameen, W.   Briefs, Geoffrey Brundige, Robert   Cardin, Lori

Clemons, Jane   Cote, David   D'Allesandro, Lou   Drabinowicz, A. Theresa

Dwyer, Paul, Sr.   Foster, Joseph   Foster, Linda   Gage, Ruth

Ginsburg, Ruth   Gosselin, Gerald   Haettenschwiller, Alphonse Konys, Christine

LaRose, Richard   Mercer, Robert

#### **MERRIMACK**

Anderson, Eric   Dunn, Miriam   French, Barbara   Moore, Carol

Owen, Derek   Seldin, Gloria   St. Cyr, Gerard   Wallner, Mary Jane

Yeaton, Charles

#### **ROCKINGHAM**

Clark, Martha   Cooney, Richard   Micklon, Stephanie   O'Keefe, Patricia

Sapareto, Frank   Syracuse, Anthony   Vaughn, Charles

#### **STRAFFORD**

Brown, George   Rogers, Rose Marie   Rollo, Michael   Smith, Marjorie

Wall, Janet

#### **SULLIVAN**

Cloutier, John   Donovan, Thomas

and the report was adopted.

#### **REMOVED FROM THE TABLE**

Rep. Pfaff moved that ***HB 1520-FN***, relative to primary petitions, political expenditures, and the jurisdiction of the ballot law commission, be removed from the table. (Pending question is the adoption of the committee floor amendment.)

On a division vote, 235 members having voted in the affirmative and 77 in the negative, the motion was adopted.

#### **Floor Amendment (1341h)**

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

1 Elections; Nominations by Primary; Filing Fees; Filing of Petitions Deleted. Amend RSA655:19, I to read as follows:

I. At the time of filing declarations of candidacy, each candidate for the following offices shall pay to the official with whom the declarations are filed the following filing fees~~], and shall file with the appropriate official the requisite number of primary petitions as provided in RSA 655:20 and 655:22 , unless the candidate agrees to limit his expenditures in accordance with RSA 664:5-a]~~. At the time of filing declarations of intent, each candidate for the following offices shall pay to the secretary of state the following filing fees, and the following filing fees shall be paid in addition to the requisite number of nomination papers which must be submitted and filed. The filing fee paid under this section shall be in addition to the administrative assessment paid under RSA 655:19-c. The filing fees shall be as follows:

(a) For governor, United States senator, and representative to Congress,  
\$5,000.

(b) For executive councilor, \$500.

(c) For county officer, \$100.

(d) For state senator, \$100.

(e) For state representative, \$25.

2 Elections; Nominations by Primary; Waiver of Filing Fee and Primary Petitions; Petitions Deleted. Amend RSA 655:19-b to read as follows:

655:19-b Waiver of Filing Fee [~~and Primary Petitions~~].

I. A candidate for any of the offices enumerated in RSA 655:19 who, pursuant to RSA 664:5-a, voluntarily accepts the expenditure limitation set forth in RSA 664:5-b shall have the filing fee under RSA 655:19 either waived or refunded~~[, and shall have the requirement for filing petitions under RSA 655:20 waived]~~, as provided in paragraph II.

II. If a candidate files the affidavit as specified in RSA 664:5-a at the time he *or she* files the declaration of candidacy or declaration of intent, the filing fee required under RSA 655:19 ~~[and the petitions required to be filed under RSA 655:20]~~ shall be waived. If such affidavit is filed within 3 days following the filing of the declaration of candidacy, the appropriate officer shall refund the filing fee paid by the candidate as soon as practicable.

3 Elections; Nominations by Primary; Administrative Assessment, Primary Petitions and Nomination Papers; Reference Deleted. Amend RSA 655:19-c, I to read as follows:

I. Candidates for governor, United States senator, representative to Congress, executive councilor, state senator, county officer, and state representative who file declarations of candidacy shall pay the administrative assessment in paragraph I or file primary petitions as provided in paragraph III in addition to the filing fee ~~[and primary petition]~~ requirements of RSA 655:19 ~~[and 655:20]~~. Candidates for governor, United States senator, representative to Congress, executive councilor, state senator, county officer, and state representative who file declarations of intent shall pay the administrative assessment in paragraph I in addition to the filing fee required by RSA 655:19 and shall meet the requirements of RSA 655:40-45 for nomination by nomination papers. Neither the administrative assessment which is paid nor the primary petitions which are filed under this section, nor the nomination papers which must be submitted under RSA 655:41 and filed under RSA 655:43, shall be waived or refunded for a candidate for any of the offices listed in this section who, pursuant to RSA 664:5-a, voluntarily accepts the expenditure limitation set forth in RSA 664:5-b. At the time of filing declarations of candidacy or declarations of intent, the administrative assessment shall be as follows:

(a) For governor and United States senator, \$100.

(b) For representative to Congress, \$50.

(c) For executive councilor, \$25.

(d) For state senator, \$10.

(e) For county officer, \$10.

(f) For state representative, \$2.

4 Primary Petition Form Modified. Amend RSA 655:21 to read as follows:

655:21 Form. Primary petitions shall be made in the following form:

State of New Hampshire

County of....., ss.

City (Town) of .....

I do hereby join in a petition for the printing on the primary ballot of the name of ..... whose domicile is in the city (town) of ..... (ward, street and number, if in a city), in the county of ....., for the office of ..... to be voted for on Tuesday, the ..... day of September, 19....., and certify that I am qualified to vote for a candidate for said office, that I am a registered member of the ..... party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my domicile is in the city (town) of ..... (ward, street and number, if in a city), in the county of ..... I certify that to my knowledge the above-named candidate is not a candidate for incompatible offices as defined in RSA655:10, and that he ***or she*** is not a federal employee which makes him ***or her*** ineligible to file as a candidate for this office. I further certify that I believe the above-named person is especially qualified to fill said office.

***I hereby swear, under penalty of perjury, that the information above is true and correct to the best of my knowledge and belief.***

.....

Print Voter's name

.....

Voter's Signature

[~~State of New Hampshire~~

~~County of ....., ss.~~

~~City (town) of ....., 19.....~~

~~The above named, ....., personally known to me, appeared and made oath that the above petition, by him subscribed, is true.~~

~~\_\_\_\_\_ Before me,~~

\_\_\_\_\_

~~Justice of the Peace or Notary Public]~~

5 Elections; Nominations by Primary; Number of Petitions; Nonacceptance of Expenditure Limitations Reference Deleted. Amend RSA 655:22 to read as follows:

655:22 Number of Petitions. The number of primary petitions to be filed for each office under RSA 655:20 shall be as follows: for governor and United States senator, 2,000; for representative in Congress, 1,000; for executive councilor, 500; for county officer, 100; for state senator, 100; for state representative, 10. Candidates for delegate to the state convention shall not be required to submit any primary petitions. ~~[The provisions of this section shall apply to candidates who do not, pursuant to RSA 664:5-a, voluntarily accept the expenditure limitations set forth in RSA 664:5-b.]~~ Primary petitions filed under this section shall be in addition to the number of petitions filed under RSA 655:19-c.

6 New Section; Order of Primary Petitions. Amend RSA 655 by inserting after section 22 the following new section:

655:22-a Order of Petitions. Petitions to be filed shall be ordered alphabetically by municipality in which the voter is domiciled. Petitions shall be further ordered by surname of voter for any municipality represented by more than one petition.

7 Elections; Political Expenditures and Contributions; Definitions; Candidate. RSA 664:2, II is repealed and reenacted to read as follows:

II. "Candidate" means any person publicly declared as such and for whom votes are sought in an election. For the purposes of this chapter, a person shall be deemed to be a candidate:

(a) Upon filing for candidacy during the filing period set forth in RSA 652:21;

(b) If the person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000, for the purpose of exploring the person's candidacy for political office; or

(c) If the person has given his or her consent to another person or political committee to receive contributions or make expenditures on behalf of the person for the purpose of exploring the person's candidacy for political office and the other person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000, whichever occurs first.

8 Elections; Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity ~~[expressly]~~ advocating the election or defeat of a clearly identified candidate which are **not** made ~~[without cooperation or consultation]~~ **in conjunction or in coordination** with any candidate, or any authorized committee or agent of such candidate, and which are not made in ~~[concert]~~ **coordination** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

9 New Paragraph; Elections; Political Expenditures and Contributions; Definitions; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVI the following new paragraph:

XVII. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

10 Political Expenditure Limitation Amounts. Amend RSA 664:5-b to read as follows:

664:5-b Political Expenditure Limitation Amounts. Total expenditures by a candidate who voluntarily agrees to limit campaign expenditures as provided in RSA 664:5-a shall be as follows:

I. For governor:

(a) [~~\$500,000~~] **\$625,000** in a state primary election.

(b) [~~\$500,000~~] **\$625,000** in a state general election.

I-a. For United States senator:

(a) [~~\$500,000~~] **\$625,000** in a state primary election.

(b) [~~\$500,000~~] **\$625,000** in a state general election.

II. For representative to Congress:

(a) [~~\$250,000~~] **\$350,000** in a state primary election.

(b) [~~\$250,000~~] **\$350,000** in a state general election.

III. For executive council:

(a) \$50,000 in a state primary election.

(b) \$50,000 in a state general election.

IV. For state senate:

(a) \$20,000 in a state primary election.

(b) \$20,000 in a state general election.

V. For representative to the general court and all county offices, based upon the latest figures filed with the secretary of state:

(a) \$.50 per registered voter in the district or the county in a state primary election.

(b) \$.50 per registered voter in the district or the county in a state general election.

VI. For the purposes of this section, RSA 664:5-a and the enforcement provisions of this chapter, "total expenditures" shall mean the sum of all expenditures made to influence either a state primary or a state general election made by a candidate and those made on ~~his~~ **the candidate's** behalf by ~~his~~ **the candidate's** committee or committees, ~~his~~ **the candidate's** party, and ~~his~~ **the candidate's** immediate family. **For candidates for governor, United States senator, and representative to Congress, "total expenditures" shall include any such expenditures made after January 1 of the election year, regardless of when the person actually declares his or her candidacy.** Each campaign expenditure limitation amount shall apply solely and independently to either the state primary election or the state general election.

11 Elections; Political Expenditures and Contributions; Reports; Reporting by Political Committee; Reporting by Candidates. RSA 664:6-7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate \$500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts of contributions and expenditures made since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statements are filed and itemize all receipts of contributions and expenditures made since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding \$500 in the aggregate which is received after the statement under this paragraph is filed and prior to the day of primary election.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements if such statements are filed, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of

the following days: the Wednesdays 4 weeks, 2 weeks and immediately preceding the general election and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding \$500 in the aggregate which are received after the statement under this paragraph is filed and prior to the day of the general election.

V. Any political committee whose receipts of contributions or expenditures in the aggregate do not exceed \$500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed \$500 the committee shall file a statement at the next reporting deadline.

VI. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate may choose, at the time of registering under RSA 664:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

#### 664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6 I, II, III, IV, V, and VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, and clerks, assistant clerks, and sergeants-at-arms of the house and senate, shall report contributions and expenditures exceeding \$500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to one week and three weeks after the general election and one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

12 New Sections; Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The disclosure information shall include the name; address; employer, business organization, or primary source of income; principal place of business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. All expenditures, as defined in RSA 664:2, IX and XVII shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor, United States senator, and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the Internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this act by political committees, political action committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

13 Elections; Political Expenditures and Contributions; Reports; Social Activities. RSA 664:10 is repealed and reenacted to read as follows:

664:10 Social Activities. All contributions and expenditures for outings, dinners, and social affairs, conducted by political committees, clubs, and others, shall be reported, including the name, address, employer or business organization, principal place of business, and occupation of contributors, and a detailed listing of expenditures on forms prescribed by the secretary of state. However, if such contributions or expenditures do not exceed \$100 in aggregate, no report shall be required.

14 Campaign Disclosure Information; 1998 Election Cycle. For the 1998 election cycle, each candidate or candidate's committee for governor shall file the reports required by RSA 664:7 on a computer disk, in addition to a paper copy. All other state candidates or state candidates' committees may file their reports, as required by RSA 664:7, on a computer disk, in addition to a paper copy. Campaign finance filings for United States Senate and representatives to Congress shall be available through a link from the secretary of state's website to the Federal Election Commission.

15 Repeal. RSA 655:20, II, relative to primary petitions to be filed by candidates who do not voluntarily accept expenditure limitations, is repealed.

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

#### AMENDED ANALYSIS

This bill:

I. Modifies the language required on primary petitions for candidates that do not voluntarily accept expenditure limitations.

II. Replaces the notarization with an oath on primary petitions.

III. Requires primary petitions to be filed alphabetically.

IV. Modifies the definitions of "candidate" and "independent expenditures" and defines "coordinated expenditure."

V. Modifies the reporting requirements for political committees and candidates.

VI. Increases total expenditure limitations for candidates for governor, United States senator, and representative to Congress who voluntarily agree to limit campaign expenditures.

VII. Specifies that any expenditures made after January 1 of the election year shall be counted towards expenditure limitations for governor, United States senator, and representative to Congress, regardless of when the person actually declares his or her candidacy.

VIII. Repeals the requirement that candidates who do not voluntarily accept expenditure limitations must file supplemental primary petitions.

IX. Allows candidates for governor, United States senator, and representative to Congress, to file campaign disclosure reports in electronic format.

X. Prohibits accepting contributions unaccompanied by disclosure information.

XI. Requires the secretary of state to compile and maintain cumulative disclosure reports.

Rep. Arndt spoke against.

On a division vote, 9 members having voted in the affirmative and 304 in the negative, the floor amendment failed.

Reps. Arndt and Joseph Foster offered a floor amendment.

#### **Floor Amendment (1467h)**

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

1 Elections; Nominations by Primary; Posting Notice of Primary; References to Fees Deleted.  
Amend RSA 655:12 to read as follows:

655:12 Posting Notice of Primary. Each city clerk shall distribute such notices to the ward clerks in his **or her** city. Each town and ward clerk shall, within 10 days after the receipt of such notice, cause notice of such primary to be posted in 2 public places in ~~his~~ **the** town or ward. Such notice shall prescribe the hour the polls are to open and the hour before which they may not close as provided in RSA 659. It shall state the offices for which candidates are to be nominated, the delegates to be elected, and any questions to be voted on, as well as the location of the central polling place and of any additional polling places. It shall also state the date before which declarations of candidacy must be filed to place names upon the ballots to be used at such primary~~;~~ **and** the officers with whom they must be filed, the ~~fees~~ **administrative assessment** to be paid at the time of filing such papers and the number of primary petitions which may be submitted in lieu of the ~~filing fees~~ **administrative assessment**.

2 Elections; Nominations by Primary; Filing: General Provisions; Filing Fee, Primary Petitions Deleted. Amend RSA 655:14 to read as follows:

655:14 Filing: General Provisions. The name of any person shall not be printed upon the ballot of any party for a primary unless ~~he~~ **the person** is a registered member of that party, ~~he~~ **the person** shall have met the age and domicile qualifications for the office he **or she** seeks at the time of the general election, ~~he~~ **the person** meets all the other qualifications at the time of filing, and ~~he~~ **the person** shall file with the appropriate official between the first Wednesday in June and the Friday of the following week a declaration of candidacy as provided in RSA 655:17~~;~~ **and**

~~I. The appropriate filing fee as provided in RSA 655:19; or~~

~~II. The appropriate number of primary petitions as provided in RSA 655:20 and 655:22 and an assent to candidacy as provided in RSA 655:25].~~

3 Elections; Nominations by Primary; Administrative Assessment, Primary Petitions and Nomination Papers; Order of Primary Petitions Added; Filing Fee References Deleted. Amend RSA 655:19-c to read as follows:

655:19-c Administrative Assessment~~;~~ **and** Primary Petitions~~;~~ ~~Nomination Papers~~].

I. Candidates for governor, United States senator, representative to Congress, executive councilor, state senator, county officer, and state representative who file declarations of candidacy shall pay the administrative assessment in paragraph I or file primary petitions as provided in paragraph III ~~[in addition to the filing fee and primary petition requirements of RSA 655:19 and 655:20. Candidates for governor, United States senator, representative to Congress, executive councilor, state senator, county officer, and state representative who file declarations of intent shall pay the administrative assessment in paragraph I in addition to the filing fee required by RSA 655:19 and shall meet the requirements of RSA 655:40-45 for nomination by nomination papers. Neither the administrative assessment which is paid nor the primary petitions which are filed under this section, nor the nomination papers which must be submitted under RSA 655:41 and filed under RSA 655:43, shall be waived or refunded for a candidate for any of the offices listed in this section who, pursuant to RSA 664:5-a, voluntarily accepts the expenditure limitation set forth in RSA 664:5-b].~~ At the time of filing declarations of candidacy or declarations of intent, the administrative assessment shall be as follows:

(a) For governor and United States senator, \$100.

(b) For representative to Congress, \$50.

(c) For executive councilor, \$25.

(d) For state senator, \$10.

(e) For county officer, \$10.

(f) For state representative, \$2.

II. The administrative assessment paid to a town or city clerk by candidates for state representative shall be forwarded to the treasurer of the town or city and shall be for the use of the town or city. The administrative assessment paid to the secretary of state shall be deposited by ~~him~~ **the secretary of state** into the general fund.

III. Any person otherwise qualified to run for office who chooses not to pay the administrative assessment as prescribed in paragraph I may have his **or her** name printed on the primary ballot of any party by filing with the appropriate official the requisite number of primary petitions made by members of the party, together with one written assent to candidacy. The number of primary petitions to be filed for each office shall be as follows: for governor and United States senator, 200; for representative in Congress, 100; for executive councilor and county officer, 50; for state senator, 20; for state representative, 5. Candidates for delegate to the state convention shall not be required to submit any primary petitions. ***Petitions to be filed shall be ordered alphabetically by municipality in which the voter is domiciled. Petitions shall be further ordered by surname of voter for any municipality represented by more than one petition.***

4 Primary Petition Form Modified. Amend RSA 655:21 to read as follows:

655:21 Form. Primary petitions shall be made in the following form:

State of New Hampshire

County of....., ss.

City (Town) of .....

I do hereby join in a petition for the printing on the primary ballot of the name of ..... whose domicile is in the city (town) of ..... (ward, street and number, if in a city), in the county of ....., for the office of ..... to be voted for on Tuesday, the ..... day of September, 19....., and certify that I am qualified to vote for a candidate for said office, that I am a registered member of the ..... party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my domicile is in the city (town) of ..... (ward, street and number, if in a city), in the county of ..... I certify that to my knowledge the above-named candidate is not a candidate for incompatible offices as defined in RSA655:10, and that he **or she** is not a federal employee which makes him **or her** ineligible to file as a candidate for this office. I further certify that I believe the above-named person is especially qualified to fill said office.

***I hereby swear, under penalty of perjury, that the information above is true and correct to the best of my knowledge and belief.***

.....

Print Voter's name

.....

Voter's Signature

[State of New Hampshire

County of ....., ss.

City (town) of ....., 19.....

~~The above named, ....., personally known to me, appeared and made oath that the above petition, by him subscribed, is true.~~

\_\_\_\_\_  
Before me,

.....

~~Justice of the Peace or Notary Public]~~

5 Election Procedure; Canvass and Declaration: State Primary Election; Write-In Votes and Nomination; Declaration of Candidacy; Filing Fees Provisions Deleted. Amend RSA 659:88, I(b) to read as follows:

(b) A person whose name was not printed anywhere on the official state primary election ballot, and who receives the nomination of a party by write-in vote in a primary election and wishes to accept the nomination, shall file a declaration of candidacy with the secretary of state no later than the second Monday after the primary. The declaration of candidacy shall be filed with the understanding that, where the form says "primary election," it shall be construed to mean "general election." ~~[A person who files a declaration of candidacy under this section shall be subject to the requirements of RSA 655:19 and 655:19-b relative to filing fees. The person may have the filing fee waived if he is unable to pay the fee by reason of indigency.]~~ Such person shall not, however, be required to pay the administrative assessment under RSA 655:19-c.

6 Elections; Political Expenditures and Contributions; Definitions; Candidate. RSA 664:2, II is repealed and reenacted to read as follows:

II. "Candidate" means any person publicly declared as such and for whom votes are sought in an election. For the purposes of this chapter, a person shall be deemed to be a candidate:

(a) Upon filing for candidacy during the filing period set forth in RSA 652:21;

(b) If the person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000, for the purpose of exploring the person's candidacy for political office; or

(c) If the person has given his or her consent to another person or political committee to receive contributions or make expenditures on behalf of the person for the purpose of exploring the person's candidacy for political office and the other person has received such

contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000, whichever occurs first.

7 Elections; Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity ~~[expressly]~~ advocating the election or defeat of a clearly identified candidate which are ***not*** made ~~[without cooperation or consultation]~~ ***in conjunction or in coordination*** with any candidate, or any authorized committee or agent of such candidate, and which are not made in ~~[concert]~~ ***coordination*** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

8 New Paragraph; Elections; Political Expenditures and Contributions; Definitions; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVI the following new paragraph:

XVII. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

9 Political Expenditure Limitation Amounts; Governor, United States Senator and Representative to Congress. Amend RSA 664:5-b, I-II to read as follows:

664:5-b Political Expenditure Limitation Amounts. Total expenditures by a candidate who voluntarily agrees to limit campaign expenditures as provided in RSA 664:5-a, I-II shall be as follows:

I. For governor:

(a) ~~[\$500,000]~~ **\$625,000** in a state primary election.

(b) ~~[\$500,000]~~ **\$625,000** in a state general election.

I-a. For United States senator:

(a) ~~[\$500,000]~~ **\$625,000** in a state primary election.

(b) ~~[\$500,000]~~ **\$625,000** in a state general election.

II. For representative to Congress:

(a) ~~[\$250,000]~~ **\$350,000** in a state primary election.

(b) ~~[\$250,000]~~ **\$350,000** in a state general election.

10 Political Expenditure Limitation Amounts; Total Expenditures. Amend RSA 664:5-b, VI to read as follows:

VI. For the purposes of this section, RSA 664:5-a and the enforcement provisions of this chapter, "total expenditures" shall mean the sum of all expenditures made to influence either a state primary or a state general election made by a candidate and those made on ~~his~~ **the candidate's** behalf by ~~his~~ **the candidate's** committee or committees, ~~his~~ **the candidate's** party, and ~~his~~ **the candidate's** immediate family. **For candidates for governor, United States senator, and representative to Congress, "total expenditures" shall include any such expenditures made after January 1 of the election year, regardless of when the person actually declares his or her candidacy.** Each campaign expenditure limitation amount shall apply solely and independently to either the state primary election or the state general election.

11 Elections; Political Expenditures and Contributions; Reports; Reporting by Political Committee; Reporting by Candidates. RSA 664:6-7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate \$500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts of contributions and expenditures made since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statements are filed and itemize all receipts of contributions and expenditures made since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding \$500 in the aggregate which is received after the statement under this paragraph is filed and prior to the day of primary election.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements if such statements are filed, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday one week after the primary election, the Wednesdays 4 weeks, 2 weeks and immediately preceding the general election and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding \$500 in the aggregate which are received after the statement under this paragraph is filed and prior to the day of the general election.

V. Any political committee whose receipts of contributions or expenditures in the aggregate do not exceed \$500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed \$500 the committee shall file a statement at the next reporting deadline.

VI. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate may choose, at the time of registering under RSA 664:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

#### 664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6 I, II, III, IV, V, and VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, and clerks, assistant clerks, and sergeants-at-arms of the house and senate, shall report contributions and expenditures exceeding \$500 in the aggregate in like

manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

12 New Sections; Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding \$25 shall include disclosure information. The disclosure information shall include the name; address; employer, business organization, or primary source of income; principal place of business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed \$100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor, and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the Internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

13 Campaign Disclosure Information; 1998 Election Cycle. Notwithstanding RSA 664:7-c, I, for the 1998 election cycle, each candidate or candidate's committee for governor shall file the reports required by RSA 664:7 on a computer disk, in addition to a paper copy. All other state candidates or state candidates' committees may file their reports, as required by RSA 664:7, on a computer disk, in addition to a paper copy. Campaign finance filings for United States Senate and representatives to Congress shall be available through a link from the secretary of state's website to the Federal Election Commission.

14 Repeal. The following are repealed:

I. RSA 655:19, relative to election filing fees.

II. RSA 655:19-b, relative to waiver of filing fee and primary petitions.

III. RSA 655:20, relative to primary petitions.

IV. RSA 655:22, relative to number of primary petitions.

15 Effective Date.

I. Sections 6 and 10 of this act shall take effect January 1, 1999.

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

#### AMENDED ANALYSIS

This bill:

I. Requires candidates for governor and permits other candidates, to file campaign disclosure reports on a computer disk for the 1998 election cycle.

II. Replaces the notarization with an oath on primary petitions.

III. Requires primary petitions to be filed alphabetically.

IV. Modifies the definitions of "candidate" and "independent expenditures" and defines "coordinated expenditure."

V. Modifies the reporting requirements for political committees and candidates.

VI. Increases total expenditure limitations for candidates for governor, United States senator, and representative to Congress who voluntarily agree to limit campaign expenditures.

VII. Specifies that any expenditures made after January 1 of the election year shall be counted towards expenditure limitations for governor, United States senator, and representative to Congress, regardless of when the person actually declares his or her candidacy.

VIII. Repeals the requirement that candidates who do not voluntarily accept expenditure limitations must file supplemental primary petitions.

IX. Allows candidates for governor, United States senator, and representative to Congress, to file campaign disclosure reports in electronic format.

X. Prohibits accepting contributions unaccompanied by disclosure information.

XI. Requires the secretary of state to compile and maintain cumulative disclosure reports.

XII. Eliminates election filing fees.

Reps. Hart, Krueger, Stritch and Cobbin spoke against.

Reps. Joseph Foster, Arnold, Pfaff and Arndt spoke in favor and yielded to questions

Rep. Wheeler requested a roll call; sufficiently seconded.

The question being the adoption of the floor amendment.

**YEAS 231 NAYS 91**

**YEAS 231**

**BELKNAP**

Bartlett, Gordon Boriso, Thomas Golden, Paul    Holbrook, Robert

Lawton, David    Salatiello, Thomas    Thomas, John    Turner, Robert

**CARROLL**

Bradley, Jeb    Chandler, Gene Dickinson, Howard, Jr.    Kenney, Joseph

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

Philbrick, Donald

**CHESHIRE**

Avery, Stephen Burnham, Daniel    DePecol, Benjamin    Doucette, Richard

Hunt, John    Lynch, Margaret    Lynott, Margaret    Manning, Joseph

McGuirk, Paul    McNamara, Wanda    Meader, David    Metzger, Katherine

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

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

Vogl, John

**COOS**

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

Hawkinson, Marie    Horton, Lynn    Mears, Edgar    Merrill, Gerald

Moynihan, Wayne    Pratt, Leighton

**GRAFTON**

Akins, Ralph    Alger, John    Almy, Susan    Brown, Channing

Copenhaver, Marion    Guaraldi, Lawrence    Guest, Robert    Hill, Richard

Hinman, Harry    Lovett, Sidney    Nordgren, Sharon    Teschner, Douglass

Williams, William, Jr.

### **HILLSBOROUGH**

Alukonis, David Amidon, Eleanor      Arnold, Thomas, Jr.      Baroody, Benjamin  
Batula, Peter    Bergin, Peter    Boutin, David    Brundige, Robert  
Buckley, Raymond      Calawa, Leon, Jr.      Cardin, Lori      Chabot, Ernest  
Chabot, Robert Christiansen, Lars      Clemons, Jane Cote, David  
Cote, Peter      D'Allesandro, Lou      Daigle, Robert    Daniels, Gary  
Desrosiers, William      Dokmo, Cynthia Drabinowicz, A. Theresa      Durham, Susan  
Dwyer, Paul, Sr.      Dyer, Merton    Emerton, Lawrence, Sr.    Fenton, James  
Fields, Dennis    Foster, Joseph    Foster, Linda    Gage, Ruth  
Gagnon, Eugene      Ginsburg, Ruth    Golding, William      Gosselin, Gerald  
Goulet, Maurice Haettenschwiller, Alphonse Hall, Betty    Hansen, Herbert  
Herman, Keith    Hunter, Bruce    Konys, Christine      Kurk, Neal  
L'Heureux, Robert      Leonard, Peter    Lozeau, Donnalee      Lynde, Harold  
Martin, Mary    McCarty, Winston      Melcher, Harold    Mercer, Robert  
Messier, Irene    Milligan, Robert    Mittelman, David      Morello, Michael  
Murphy, Robert    O'Hearn, Jane    Peterson, Andrew      Piteri, Dawn  
Reidy, Frank    Sargent, Maxwell      Searles, Stanley, Sr.    Thulander, O. Alan  
Turgeon, Roland      Vaillancourt, Steve      Wheeler, Robert

### **MERRIMACK**

Adams, Stephen      Anderson, Eric    Chandler, Earle    Crosby, Toni  
Crowell, Peter    Daneault, Gabriel      Davis, Francis    DeStefano, Stephen  
Dunn, Miriam    French, Barbara      Gile, Mary      Hess, David  
Lamach, Bernard      Langer, Ray    Leber, William    Moore, Carol  
Morrill, Olive    Owen, Derek    Pfaff, Terence    Reardon, Tara

Rogers, Katherine      Seldin, Gloria    St. Cyr, Gerard   Wallin, Jean

Wallner, Mary Jane      Whalley, Michael      Yeaton, Charles

### **ROCKINGHAM**

Abbott, Dennis   Arndt, Janet      Carson, Gregory      Christie, Andrew, Jr.

Clark, Martha    Dearborn, Bruce      Dodge, Robert   Dowd, Sandra

Downing, Michael      Flanders, David   Flanders, John, Sr.      Francoeur, Sheila

Frechette, Joseph      Gleason, John   Griffin, Mary      Heath, John

Henderson, Warren      Hutchinson, Rebecca      Johnson, Robert      Kelley, Jane

Kobel, Rudolph   Lovejoy, Marian   Major, Norman   Malcolm, Kenneth

McCarthy, John, Jr.      McKinney, Betsy      Micklon, Stephanie      Noyes, Richard

O'Keefe, Patricia      Packard, Sherman      Pitts, Jacqueline      Rabideau, Marie

Rubin, George   Sapareto, Frank   Schanda, Frank   Stone, Joseph

Syracusa, Anthony      Vaughn, Charles      Welch, David

### **STRAFFORD**

Brennan, William      Brown, George   Callaghan, Frank      DeChane, Marlene

Estabrook, Iris   Grassie, Anne   Hemon, Roland   Heon, Richard

Kaen, Naida      Knowles, William      Lundborn, Raymond      McCann, William, Jr.

Merrill, Amanda   Merritt, Deborah      Musler, George   Pelletier, Arthur

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

Spear, Barbara   Sullivan, Henry   Taylor, Kathleen      Torr, Franklin

Twardus, Joseph      Vachon, Dennis   Vincent, Francis   Wall, Janet

### **SULLIVAN**

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

Leone, Richard   Lindblade, Eric   Palmer, Lorraine      Robb-Theroux, Amy

Wiggins, Celestine

## **NAYS 91**

### **BELKNAP**

Boyce, Robert   Calvert, Alice   Clark, Charles   Lawton, Robert

Pilliod, James   Rosen, Ralph   Veazey, John

### **CARROLL**

Babson, David, Jr.   Howard, Godfrey

### **CHESHIRE**

None

### **COOS**

St. Hilaire, Paul Tholl, John, Jr.

### **GRAFTON**

Cobbin, Philip   LaMott, Paul   Mirski, Paul   Phinney, William

Root, John   Weber, Phil

### **HILLSBOROUGH**

Ameen, W.   Briefs, Geoffrey Burke, M. Virginia   Carlson, Donald

Clegg, Robert, Jr.   Flora, Kathleen Hart, Nick   Holley, Sylvia

Holt, David   Jean, Loren   Johnson, Lionel LaRose, Richard

Lessard, Rudy   Letendre, Evelyn   Luebker, Bernard   MacGillivray, Jeffrey

Marcinkowski, Michael   McGough, Tim   McRae, Karen   Murch, George

Riley, Frances   Rowe, Robert   Tate, Joan   White, Donald

Wright, George

### **MERRIMACK**

Brown, Mary   Colburn, Thomas   Feuerstein, Martin   Jacobson, Alf

Krueger, Patricia   Larrabee, David Lavoie, Gerard   Lockwood, Robert

Marshall, Kenneth   Nichols, Avis

## ROCKINGHAM

Battles-Peirce, Marjorie Beaulieu, Jon Belanger, Ronald Bishop, Franklin  
Camm, Kevin Cooney, Richard Cote, Patricia Dolan, Richard  
Dowling, Patricia Dunham, Vivian Fesh, Robert Flanagan, Natalie  
Guthrie, Joseph Katsakiores, George Katsakiores, Phyllis Langone, John  
Letourneau, Robert Mikowski, Walter Millard, Ralph Moore, Benjamin  
Morris, Debbie Raynowska, Bernard Reardon, Neil Sabella, Norma  
Smith, Kevin Stickney, Nancy Stritch, C. Donald Tufts, J. Arthur  
Varrell, Thomas Weyler, Kenneth

## STRAFFORD

Bickford, David Cossette, Larry Dunlap, Patricia Keans, Sandra  
McKinley, Robert Tsiros, William

## SULLIVAN

Ferland, Brenda Kibbey, David Schotanus, Merle

and the floor amendment was adopted.

Report adopted and ordered to third reading.

## RECONSIDERATION

Rep. Pfaff moved that the House reconsider its action whereby it ordered to third reading **HB 1520-FN**, relative to primary petitions, political expenditures, and the jurisdiction of the ballot law commission, and spoke against.

Reconsideration failed.

## VACATE

Rep. Kurk moved that the House vacate the reference to the Committee on Finance of **SB 428-FN**, relative to firearm lock boxes in state facilities.

Rep. Kurk spoke in favor.

Adopted and referred to Criminal Justice and Public Safety.

## 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, May 7, 1998 at 10:00 a.m..

Adopted.

## **LATE SESSION**

### **Third reading and final passage**

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

**SB 357**, establishing a committee to study insurance coverage for infertility.

**SB 91-FN**, relative to the water well board.

**SB 397**, relative to the composition of the pharmacy board.

**SB 373**, protecting quality assurance information of home health care providers from discovery.

**SB 311**, establishing the Uniform International Wills Act.

**SB 73-FN**, providing that telecommunications poles and lines be subject to the property tax.

**SB 332**, requiring that the real estate transfer questionnaire be provided to the municipality in which the property is located.

**SB 412**, designating skiing as the official New Hampshire sport.

**SB 140**, relative to the obligations of joint owners to the nuclear decommissioning finance fund.

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

**SB 476-FN**, relative to ambulatory surgical facilities.

**SB 309**, relative to distributors and suppliers of bingo equipment.

**HB 1520-FN**, relative to primary petitions, political expenditures, and the jurisdiction of the ballot law commission.

## **UNANIMOUS CONSENT**

Rep. Root addressed the House.

Rep. Avery moved that the remarks made by Rep. Root be printed in the Journal.

Adopted.

Rep. Root: Thank you, Madam Speaker. A couple of weeks ago, we in this chamber were privileged to recognize those of Scottish heritage with the wearing of the tartans and kilts and the sound of bagpipes. A few weeks before that many of us celebrated our real or adopted Irish heritage on St. Patrick's Day. Personally, having visited Ireland and the town of Kilkenny, which was the home of my maternal great-grandmother, only last fall, St. Patrick's Day held a special significance for me this year. I think, Madam Speaker, it is appropriate to recognize that since we last met in this House, there has been a major break-through for peace in Northern Ireland and I'm sure that all of us prayed for its success. Today, as has been noted in eloquent debate is April the 23rd, which is St. George's Day, the National Day of England, the land of my birth. I could mark this day by recounting the victories of English Armies or the heritage of law, of literature, of language and customs that England has given us. Let me tell you a little bit about my ancestors that first came to this country in 1637 and 1640, John and Thomas Root from the little village of Badby in North Hamptonshire. Their ancestors and their descendants contributed to this wonderful country that we all enjoy here today. Two of their descendants ended up in the town of Plymouth, Ohio and they had a machine shop where they made farm implements and they developed an automobile that they named after the name of that town, the Plymouth. Unfortunately, they sold it to a man named Chrysler and the money went with it. But there was another famous Root, Elihu of Hamilton, New York who ended up being the Secretary of War and the Secretary of State for President Roosevelt and won the Nobel Peace Prize. I'm very proud of that. I didn't get to this country until 1952. Time will tell what contributions the family will make in the future. If you will indulge me for a few moments on this St. George's Day, I'd like to mark it by reciting to you the first verse of one of one of my favorite poems. A poem that reflects my pride in my English national heritage. It was written by Sir Cecil Spring-Rice who was England's Ambassador to the United States during the First World War. He wrote it at the Embassy in Washington on his very last night there as Ambassador. It is entitled "I Vow to Thee, my Country." "I vow to thee my country all earthly things above entire and whole and perfect the love that stands, the service of my love, the love that asks no question, the love that stands the test that lays upon the altar, the dearest and the best. The love that never falters, the love that pays the price, the love that makes undaunted the final sacrifice." Madam Speaker, these United States are now home to people from countries from all over the globe. President Franklin Delano Roosevelt once said, "we are all immigrants." So, I say to all of you, my colleagues, be as proud of your national heritage, whatever it may be, as I am of mine and thank you for allowing me these few brief moments to reflect upon it. Happy St. George's Day.

Rep. Rosen addressed the House.

Rep. Avery moved that the remarks made by Rep. Rosen be printed in the Journal.

Adopted.

Rep. Rosen: Thank you, Madam Speaker. This must be a day that we endure history class in this House. Last session, two weeks ago, we were treated to a strong display of Scottish pride on New Hampshire's Tartan Day. We heard the pipers in full uniform and we listened to Rep. Avery's eloquent recounting of the contributions to the state and nation of those men and women of Scottish ancestry. I would like to make a special note of one man, born in Scotland, he was not only of Scottish ancestry, he was born there. He was among a handful of genuine heroes who made possible the United State of America. To me, as to all others who have served in my former profession, a Naval officer, he is regarded as the father of the United States Navy. He is, of course, John Paul Jones. His daring exploits and successes against the vastly superior British fleet during the Revolutionary War have served as an inspiration to Naval personnel of all ranks since that struggle. His tomb, in Annapolis, is the Navy's most highly regarded shrine. Many books have been written about John Paul Jones covering not only his colorful career and tactical successes that he enjoyed, but also the guiding principles of conduct that he laid down in writing and by personal example. Incidentally, he was no stranger to New Hampshire. He took command of two ships at different

times in Portsmouth, including the original Ranger. He ranged far and wide securing battle victories in capturing ships, not only in the western Atlantic but as far away as France and the coastal waters of Great Britain itself. Could we have won the war without him? I don't know. But if we were to make a short list of the founders of our country, John Paul Jones would certainly be on it. Thank you.

Reps. D'Allesandro, Mirski and Seldin addressed the House.

Rep. Stone moved that the remarks made by Rep. D'Allesandro on April 9, 1998 be printed in the Journal.

Adopted.

Rep. D'Allesandro: I was particularly impressed this morning that we honored two of our colleagues who have passed away. I want to speak very briefly about one of our colleagues and that is Charlie Ferguson. I came to this House in 1973 and had the privilege and the pleasure of meeting Charlie Ferguson. In those days, Charlie was on Appropriations. I was a rookie in this House. It was my first term in the House of Representatives. Charlie was very helpful in pointing you in the way that you needed to go in terms of getting something done legislatively. Charlie had that million-dollar smile that was always apparent. He was intelligent. He was a person who was dedicated to what he was doing and he never, never missed an opportunity to help someone who needed help along the way. Charlie Ferguson was a great family man. But, more important to me, he was a person who made serving in this legislature worthwhile. He cared about legislation. He cared about people. He was always there to help. People like Charlie Ferguson who come here and spend 11 terms, spend 12 terms, dedicate their lives to public service, and it seems to be that by honoring Charlie Ferguson we honor ourselves in that we carry on the work that Charlie Ferguson began. In 1974, in the Special Session, I had a bill that had about a snowball's chance in heck of getting passed. It was the food stamp bill. It was opposed by everybody in the administration. But, with the help of people like Charlie Ferguson we got it passed and we did the work of the people of the State of New Hampshire and did it well. Charlie Ferguson's memory is firmly imbedded in my mind and I would hope that all of you who knew Charlie remember him for his quality as a human being, his dedication to public service and his respect and commitment to this House of Representatives. Thank you very much.

**Clerk's note:** The remarks made by Rep. D'Allesandro are printed here for the benefit of members. In the Permanent Journal they will appear in the Journal of April 9th.

Rep. Rosen moved that the remarks made by Rep. Avery on April 9, 1998 be printed in the Journal.

Adopted.

Rep. Avery: Thank you, Madam Speaker. Fellow Representatives, we are here this morning to recognize Tartan Day for the second time here in New Hampshire. Governor Jeanne Shaheen has issued a proclamation honoring those Scots and Scottish Americans who worked hard for the ideals of freedom on both sides of the Atlantic. Also this year, I am proud to announce that the United States Senate passed a resolution, Senate Resolution No. 155, naming April 6th of each year as National Tartan Day. As the Senate Resolution points out, almost half of the signers of the Declaration of Independence and nine of the sitting thirteen Governors were of Scottish descent. This most important document was modeled after the Scottish Declaration of Arbroath which was signed on April 6, 1320. Madam Speaker, I would like to read the most stirring phrase from the Declaration of Arbroath, a phrase that I think we can all hold dear. "It is in truth, not for glory nor riches nor honors that we are fighting, but, for freedom. For that alone which no honest man gives up but with life itself." With that in mind, Madam Speaker, we not only honor all the Scots and

Scottish Americans that have worked so hard for freedom but all peoples of all ethnic backgrounds who are striving for those same ideals.

**Clerk's note:** The remarks made by Rep. Avery are printed here for the benefit of members. In the Permanent Journal they will appear in the Journal of April 9th.

### 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 12:20 p.m.

### RECESS

**(Rep. Searles in the Chair)**

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 111, 177, 642, 1111, 1125, 1130, 1146, 1213, 1340, 1394, 1406, 1480, 1497, 1518, 1592 and 1651 and Senate Bills numbered, 315, 327 and 338.

Rep. Nowe, Sen. Barnes for the Committee

### RECESS

### BILLS SIGNED BY THE GOVERNOR

Chap. 16, **HB 467**, clarifying the definition of "telephone cloning paraphernalia." (eff. 4/15/98)

Chap. 17, **HB 1244**, relative to collusive bidding at auctions. (eff. 1/1/99)

Chap. 18, **SB 484**, prohibiting triple-trailer trucks from the ways of this state. (eff. 6/14/98)

Chap. 19, **SB 303**, changing the name of Blue Mountain to Bunnell Mountain. (eff. 6/14/98)

Chap. 20, **HB 627**, establishing a conservation number plate trust fund, and a special motor vehicle license plate and associated fees, to support New Hampshire's natural and cultural resources. (eff. 6/16/98)

Chap. 21, **HB 132**, allowing New Hampshire residents on active duty in the armed forces or coast guard to be issued hunting and fishing licenses at no charge. (eff. 1/1/99)

Chap. 22, **HB 290**, relative to digital signatures. (eff. 6/20/98)

Chap. 23, **HB 544**, relative to dwellings which extend over public waters. (eff. 1/1/99)

Chap. 24, **HB 793**, defining the responsibility of individuals engaged in equine activities. (eff. 1/1/99)

Chap. 25, relative to judgments on past due rent. (eff. 1/1/99)

Chap. 26, **HB 1235**, relative to the small business innovation research program. (eff. 6/20/98)

Chap. 27, **SB 302**, 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. (eff. 6/20/98)

Chap. 28, **SB 414**, relative to official motor vehicle plates. (eff. 1/1/99)