

HOUSE RECORD

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Calendar and Journal of the 2000 Session

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Wednesday, March 29, 2000

No. 28

HOUSE JOURNAL No. 10 (cont.)

Thursday, March 23, 2000

(Rep. Keith Herman in the Chair)

senate message

concurrence

HB 1225, relative to the name of the department of fish and game.

RESOLUTION

Rep. Whalley offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 307, 311, 322, 323, 324, 326, 383, 387, 397, 400, 455 and 456 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 307, relative to biosolids and short paper fiber. (Environment and Agriculture)

SB 311, relative to the recovery of public assistance. (health, Human Services and Elderly Affairs)

SB 322, extending the needle exchange pilot program. (Health, Human Services and Elderly Affairs)

SB 323, relative to ambulatory surgical facilities in service areas of rural hospitals. (Health, Human Services and Elderly Affairs)

SB 324, relative to personal care services and providers. (Health, Human Services and Elderly Affairs)

SB 326, relative to the joint health council. (Executive Departments and Administration)

SB 383, requiring the department of health and human services and insurers to make prompt payments. (Commerce)

SB 387, relative to proposed toll booths in the city of Nashua and relative to alternatives to the statewide toll booth system. (Public Works and Highways)

SB 397-A-L, making an appropriation from the education trust fund for public kindergarten programs and relative to the adequate education grant amount and property tax warrant for the town of Orange. (Finance)

SB 400-L, relative to emergency medical and trauma services. (Health, Human Services and Elderly Affairs)

SB 455, relative to campgrounds. (Resources, Recreation and Development)

SB 456, relative to testing newborns for deafness. (Health, Human Services and Elderly Affairs)

enrolled bill amendment

HB 1134, establishing a committee to study mental health care treatment under managed care plans.

Amendment (3951-EBA)

Amend section 3 of the bill by replacing line 10 with the following:

VIII. Private practice market.

Adopted.

RECESS

(Rep. Mirski in the Chair)

enrolled bill amendments

HB 449-FN, requiring boating safety education.

Amendment (3970-EBA)

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

2 Boat Safety Course. The introductory paragraph of RSA 270:46-a, III is repealed and reenacted to read as follows:

Adopted.

HB 569, relative to the tax credit for service-connected total disability.

Amendment (3967-EBA)

Amend RSA 72:35, IV(a) as inserted by section 1 of the bill by replacing line 4 with the following:

amputee or paraplegic because of [a] service-connected injury, or the surviving spouse of such a

Adopted.

HB 1594-FN, relative to the allocation of moneys in the tobacco use prevention fund.

Amendment (3969-EBA)

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

2 Funding Evaluation. RSA 126-K:15, VI is repealed and reenacted to read as follows:

Amend RSA 126-K:17, II as inserted by section 3 of the bill by replacing line 1 with the following:

II. The commissioner shall review all requests and recommend awards, including amounts

Adopted.

RECESS

(Speaker Sytek in the Chair)

Rep. Chandler moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 11

Wednesday, March 29, 2000

The House assembled at 1:30 p.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 Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Gentle Sovereign, behold, we beseech Thee, the fair beauty of our beloved New Hampshire. As her citizens, we thank Thee for the many blessings we share and for the gifts of freedom and liberty which calls us to a deeper commitment to the many responsibilities of true patriotism. We ask Thy blessing upon the deliberations and decisions made in this hallowed chamber today. Amen.

Rep. Dudley led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Eaton, Perkins and Searles, the day, illness.

Reps. Asplund, Bergeron, Doucette, Grassie, Lavoie, McRae, Pantelakos, Picconi, Phinney, Rodrigue, Edwin Smith, Snyder, Weatherspoon, Jane Wood and Woodward, the day, important business.

Reps. Coughlin and Dawe, the day, illness in the family.

INTRODUCTION OF GUESTS

Former NH Rep. Henry Sullivan, guest of Rep. Spear. Roland Hofeman, guest of Rep. Twardus. Ray Beqo and Luan Rojba, guests of Reps. Tsiros and Young. Katherine Clancy, guest of Rep. Gile. George Coronis, guest of Rep. Dickinson. Paul Tringoson, guest of Rep. Nancy Wall. Melissa and Andrew Torressen and Joe and Nancy Hart, wife, son, and in-laws of Rep. Torressen.

special guests

Nashua Girls' Varsity Basketball Class L Championship Team, guests of the House.

senate messages

requests concurrence with amendments

HB 1374, extending the reporting date for the sex offender issues study committee. (Amendment printed SJ 3/23/00)

Rep. Welch moved that the House concur and spoke in favor.

Adopted.

HB 1435, establishing a committee to study the immediate and long-term impact of changing methodology of communications and information technology as it applies to the right-to-know law. (Amendment printed SJ 3/23/00)

Rep. Mock moved that the House concur and spoke in favor.

Adopted.

COMMITTEE REPORTS

CONSENT CALENDAR

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

HB 1609, establishing a commission to study issues of diversity, immigration, and English as a second language in New Hampshire, removed by Rep. Garrish.

HJR 23, urging the executive branch to negotiate an expedient settlement resolving the Claremont dispute, removed by Rep. Sapareto.

HB 1177, relative to the effective date of legislation establishing a chaptered or statutory legislative committee, removed by Rep. Dyer.

HB 1231, requiring proposed legislation to be reviewed by a house or senate special committee to determine constitutionality prior to its introduction, removed by Rep. Mirski.

HB 1452, establishing a committee to study the recodification of laws relating to the joint committee on legislative facilities, removed by Rep. Dickinson.

Consent Calendar adopted.

HB 1391, relative to personal appearance by law enforcement officers at administrative license suspension hearings. REFER FOR INTERIM STUDY

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: HB 1391 was originally voted out of committee as ought to pass. The bill was recommitted to committee so that the chaptered study committee currently meeting on the general subject of DWI statutes could study the subject matter. To accomplish this, the committee voted to refer for interim study. Vote 14-0.

HB 1516-FN, relative to prosecutorial conduct. INEXPEDIENT TO LEGISLATE

Rep. Frank M. Schanda for Criminal Justice and Public Safety: HB 1516-FN would make a prosecutor who is "overzealous" in his pursuit of justice, guilty of a class B felony. The committee felt

that there were laws already in place that could be used if this problem should arise. The committee did not agree with the intent of this legislation. Vote 13-0.

HB 1520-FN, relative to criminal neglect of elderly, disabled, or incapacitated persons. REFER FOR INTERIM STUDY

Rep. Frank D. Callaghan for Criminal Justice and Public Safety: This bill, in its original form, defined neglect and abuse and created class A & B felonies relating to the extent of any injury. The sub-committee attempted amending the bill, but still wasn't satisfied that it addressed these types of situations appropriately. Presently, there are at least two agencies that are directly involved in investigating abuse and neglect. The office of the long-term care ombudsman investigates reports of these incidents in facility settings. The divisions of adult and elderly services investigate home settings. With the recent passage of SB 409, which promotes in home care, there were also concerns that inexperienced caregivers might be inadvertently caught up in a web of prosecution if the law is not carefully crafted. In the end, the full committee agreed unanimously to further study the bill this summer. Representatives of the present two investigating agencies mentioned above will be invited to work with the committee and explain the present investigatory process and penalties. Vote 15-0.

HB 1611, recodifying the state's DWI laws. OUGHT TO PASS WITH AMENDMENT

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill is a simple recodification of DWI laws. There is nothing new or deleted from current law. The committee simply drew all the laws pertaining to DWI into one chapter that makes it easier to find and understand. Vote 15-0.

Amendment (3918h)

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

1 New Chapter; Alcohol Or Drug Impairment. Amend RSA by inserting after chapter 265 the following new chapter:

CHAPTER 265-A

ALCOHOL OR DRUG IMPAIRMENT

265-A:1 Definitions. The following words and phrases when used in this chapter shall have the following meanings, except where the context requires otherwise:

I. "Alcohol" shall mean any substance containing any form of alcohol, including but not limited to, ethanol, methanol, propanol and isopropanol.

II. "Alcohol concentration" shall mean either grams of alcohol per 100 milliliters of blood, grams of alcohol per 67 milliliters of urine, or grams of alcohol per 210 liters of breath.

III. "Boat" includes every type of watercraft described in RSA 270:2.

IV. "Controlled drugs" mean any drug or substance, or immediate precursor, which are scheduled pursuant to RSA 318-B:1-a.

V. "Driver" shall have the same meaning described in RSA 259:25.

VI. "OHRV" means off highway recreational vehicle, as defined in RSA 215-A:1, VI.

VII. "Vehicle" shall have the same meaning as described in RSA 259:122.

DWI Offenses; Penalties

265-A:2 Driving Under Influence of Drugs or Liquor; Driving with Excess Alcohol Concentration.

I. No person shall drive or attempt to drive a vehicle upon any way:

(a) While such person is under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drugs; or

(b) While such person has an alcohol concentration of 0.08 or more or in the case of a person under the age of 21, 0.02 or more.

265-A:3 Aggravated Driving While Intoxicated. A person shall be guilty of a violation of this section if the person drives or attempts to drive a vehicle upon any way:

I. While under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug and, at the time alleged:

(a) Drives at a speed more than 30 miles per hour in excess of the prima facie limit,

(b) Causes a motor vehicle collision resulting in serious bodily injury, as defined in RSA 625:11, to the person or another, or

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning a vehicle while being pursued;

II. While having an alcohol concentration of 0.08 or more and, at the time alleged:

(a) Drives at a speed more than 30 miles per hour in excess of the prima facie limit,

(b) Causes a motor vehicle collision resulting in serious bodily injury, as defined in RSA 625:11, to the person or another, or

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning a vehicle while being pursued; or

III. While having an alcohol concentration of 0.16 or more.

265-A:4 Penalties for Intoxication or Under Influence of Drugs Offenses.

I. Except as otherwise provided in this section:

(a) Any person who is convicted of any offense under RSA 265-A:2 shall be:

(1) Guilty of a violation;

(2) Fined not less than \$350; and

(3) The person's driver's license or privilege to drive shall be revoked for not less than 90 days and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years.

(b) Any person who is convicted of any aggravated DWI offense under RSA 265-A:3, except as provided in subparagraph (c), shall be:

(1) Guilty of a misdemeanor;

(2) Fined not less than \$500; and

(3) The person's driver's license or privilege to drive shall be revoked for not less than 1 year and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years.

(c) Any person who is convicted of aggravated DWI under RSA 265-A:3 while having an alcohol concentration of 0.08 or more and, at the time alleged, causes a motor vehicle collision resulting in serious bodily injury, as defined in RSA 625:11, to the person or another, shall be:

(1) Guilty of a class B felony;

(2) Fined not less than \$1,000; and

(3) The person's driver's license or privilege to drive shall be revoked for not less than one year and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years.

I-a. Any person convicted of boating while intoxicated or operating an OHRV while intoxicated shall be subject to the penalties set out in this section for a violation of RSA 265-A:4.

II. Upon conviction of any offense under RSA 265-A:4 or RSA 265-A:5, based on a complaint which alleged that the person has had one or more prior convictions under RSA 265-A:2 or RSA 265-A:3 or RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction, within 7 years preceding the date of the second or subsequent offense, the person shall be subject to the following penalties in addition to those provided in paragraph I:

(a) For a second offense:

(1) The person shall be guilty of a misdemeanor.

(2) The person shall be fined not less than \$500.

(3) The person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county

correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b within 21 days after conviction or at the end of the defendant's appeals period, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned the first available space.

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the state-operated, 7-day multiple DWI offender intervention detention center program.

(6) A defendant who fails to complete the program shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 265-A:2 and all other requirements under law are met.

(2) If the person has completed the state-operated 7-day multiple DWI offender intervention detention center program as required under subparagraph (a)(3) upon conviction for a prior offense, the person shall be sentenced to imprisonment for a period of not less than 30 consecutive 24-hour periods, and shall complete at the person's own expense a residential treatment program of at least 28 days duration or an intensive course of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and human services before the driver's license may be restored.

(c) For a fourth or subsequent offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 7 years.

(d) For a third or subsequent offense when any prior offense under this paragraph is negligent homicide under RSA 630:3, II, or reasonably equivalent offense in an out-of-state jurisdiction, the person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 10 years.

III. If any person is convicted of a violation of RSA 265-A:2 or RSA 265-A:3, and the conviction is not based upon a complaint which alleges prior convictions, as provided in RSA 265-A:4, II but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction within the 7-year period, the person's driver's license or privilege to drive shall be

revoked for not less than 180 days nor more than 3 years. The license shall not be restored until the person has successfully completed a 7-day program at the state-operated multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the director of the office of alcohol and drug abuse prevention, as provided in RSA 172-B:2-b and RSA 265-A:22, at the person's own expense. The court may order attendance at a residential treatment center, for a period not to exceed 30 days, at the person's own expense.

IV. For the purposes of this section:

(a) "Revocation" or "revoked" means revocation as defined in RSA 259:90 and also includes, if the person is a nonresident, the revocation of the person's privilege as an out-of-state driver to drive on any ways of this state.

(b) "Out-of-state jurisdiction" includes any governmental entity that issues driver's licenses that are valid for operating a motor vehicle on the ways of this state as provided in RSA 263:37, and that has laws relating to driving while intoxicated that are reasonably equivalent to the laws of this state.

(c) "Successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the IDIP or the MOP or its equivalent; provided, however, that the offender shall have the right to a hearing before the commissioner or designee, who shall determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration. The definition in this subparagraph shall also apply to RSA 265-A:22.

V. No portion of the minimum mandatory sentence of imprisonment and no portion of the mandatory sentence of the period of revocation and no portion of any fine imposed under this section shall be suspended or reduced by the court. No case brought to enforce this section shall be continued for sentencing for longer than 35 days. No person serving the minimum mandatory sentence under this section shall be discharged pursuant to authority granted under RSA 651:18, released pursuant to authority granted under RSA 651:19, or in any manner, except as provided in RSA 623:1, prevented from serving the full amount of such minimum mandatory sentence under any authority granted by RSA title LXII or any other provision of law.

VI. Upon conviction under the provisions of RSA 265-A:2 or RSA 265-A:3, the prosecutor shall present to the court a certified copy of the defendant's record of convictions of motor vehicle offenses under RSA title XXI and reasonably equivalent offenses in out-of-state jurisdictions which are on record at the New Hampshire division of motor vehicles or known to the prosecutor, or a signed statement that the defendant has no such prior convictions within the preceding 7 years. Prior to sentencing the court shall note on the complaint the number of prior convictions for drug or alcohol-related motor vehicle offenses, or the absence of any such prior convictions, as shown on such report or statement.

VII. Any conviction under RSA 265-A:2 or RSA 265-A:3 shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.

VIII. Any person convicted of a violation of RSA 265-A:2 or RSA 265-A:3, and who at the time of driving a vehicle or off highway recreational vehicle was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the state-operated multiple DWI offender

program or an equivalent 7-day residential intervention program approved by the commissioner at the person's own expense.

265-A:5 Annulment; Plea Bargaining.

I. Notwithstanding the provisions of RSA 651:5, no court shall order an annulment of any record of conviction of driving or attempting to drive a vehicle upon any way while under the influence of intoxicating liquor or any controlled drug or while having an alcohol concentration of 0.08 or more or of aggravated drunken driving until 7 years after the date of conviction.

II. Notwithstanding any other provision of law to the contrary, in any case in which a person is arrested for and charged with the offense of driving or attempting to drive a vehicle on any way while under the influence of intoxicating liquor or drugs or while having an alcohol concentration of 0.08 or more and that charge is reduced from a second or subsequent offense to a first offense or in which the original charge is reduced to or in any manner substituted with another charge or a nolle prosequi entered in exchange for an agreement to plead guilty or nolo contendere to another charge, the prosecutor shall submit to the attorney general a written report describing such agreement. All such written reports shall be submitted to the attorney general on a monthly basis. The report shall contain such information as the attorney general shall prescribe; provided, however, that he or she shall not be subject to the provisions of RSA 541-A in prescribing such information. The report required by this paragraph shall be a public record and shall be available for public inspection as provided in RSA 91-A:4.

III. Notwithstanding any other provision of law to the contrary, if a person is arrested for driving or attempting to drive a motor vehicle upon any way while under the influence of intoxicating liquor or drugs or while having an alcohol concentration of 0.08 or more, no prosecutor shall enter into any agreement with such person or such person's attorney if such agreement would result in a charge that removed the case from consideration under any provision of this chapter. The provisions of this paragraph, however, shall not prevent the bringing of any charge under RSA 630:2 or RSA 630:3.

265-A:6 Arrest Without a Warrant. Notwithstanding any other statutory provision of law to the contrary, a law enforcement officer may, without a warrant, arrest any person involved in a traffic accident when the officer has probable cause to believe that such person has committed an offense, an element of which is driving under the influence of intoxicating liquors, controlled drugs or both. Notwithstanding any statutory provision of law to the contrary, a law enforcement officer may make such an arrest in such officer's own jurisdiction or on the property of any medical facility in another jurisdiction in this state where the person or others are taken for treatment for injuries suffered in such traffic accident.

Impairment Testing; Methods and Evidentiary Analysis

265-A:7 Official Records of Tests.

I. Any person who is arraigned on a charge arising under RSA 265-A:9 shall file notice in said court, within 30 days immediately following the receipt by the person of the results of any alcohol concentration test administered to such person, requiring the attendance of the certifying scientist. Failure to file notice shall be deemed a waiver to require attendance of the certifying scientist at the trial. The official report of the test issued pursuant to RSA 265-A:9 shall be deemed conclusive evidence of the conduct and result of said test.

II. A copy of the preventive maintenance check form filled out by the forensic breath testing supervisor who performed the last preventive maintenance check on the breath testing machine in question prior to the time of the test at issue shall be admissible evidence of the performance and successful completion of such check. Such check shall have been performed according to the schedule required in the rules adopted by the commissioner of the department of health and human services.

III. The successful completion of the external standard reference check shall be admissible evidence that the instrument was properly calibrated at the time of the test. The external standard reference check shall be performed according to the schedule required in rules adopted by the commissioner of the department of health and human services pursuant to RSA 541-A.

IV. A copy of the appropriate form filled out and signed by the person who took the sample for the alcohol concentration test in question shall be admissible evidence that the sample was taken by such person at the stated time on the stated date according to the procedures prescribed in the rules adopted by the commissioner of the department of health and human services pursuant to RSA 265-A:10, V.

V. Any person who is arraigned on a charge arising under RSA 265-A:40, 265-A:2 or 265-A:3 shall file, within 10 days of such person's receipt of the results of any toxicology test administered to such person for the presence of any controlled drug, a notice in said court requiring the attendance of the certifying scientist. Failure to file notice shall be deemed a waiver to require attendance of the certifying scientist at trial. The official report of the test issued pursuant to RSA 265-A:9 shall be deemed conclusive evidence of the conduct of the result of such test.

265-A:8 Preliminary Breath Test.

I. Any police officer, who has been certified by the police standards and training council according to standards for such certification contained in rules adopted by said council pursuant to RSA 541-A, having reasonable grounds to believe that a person has been driving or operating a vehicle on a way while under the influence of intoxicating liquor or controlled drug or while the person's alcohol concentration was 0.08 or more may, without making an arrest, request that such person submit to a preliminary breath test for alcohol concentration to be administered by the officer. The results of this test shall not be admissible in evidence by the prosecution, and failure to submit to the test shall not constitute a violation of this chapter. Nothing contained in this section shall be construed to prevent or require a subsequent test pursuant to RSA 265-A:9. The police officer requesting the test shall advise orally and in writing the person to be tested that his or her failure to take the test or his or her taking of the test shall not be construed to prevent or require a subsequent test pursuant to RSA 265-A:9. The results of the test shall be furnished immediately in writing to the person tested by the police officer administering the test.

II. No device may be used to give a chemical test under the provisions of this section unless it has been approved as to type and make by the department of health and human services.

III. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to methods and procedures for evaluation and approval of preliminary breath test devices.

265-A:9 Implied Consent of Driver of Motor Vehicle to Submit to Testing to Determine Alcohol Concentration. Any person who drives a vehicle upon the ways of this state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether such person is under the influence of intoxicating liquor or controlled drugs, and to a chemical,

infrared molecular absorption or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath, for the purpose of determining the controlled drug content of such person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265-A:19, the prerequisites of RSA 265-A:13 shall not apply.

265-A:10 Administration of Alcohol Concentration Tests.

I. Only a duly licensed physician, registered nurse, certified physician's assistant, or qualified medical technician or medical technologist acting at the request of a law enforcement officer may withdraw blood for the purpose of a test required by RSA 265-A:9. Such licensed physician, registered nurse, physician's assistant, or qualified medical technician or medical technologist shall not be liable for damages or otherwise to the person from whom blood is withdrawn for any act performed in connection with such withdrawal provided the physician, registered nurse, physician's assistant, or qualified medical technician or medical technologist acts with ordinary care.

II. All such blood and urine tests made under the direction of a law enforcement officer shall be conducted in the laboratory of the department of health and human services or, in the case of blood and urine samples to be tested for the presence of controlled drugs, in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended.

III. The successful completion of the external standard reference check shall be admissible evidence that the instrument was properly calibrated at the time of the test. The external standard reference check shall be performed according to the schedule required in rules adopted by the commissioner of the department of health and human services pursuant to RSA 541-A.

IV. No tests of blood, urine or breath authorized by RSA 265-A:9 shall be considered as evidence in any proceeding before any administrative officer or court unless such test is performed in accordance with methods prescribed by the commissioner of the department of health and human services.

V. The commissioner of the department of health and human services shall adopt rules pursuant to RSA 541-A relative to:

(a) Methods and procedures for the testing of blood, urine, and breath to determine alcohol concentration and controlled drug content of a person's blood;

(b) Techniques or methods for ascertaining the qualifications and competence of individuals to conduct such tests;

(c) Methods and procedures for the delivery and processing of samples of such tests;

(d) Forms relative to taking samples for alcohol concentration tests for admission as evidence pursuant to RSA 265-A:7, IV;

(e) Procedures for certification of any laboratory that conducts tests pursuant to RSA 265-A:12; and

(f) Such other matters as are required to carry out the provisions of this chapter relative to alcohol concentration tests.

265-A:11 Administration of Physical Tests. No post-arrest physical test or examination authorized by RSA 265-A:9 shall be considered as evidence in any proceeding before any administrative officer or court unless such test or examination is performed by a law enforcement officer who has been trained in the administration of such physical tests and examinations by a law enforcement agency or in a training program approved by the police standards and training council.

265-A:12 Additional Tests. Any person to whom RSA 265-A:9 is applicable shall have the right at his or her own expense to have similar tests made by a person of his or her own choosing who is competent to conduct the tests, as determined by the commissioner of the department of health and human services under RSA 265-A:10, and shall be so informed by the law enforcement officer at the same time as the person is requested to permit a test under the provisions of RSA 265-A:9. The failure or inability of an arrested person to obtain an additional test shall not preclude the admission of any test taken at the direction of a law enforcement officer. Nothing herein shall require the release from custody of the arrested person for the purpose of having such additional test made. For the purpose of this section:

I. The sample of blood taken pursuant to RSA 265-A:9 shall be of sufficient quantity to allow 2 tests; and the testing laboratory shall retain for a period of 30 days subsequent to the test conducted pursuant to RSA 265-A:9 a quantity of said sample sufficient for another test, which quantity shall be made available to the respondent or counsel upon request.

II. The sample or samples of breath taken pursuant to RSA 265-A:9 shall be captured in an appropriate medium approved by the commissioner of the department of health and human services pursuant to RSA 265-A:10, V, and shall be sufficient to allow an equivalent additional test for each breath sample taken pursuant to 265-A:9. The captured sample or samples shall be given to the respondent in a manner determined by the commissioner of the department of health and human services.

265-A:13 Prerequisites to Tests.

I. Before any test of a person's blood, urine, or breath specified in RSA 265-A:9 is given, the law enforcement officer shall:

(a) Inform the arrested person of his right to have a similar test or tests made by a person of his or her own choosing;

(b) Afford the person an opportunity to request such additional test; and

(c) Inform the person of the consequences of a refusal to permit a test at the direction of the law enforcement officer.

II. Before any post-arrest physical test specified in RSA 265-A:9 is given, the law enforcement officer shall inform the defendant of the consequences of the defendant's refusal to comply with the law enforcement officer's instructions for a post-arrest physical test.

III. If the law enforcement officer fails to comply with the provisions of this section, the test shall be inadmissible as evidence in any proceeding before any administrative officer and court of this state.

265-A:14 Effect of Evidence of Alcohol Concentration Test. The provisions of this subdivision do not limit the introduction of any other competent evidence bearing on the question of whether a person charged with the violation of RSA 265-A:2, I(a), or RSA 265-A:3, I, was under the influence of intoxicating liquor or any controlled drug.

265-A:15 Refusal of Consent.

I. If a person under arrest for any violation or misdemeanor under RSA 265-A refuses upon the request of a law enforcement officer to submit to physical tests or to a test of blood, urine, or breath designated by the law enforcement officer as provided in RSA 265-A:9, none shall be given, but:

(a) If this is the first refusal with no prior driving while intoxicated or aggravated driving while intoxicated convictions:

(1) The director shall suspend the person's license to drive or nonresident driving privilege for a period of 180 days; or

(2) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 180 days after the date of the alleged violation.

(b) If the person has a prior driving while intoxicated or aggravated driving while intoxicated conviction or a prior refusal of consent under this section:

(1) The director shall suspend the person's license to drive or nonresident driving privilege for a period of 2 years; or

(2) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 2 years after the date of the alleged violation.

II. The 180-day or 2-year suspension period or denial of issuance period imposed pursuant to this section shall not run concurrently with any other penalty imposed under the provision of this title. Any such suspension or denial of a license or privilege to drive shall be imposed in addition to any other penalty provided by law, subject to review as provided in RSA 265-A:26.

III. A refusal of consent for both post-arrest physical testing and testing of blood, urine or breath following any one arrest shall be deemed one refusal for the purposes of this section.

265-A:16 Effect of Evidence of Refusal to Take Alcohol Concentration Test. If a person refuses to submit to a test as provided in RSA 265-A:9, such refusal may be admissible into evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by that person while driving or attempting to drive a motor vehicle while under the influence of intoxicating liquor or any controlled drug.

265-A:17 Evidence. Upon complaint, information, indictment, or trial of any person charged with the violation of RSA 265-A:2 or RSA 265-A:3, the court may admit evidence of physical testing of the defendant for being under the influence of intoxicating liquor or controlled drugs as provided in RSA 265-A:9, and of the controlled drug content of the defendant's blood and the defendant's alcohol concentration, as shown by a test of the person's breath, blood, or urine as provided in RSA 265-A:9. Evidence that there was, at the time alleged, an alcohol concentration of 0.03 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that there was, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence but is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. In addition, evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:2, I(b) of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265-A:2, I(b); and evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:3, II of driving or attempting to drive a vehicle upon a way and of one or more of the circumstances specified in RSA 265-A:3, II (a), (b), and (c) constitute a separate offense under RSA 265-A:3, II; and evidence that there was, at the time alleged, an alcohol concentration of 0.16 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:3, III of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265-A:5, III.

265-A:18 Incapacity to Give Consent. Any person who is dead, unconscious, or who is otherwise in a condition rendering the person incapable of refusing shall be deemed not to have withdrawn the consent provided by RSA 265-A:9 and the test or tests may be administered. The provisions of RSA **265-A:13** shall not apply to persons incapable of giving consent as provided for in this section.

265-A:19 Blood Testing of Certain Motor Vehicle Fatalities. When a collision results in death or serious bodily injury to any person, all drivers involved, whether living or deceased, and all deceased vehicle occupants and pedestrians involved shall be tested for evidence of alcohol or controlled drugs. A law enforcement officer shall request a licensed physician, registered nurse, certified physician's assistant, or qualified medical technician or medical technologist to withdraw blood from each driver involved if living and from the body of each deceased driver, deceased occupant or deceased pedestrian, in accordance with RSA 611:6, II, for the purpose of testing for evidence of alcohol content or controlled drugs; provided that in the case of a living driver the officer has probable cause to believe that the driver caused the collision. All tests made under this section shall be conducted by the department of health and human services or in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended. A copy of the report of any such test shall be kept on file by the medical examiner. The filed report is not a public record under RSA 91-A. However, the report shall be made available to the following:

I. Any highway safety agency for use in compiling statistics to evaluate the effectiveness of its program; and

II. Any person, including his or her legal representative, who is or may be involved in a civil, criminal, or administrative action or proceeding arising out of an accident in connection with which the test was performed.

Revocation for Reckless Driving or Driving While Under

Influence of Alcohol or Drugs; Procedure; Restoration.

265-A:20. Revocation for Reckless Driving or Driving While Under Influence of Alcohol or Drugs. Upon a conviction of a violation of RSA 265-A:34, RSA 265-A:2 or RSA 265-A:3, the court shall report to the department and shall immediately revoke the license or driving privilege of the person so convicted, or the right of a nonresident so convicted to drive within the state of New Hampshire; and said court in the case of holders of New Hampshire licenses shall return such license with its findings marked thereon, together with the court return, to the department; and the department may revoke the license of any person who shall be convicted of a similar offense by a court of any other state in a criminal proceeding, or who shall be found to have committed a similar act by a court of any other state in a civil proceeding.

265-A:21 Payment of All Obligations Prior to Restoration. The director of motor vehicles shall not restore a person's license or privilege to drive, if it was revoked pursuant to RSA 265-A:40; RSA 265-A:2; RSA 265-A:3; RSA 263:14-a; RSA 630:2; or RSA 630:3, or if the revocation was connected with an alcohol related or drug related offense, until all obligations of such person resulting from the arrest and conviction for the offense are met. For the purposes of this section, the word "obligations" shall mean fines and penalty assessments, court-ordered restitution or reimbursement to any person injured as a result of the offense, successful completion of all treatment and rehabilitation programs the person is required to take, full payment of all fees for such programs, and any other costs which may be ordered by the court. The word "obligations" shall not mean completion of probation or parole or completion of a condition of probation or parole. In any case where the court orders periodic payment of fines, penalty assessments, restitution or reimbursement, the obligations of such person shall be deemed to have been met if such person is current in all such court-ordered payments.

265-A:22 Attendance at Impaired Driver Intervention Program Required.

I. The director shall not restore the license or driving privilege of any person whose license or privilege has been revoked or suspended pursuant to RSA 265-A:2 or RSA 265-A:3 until such person has furnished proof of successful completion of an impaired driver intervention program which is:

(a) Approved by the commissioner of the department of health and human services and the commissioner of safety pursuant to RSA 172-B:2-a and RSA 172-B:2-b; or

(b) Approved by the court, in the case of a person who is not a resident of this state.

II. For the purposes of this section, "successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the IDIP or the MOP or its equivalent; provided, however, that the offender shall have the right to a hearing before the commissioner or designee, who shall determine whether the further counseling

requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration.

III. Successful completion shall also include payment of all assessed IDIP, MOP, and equivalent program fees. Failure of the offender to make full payment of the assessed fee may also result in petition for contempt of court charges against the offender.

IV.(a) Upon enrolling in an impaired driver intervention program, a person shall provide to the program an original certified copy of the person's driver's license record. Such record shall be secured from the division of motor vehicles, or from the state in which the person holds a driver's license, if an out-of-state resident. The person shall pay for all costs involved in securing the certified copy.

(b) In the case of enrollment in the state-operated 7-day multiple DWI offender intervention detention center, a person shall provide such certified copy at the time of enrollment or prior to the issuance of a report under RSA 172-B:2-b, III and RSA 265-A:4, V.

265-A:23 Driving After Revocation or Suspension.

I. No person shall drive a motor vehicle in this state after the director or the justice of any court in this state, or competent authority in the out-of-state jurisdiction where the license was issued has suspended or revoked such person's license to drive or after such person's driving privilege has been so suspended or revoked.

II. A person who drives a motor vehicle in this state after such person's license or driving privilege has been suspended or revoked shall be guilty of violating this section regardless of whether such person has a license on the effective date of such suspension or revocation. Evidence that the notice of suspension or revocation was sent to the person's last known address as shown on the records of the division shall be prima facie evidence that the person was notified of the suspension or revocation.

III. A person who obtains or possesses an out-of-state license after such person's New Hampshire license or driving privilege has been revoked does not revive his or her driving privilege by having such out-of-state license, and such person shall be guilty of violating this section if he or she drives in the state while his or her New Hampshire license or driving privilege is suspended or revoked.

IV. Any person who violates this section by driving a motor vehicle in this state during the period of suspension or revocation of his or her license or driving privilege for a violation of RSA 265-A:34 shall be guilty of a misdemeanor. Any person who violates this section by driving a motor vehicle or by operating an OHRV in this state during the period of suspension or revocation of his or her license or driving privilege for a violation of RSA 265-A:2, RSA 265-A:3, or RSA 630:3, II shall be guilty of a misdemeanor and shall be sentenced to imprisonment for a period not less than 7 consecutive 24-hour periods to be served within 6 months of the conviction, shall be fined not more than \$1,000, and shall have his or her license or privilege revoked for an additional year. No portion of the minimum mandatory sentence of imprisonment shall be suspended by the court. No case brought to enforce this paragraph shall be continued for sentencing for longer than 35 days. No person serving the minimum mandatory sentence under this paragraph shall be discharged pursuant to authority granted under RSA 651:18, released pursuant to authority granted under RSA 651:19, or in any manner, except as provided in RSA 623:1, prevented from serving the full amount of such minimum mandatory sentence under any authority granted by title LXII or any other provision of law.

V. Notwithstanding the definition of "revocation" in RSA 259:90 and the definition of "suspension" in RSA 259:107, the phrase "period of suspension or revocation" as used in paragraph IV and for purposes of paragraph IV only shall mean only suspension or revocation imposed by a court of competent jurisdiction.

VI.(a) Except as provided in subparagraph (b), any person who drives a motor vehicle in this state during the period of suspension or revocation of his or her license or driving privilege and is involved in a collision resulting in death or serious bodily injury, as defined in RSA 625:11, VI, to any person, shall be guilty of a class B felony, where such person's unlawful operation of the motor vehicle caused or materially contributed to the collision. Evidence that the driver violated any of the rules of the road shall be prima facie evidence that the driver caused or materially contributed to the collision.

(b) A person violating this section whose license or driving privilege has been suspended pursuant to the provisions of RSA 263:14 only shall be guilty of a misdemeanor.

VII. Any person who violates the provisions of this section shall be guilty of a misdemeanor upon conviction based upon a complaint which alleged that the person has had one or more prior convictions for driving after revocation or suspension in this state within the 7 years preceding the date of the second or subsequent offense.

VIII. Except as provided in paragraphs IV, VI, and VII, any person who violates the provisions of this section shall be guilty of a violation.

265-A:24 Period of License Suspension. Where a license or driving privilege has been suspended under RSA 265-A:18 and the person is also convicted on criminal charges arising out of the same event both the suspension and the court ordered revocation shall be imposed but the total period of suspension and revocation shall not exceed the longer of the 2 periods; provided, however, that any suspension for refusing to submit to a test under the provisions of RSA 265-A:15 shall not run concurrently with any other penalty imposed under the provisions of this title.

265-A:25 Administrative License Suspension.

I. If any person refuses a test as provided in RSA 265-A:15 or submits to a test described in RSA 265-A:9 which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more, the law enforcement officer shall submit a sworn report to the department. In the report the officer shall certify that the test was requested pursuant to RSA 265-A:9 and that the person refused to submit to testing or submitted to a test which disclosed an alcohol concentration of 0.08 or more, or, in the case of a person under the age of 21, 0.02 or more.

II. Upon receipt of the sworn report of a law enforcement officer submitted under paragraph I, the department shall suspend the person's driver's license or privilege to drive as follows:

(a) In the case of a refusal to take a test described in RSA 265-A:9, the suspension shall be for the period specified in RSA 265-A:15.

(b) In the case of a person who submits to a test described in RSA 265-A:9 which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more, the suspension shall be for:

(1) Six months if there is no prior refusal under RSA 265-A:15, no prior driving while intoxicated or aggravated driving while intoxicated convictions, and no prior administrative license suspension pursuant to this section.

(2) Two years if there is a prior refusal under RSA 265-A:15, or a prior driving while intoxicated or aggravated driving while intoxicated conviction, or a prior administrative suspension pursuant to this section.

III. On behalf of the department, the law enforcement officer submitting the sworn report under paragraph I shall serve immediate notice of suspension on the person, and the suspension shall be effective 30 days after the date of service. If the person has a valid New Hampshire driver's license, an officer shall take the driver's license of the person, and issue a temporary license valid for the notice period. The officer shall send the license to the department along with the sworn report under paragraph I.

IV. If the person submits to a test described in RSA 265-A:9 and the results of the test are not immediately available and therefore no notice has been served by the law enforcement officer, the department shall mail such notice and the suspension shall be effective 30 days after the date of service. If the address shown in the law enforcement officer's report differs from that shown on the department records, the notice shall be mailed to both addresses. The notice shall be presumed to have been served 3 days after mailing. Upon receipt of the notice of suspension and before requesting any review or hearing under RSA 265-A:26, if the person has a New Hampshire driver's license that has not been surrendered, the person shall surrender such person's license at a place designated by the department and shall be issued a temporary driving permit valid for the notice period.

V. In the case of a person who has a driver's license from another jurisdiction, all provisions of this subdivision shall apply except that surrender of the out-of-state driver's license and issuance of a temporary driving permit shall not be required. The department shall transmit a copy of the suspension order to the motor vehicle authorities in the jurisdiction where the person's license was issued, and also in the jurisdiction of the person's residence if different from that where the license was issued.

265-A:26 Administrative Review and Hearings.

I.(a) Any person whose license is suspended or revoked under this chapter or RSA 263:96 may request either an administrative review or a hearing. The request shall be in writing and shall state the grounds upon which the person seeks to have the order of suspension or revocation rescinded, which grounds shall be limited to those provided in paragraph II. The filing of the request shall not stay the suspension or revocation. A request for either administrative review or hearing received by the department after 30 days from the date the notice is issued shall be denied as untimely.

(b) If the request is for an administrative review, the request may be accompanied by any statement or other evidence which the person wants the department to consider. Upon receiving the request the department shall review the order, the evidence upon which it is based, including whether the person was driving or in actual physical control of a motor vehicle, and any other information brought to the attention of the department, and shall determine whether sufficient cause exists to sustain the order.

(c) If the request is for a hearing, the request shall also indicate whether or not the person desires to have the law enforcement officer present. The hearing shall be held within

20 days after the filing of the request unless the person requests a continuance. A request for a continuance by the person shall not stay the order of suspension or revocation. The hearing shall be recorded, and be conducted by the department's designated agent. The hearing may be conducted upon a review of the law enforcement officer's report if there is no request to have the officer present. If there is a request that the law enforcement officer be present at the hearing and the officer fails to appear without good cause shown, the case shall be dismissed and the order rescinded. If the person requesting the hearing fails to appear without good cause shown, the right to a hearing shall be waived and the order sustained.

II. The scope of the administrative review or hearing shall be limited to the issues of:

(a) Whether the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor, narcotics or drugs;

(b) The facts upon which the reasonable grounds to believe such are based;

(c) Whether the person had been arrested;

(d) Whether the person has refused to submit to the test upon the request of the law enforcement officer or whether a properly administered test or tests disclosed an alcohol concentration of 0.08 or more, or, in the case of a person under 21 years of age, 0.02 or more;

(e) Whether the officer informed the arrested person of his or her right to have a similar test or tests conducted by a person of his own choosing; and

(f) Whether the officer informed the arrested person of the fact that refusal to permit the test would result in suspension of his or her license or driving privilege and that testing above the alcohol concentration level specified in RSA 265-A:25 would also result in suspension.

III. In the case of either an administrative review or a hearing, the hearing examiner shall issue his or her recommendation on the order of suspension or revocation within 15 days of the request for administrative review or the hearing date. The recommendation shall be in writing and a copy shall be provided to the parties. The recommendation shall be final unless a review or appeal is filed under RSA 265-A:28 or RSA 265-A:29.

265-A:27 Appeal; Administrative License Suspension.

I. If the suspension is sustained after a hearing as provided in RSA 265-A:26, a person shall have the right to file a petition in the superior court in the county in which he or she was arrested to review the final order by the director or authorized agent within 30 days of the date of the final order. Jurisdiction to hear such appeals is vested in the superior court.

II. At the earliest practical time, the court shall review the record as developed before the director or authorized agent, together with any written legal argument presented to the court. Based on that review, the court may affirm or reverse the decision of the director or agent or order that oral argument be held. As justice may require, the court may remand the case to the director or authorized agent for further findings or rulings. In no event shall the oral argument be held less than 14 days after notice has been provided to the director. The petition for appeal shall set forth all the grounds upon which the final order is sought to be overturned. Issues not raised by the appellant before the director or agent shall not be raised before the superior court. The burden of proof shall be upon the appellant to show that the decision of the director or agent was clearly unreasonable or

unlawful, and all findings of the director or agent upon all questions of fact properly before him or her shall be deemed to be prima facie lawful and reasonable. The order or decision appealed from shall not be set aside or vacated except for errors of law, unless the court is satisfied, by a clear preponderance of the evidence before it, that the order is unjust or unreasonable.

III. No new or additional evidence shall be introduced in the superior court, but the case shall be determined upon the record and evidence transferred, except that in any case, if it shall be necessary in order that no party shall be deprived of any constitutional right, or if the court shall be of the opinion that justice requires the reception of evidence of facts which have occurred since the hearing, or which by reason of accident, mistake, or misfortune could not have been offered before the director or authorized agent, it shall remand the case to the director or authorized agent to receive and consider such additional evidence.

265-A:28 Review. Within 10 days following the examiner's ruling, a person whose license has been suspended or revoked, or the law enforcement officer, may petition the director for a review of the ruling. The filing of the petition shall not stay a suspension or revocation of the person's driver's license or privilege to drive if imposed, or the restoration of the person's driver's license or privilege to drive. The review shall determine whether the ruling is erroneous as a matter of law or cannot be sustained by the facts as presented at the hearing. After a review of the ruling, the director shall issue within 10 days a finding either affirming the ruling or granting a new hearing. Any grant of a new hearing shall be accompanied by a written explanation setting forth the specific error of law or the reason why the ruling cannot be sustained by the facts.

265-A:29 Appeal. Any person aggrieved by a decision of the department under this section, after the administrative hearing or review, may appeal the decision as provided in RSA 265-A:27. The court shall have the full authority to determine whether any license suspension or revocation should be stayed during the pendency of the appeal.

265-A:30 Revocation of License for Driving While Intoxicated and Appeal. Whenever any person convicted of a violation of RSA 265-A:2 or 265-A:3 appeals, the municipal or district court shall forthwith revoke the license or driving privilege of such person and, in case of a holder of a New Hampshire license, shall return such license together with the court return to the department which shall not reissue any license until the period of revocation determined by the court has elapsed.

265-A:31 Not Guilty Finding; Return of License. Any person whose license was revoked under the provisions of RSA 265-A:30 who appeals and is not found guilty shall have any previously held license returned. No additional fee requirements shall be imposed in connection with such license restoration.

265-A:32 Application to Boats.

I. No person shall operate or attempt to operate a boat while under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and a controlled drug.

II. Any person convicted of a violation of

(a) This section; or

(b) RSA 630:2 or 3, or RSA 631:1, 2, 2-a, or 3 when the offense was committed by means of his or her operation of a boat shall not operate a boat on the waters of this state for a

period of one year from the date of his or her conviction, whether or not such conviction is appealed. Any person operating a boat during such a period is guilty of a misdemeanor.

III. Any person convicted of a violation of this section who at the time of the violation was transporting a person under the age of 16 shall not operate a boat on the waters of this state until the offender has successfully completed a 7-day program at the state operated multiple DWI offender program or an equivalent 7-day residential intervention program approved by the commissioner of the department of health and human services at the person's own expense. Any person operating a boat in violation of this paragraph is guilty of a misdemeanor.

IV. Upon complaint, information, indictment or trial of any person charged with a violation of this section, the court may admit evidence of the defendant's alcohol concentration at the time alleged, as shown by a chemical, infrared molecular absorption or gas chromatograph test or tests of his breath, urine or blood.

V. Any conviction under this section shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.

VI. Any person who is convicted of a violation of paragraphs I-III of this section shall be subject to the same penalties as a person convicted of a violation of RSA 265-A:2 as specified in RSA 265-A:4.

VII. Any person who is convicted of a violation of RSA 265-A:2 or RSA 265-A:3 shall lose the privilege to operate a motorboat on the waters of this state for a period of one year from the date of conviction.

265-A:33 Application to OHRVs.

I. No person shall drive, operate or attempt to operate an OHRV:

(a) While he or she is under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drugs; or

(b) While the person has an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more.

II. A person shall be guilty of aggravated driving while intoxicated if such person drives, operates, or attempts to operate an OHRV:

(a) While under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug and, at the time alleged:

(1) Causes an OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another; or

(2) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning the OHRV while being pursued;

(b) While having an alcohol concentration of 0.08 or more and, at the time alleged:

(1) Causes an OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another; or

(2) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning the OHRV while being pursued;

(c) While having an alcohol concentration of 0.16 or more.

III. Upon complaint, information, indictment or trial of any person charged with a violation of this section, the court may admit evidence obtained under RSA 265-A:9 of the amount of drugs in the defendant's blood or the defendant's alcohol concentration as defined in RSA 265-A:1 at the time alleged, as shown by chemical, infrared molecular absorption or gas chromatograph test or tests of his breath, urine, or blood.

IV.(a) Any person who is convicted of a violation of paragraph I shall be subject to the same penalties as a person convicted of a violation of RSA 265-A:2 as specified in RSA 265-A:4.

(b) Any person who is convicted of a violation of paragraph II shall be subject to the same penalties as a person convicted of a violation of RSA 265-A:3 as specified in RSA 265-A:4.

Related Driving Offenses Involving Drugs or Alcohol

265-A:34 Reckless Driving; Minimum Penalty. Whoever upon any way drives a vehicle recklessly, or so that the lives or safety of the public shall be endangered, or upon a bet, wager, or race, or who drives a vehicle for the purpose of making a record, and thereby violates any of the provisions of this title or any rules adopted by the director, shall be, notwithstanding the provisions of title LXII, fined not less than \$250 nor more than \$500 and his or her license shall be revoked for a period of 60 days for the first offense and from 60 days to one year for the second offense.

265-A:35 Suspension of License; Recognizance Required on Appeal. Whenever any person convicted of a violation of RSA 265-A:34 appeals, the municipal or district court or justice shall order the person appealing to recognize in the sum of \$100, with sufficient sureties, to keep the peace and be of good behavior until such appeal has been finally disposed of. If the person appealing fails to recognize in said sum, the municipal or district court or justice shall forthwith suspend the license of such person. If during such appeal period, such person is convicted of another violation of RSA 265-A:34 unrelated to the prior conviction, the municipal or district court or the justice shall, upon receiving notice of such conviction, immediately suspend the license of such person, shall declare the recognizance forfeited, and shall request the county attorney to cause proceedings to be had immediately for the recovery of such forfeiture, such proceedings to be subject to the provisions of RSA 597:33, 34, 35, 36 and 38. Upon suspension of the license of such person either upon failure to recognize after conviction or during the appeal period as hereinabove provided, in case of holders of New Hampshire licenses, the municipal or district court or justice shall return such licenses together with the court return to the department which shall not reissue said license until such person is acquitted. If the person so appealing is convicted, and has had his or her license suspended during the appeal period for failure to recognize in the required sum, the period of suspension shall be computed from the date of the initial conviction. If the person so appealing is convicted and has not had his or her license suspended because he or she has recognized in the required sum, or has had

his or her license suspended because of a second conviction during the appeal period, the period of suspension shall commence upon the date of his or her final conviction upon such appeal.

265-A:36 Recognizance When Appealing Out of State Conviction. Whenever any person convicted in another state of the type of violation cited in RSA 265-A:34 appeals, the person appealing may recognize in this state in the sum of \$100, with sufficient sureties to keep the peace and be of good behavior until such appeal has been finally disposed of. Such sum shall be paid to the department and no suspension of his or her New Hampshire driver's license shall occur while the appeal of the out of state conviction is pending.

265-A:37 Prohibition on Issuance of New License. No new license or certificate shall be issued by the department to any person convicted of a violation of RSA 265-A:34 until after 60 days from the date of final conviction.

265-A:38 License Restored Upon Expiration of Revocation Period. Whenever any court revokes or suspends a license pursuant to RSA 265-A:34 for a stated period of time, the department shall restore said license immediately upon the expiration of the period of revocation or suspension ordered by the court provided that:

I. Any required application and fee have been submitted; and

II. No other suspension or revocation of such license, pursuant to RSA 264:2, I(e) or any other provision of this title, is still in effect.

265-A:39 License Restored Upon Proof of Financial Responsibility. Notwithstanding the provisions of RSA 265-A:38, the director shall not restore a license or driving privilege to a person whose license or driving privileges have been revoked pursuant to RSA 265-A:3 until such person has furnished proof of financial responsibility as required by other provisions of the law.

265-A:40 Possession of Drugs. Any person who drives on any way a vehicle while knowingly having in his or her possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her license shall be revoked or his or her right to drive denied for a period of 60 days and at the discretion of the court for a period not to exceed 2 years.

265-A:41 Transporting Alcoholic Beverages.

I. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 175:1.

II. Except as provided in paragraph V, no driver shall transport, carry, possess or have any liquor or beverage within the passenger area of any motor vehicle upon any way in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages shall be stored and transported in the trunk of the motor vehicle. If the motor vehicle does not have a trunk, such containers shall be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

III. Except as provided in paragraph V, no passenger shall carry, possess or have any liquor or beverage within any passenger area of any motor vehicle upon any way or in an area principally used for public parking in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages may be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

IV. A person who violates this section shall be guilty of a violation. In addition, a person who violates paragraph II of this section may have his or her driver's license, if a resident, or driving privilege, if a nonresident, suspended 60 days for a first offense and up to one year for a second or subsequent offense.

V. This section shall not apply to persons transporting, carrying, possessing or having any liquor or beverage in a chartered bus, in a taxi, or in a limousine for hire; provided, however, that the driver of any of said vehicles is prohibited from having any liquor or beverage in or about the driver's area.

VI. For the purposes of this section only:

(a) "Passenger area of any motor vehicle" shall not include any section of a motor vehicle which has been designed or modified for the overnight accommodation of persons or as living quarters.

(b) "Way" shall mean the entire width between the boundary lines of any public highway, street, avenue, road, alley, park, or parkway, or any private way laid out under authority of statute, or any such way provided and maintained by a public institution to which state funds are appropriated for public use or any such way which has been used for public travel for 20 years.

265-A:42 Transportation of Alcoholic Beverages by a Minor.

I. Notwithstanding RSA 265-A:41, II, no driver under the age of 21 shall, except when accompanied by a parent, legal guardian, or legal age spouse, transport any liquor or beverage in any part of a vehicle. A driver violating this section may have his or her license or right to drive suspended for 60 days. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 175:1. "Legal age spouse" means a person 21 years of age or older.

II. This section shall not apply to a driver under 21 years of age employed under RSA 179:23.

2 Cross Reference Correction. Amend RSA 21-P:14, IV(j) and (k) to read as follows:

(j) Suspension or revocation of a driver's license or driving privilege, as authorized by RSA 263:53-66 and RSA ~~[263:73]~~ **265-A:20**.

(k) Appeals of driver's license denial, suspension, or revocation, as authorized by RSA ~~[263:75]~~ **265-A:27** and 263:76.

3 Cross Reference Correction. Amend RSA 21-P:14, IV(r) to read as follows:

(r) Administrative suspension of motor vehicle licenses pursuant to RSA ~~[265:91-a-265:91-e]~~ **265-A:25**, including notices, forms, temporary driving permits, hearing procedures, and procedures for restoration after the suspension period.

4 Cross Reference Correction. Amend RSA 125:15-a, V to read as follows:

V. The methods, procedures, and techniques for the testing of blood, urine, and breath to determine alcohol concentration as described under RSA ~~[265:85, V]~~ **265-A:7**.

5 Cross Reference Correction. Amend RSA 154:8-a, II-a(e) to read as follows:

(e) The person responsible for the equipment contamination may appeal payment for such costs within 30 days of receipt of the bill for the costs to the commissioner of safety. The commissioner shall hold an administrative hearing within 30 days after receiving the appeal, at which time the extent of liability for costs shall be determined. The commissioner shall issue a decision within 30 days after holding the hearing. Any person aggrieved by a decision of the commissioner under this section may appeal the decision to the superior court in the same manner as that prescribed in RSA ~~[263:75, II and III]~~ **265-A:27**.

6 Impaired Driver Intervention Program and Multiple Offender Program Regulation. RSA 172-B:2-a, I and the introductory paragraph of paragraph II are repealed and reenacted to read as follows:

I. Except as provided in paragraph II, the director shall be responsible for approving the impaired driver intervention program (IDIP), required for restoration of a revoked driver's license after a first offense DWI conviction under RSA 265-A:4, I(a)(3) and I(c)(3), and any multiple offender program (MOP) required for restoration of a revoked driver's license after a second or subsequent offense conviction under RSA 265-A:4, II and III. The MOP shall be equivalent to the state-operated 7-day residential multiple DWI offender intervention detention center program. The director shall not approve any IDIP or MOP unless such program is conducted without cost to the state. Notwithstanding RSA 6:12, any fees collected from program providers under subparagraph III(c) of this section shall be placed in a non-lapsing revolving account and shall be used by the director for the purposes of this chapter only.

II. The director jointly with the commissioner of safety shall adopt rules, pursuant to RSA 541-A, relative to IDIPs and MOPs, both state-operated and those operated by private providers, with respect to:

7 Cross Reference Corrections. Amend RSA 172-B:2-b, I-III to read as follows:

I. The commissioner shall be responsible for administration and operation of the 7-day multiple DWI offender intervention detention center program which persons convicted under RSA ~~[265:82 or RSA 265:82-a]~~ **265-A:2 or RSA 265-A:3** or sentenced pursuant to RSA 651:2, V(h) may be required to attend.

II. Any person who attends the 7-day multiple DWI offender intervention detention center program shall be required to pay the fees for confinement and intervention costs prior to and as a prerequisite to admission into the program, except that prior payment shall not be required of any person convicted on a second or subsequent offense pursuant to RSA ~~[265:82-b, II or III]~~ **265-A:3**. The fees shall be sufficient to make the program self-supporting, exclusive of start-up costs. The fees collected shall be deposited in a special account in the office of the state treasurer and utilized as provided in RSA 172-B:2-c.

III. The state-operated 7-day multiple DWI offender intervention detention center program shall furnish to the courts and to the division of motor vehicles, department of safety, a report indicating when a person who attends the program pursuant to RSA ~~[265:82-b]~~ **265-A:22** has successfully completed the program. Included in that report shall be any recommendations for further treatment or involvement in a substance abuse program when appropriate and warranted. The court, upon receipt of such report, may after a hearing order the defendant to follow the treatment recommendations at a court-approved treatment facility.

8 New Paragraph; Annual Reports. Amend RSA 172-B:2-b by inserting after paragraph III the following new paragraph:

IV. The director shall submit an annual report of the state-operated multiple DWI offender intervention detention center program, on or before January 1 of each year, to the speaker of the house of representatives and the president of the senate.

9 Cross Reference Corrections. Amend RSA 172-B:2-c to read as follows:

172-B:2-c Utilization of Funds. All funds derived from the fees collected by the commissioner under RSA ~~[265:82-b]~~ **265-A:4** shall be paid over to the state treasurer within 10 days of the subsequent month, or at an earlier date, for deposit into a separate account in the treasury known as the 7-day multiple DWI offender intervention detention center program account. These funds are appropriated as indicated in the operating budget as a source of funds for the 7-day multiple DWI offender intervention detention center program. Any funds remaining in the account over the appropriation indicated in the operating budget shall lapse into the general fund at the end of each fiscal year.

10 Cross Reference Correction. Amend RSA 179:27-a, II to read as follows:

II. Any partially consumed bottle of table wine which is to be removed from the premises under paragraph I shall be securely sealed and bagged, by the licensee, either to be in conformance with any applicable local open container law for those patrons on foot, or transported as required by RSA ~~[265:81]~~ **265-A:41**, in the trunk of a motor vehicle. If the vehicle is not equipped with a trunk, the securely sealed opened table wine bottles may be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

11 Cross Reference Correction. Amend RSA 214:20-c to read as follows:

214:20-c Evidence. Upon complaint, information, indictment or trial of any person charged with a violation of RSA 214:20 or 214:20-a, the court may admit evidence of the defendant's alcohol concentration, as defined in RSA ~~[259:3-b]~~ **265-A:1**, as shown by a chemical analysis of his *or her* breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of 0.03 or less in prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of greater than 0.03 but less than 0.08 is relevant evidence but is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. In the case of a person under the age of 21 an alcohol concentration of 0.02 or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

12 Cross Reference Corrections. Amend RSA 214:20-f to read as follows:

214:20-f Administration of Blood Alcohol Concentration Tests. All and any alcohol concentration tests performed as authorized in RSA 214:20-d shall be conducted pursuant to the requirements of RSA ~~[265:85]~~ **265-A:7**, relative to the testing of blood, urine, and breath.

13 Cross Reference Correction. Amend RSA 214:20-g to read as follows:

214:20-g Additional Tests. The provisions of RSA ~~[265:86]~~ **265-A:12**, relative to the right of an arrested person to obtain additional tests, shall apply to any person to whom RSA 214:20-d is applicable.

14 Cross Reference Correction. Amend RSA 214:20-j to read as follows:

214:20-j Official Record of Tests. The provisions of RSA ~~[265:90]~~ **265-A:7**, relative to notice to the court and the admissibility of the official report of tests, shall govern admissibility of the official records related to the tests taken pursuant to this RSA 214:20-d as well as the notice required to compel the attendance of any person who conducted such tests at trial.

15 Cross Reference Correction. Amend RSA 215-A:29, XIX(b) to read as follows:

(b) Any person who violates this section by operating an OHRV in this state during the period of suspension or revocation of such person's license or driving privilege for a violation of RSA ~~[215-A:11]~~ **265-A** shall be guilty of a misdemeanor and shall be sentenced in accordance with RSA ~~[263:64, IV]~~ **265-A:4**.

16 Words and Phrases Defined. Amend RSA 259:39, I to read as follows:

offenses: I. Three or more convictions, singularly or in combination, of the following

- (a) Conviction of any offense specified in RSA 261:73;
- (b) Conviction of any offense specified in RSA 262:1, I;
- (c) Conviction of any offense specified in RSA 262:8;
- (d) Conviction of any offense specified in RSA 262:12;
- (e) Conviction of any offense specified in RSA 262:13;
- (f) Conviction of any offense specified in RSA 263:12, V;
- (g) Conviction of any offense specified in RSA ~~[263:64]~~ **265-A:23**;
- (h) Conviction of any offense specified in RSA 264:25;
- (i) Conviction of any offense specified in RSA 265:4;
- (j) Conviction of any offense specified in RSA 265:79;
- ~~[(k) Conviction of any offense specified in RSA 265:82;~~
- ~~[(l) Conviction of any offense specified in RSA 265:82-a;~~

~~(m)]~~ **(k)** Conviction under RSA 630:2 of manslaughter resulting from the operation of a motor vehicle;

~~[(a)]~~ **(l)** Conviction under RSA 630:3 of negligent homicide resulting from the operation of a motor vehicle;

~~[(e)]~~ **(m)** Conviction of any felony in which a motor vehicle is used;

~~[(e)]~~ **(n)** Conviction of any offense specified in RSA 265:75.

17 References Changed. Amend RSA 259:125, II to read as follows:

II. For the purposes of RSA 265:79[~~, RSA 265:82, and RSA 265:82-a,~~] **RSA 265-A:2, and RSA 265-A:3**, any public highway, street, avenue, road, alley, park, parking lot or parkway; any private way laid out under authority of statute; ways provided and maintained by public institutions to which state funds are appropriated for public use; any privately owned and maintained way open for public use; and any private parking lots, including parking lots and other out-of-door areas of commercial establishments which are generally maintained for the benefit of the public.

18 Appropriation of Records. Amend RSA 260:16 to read as follows:

260:16 Appropriation. The department may destroy, at the end of 5 years from the date of filing, originals or copies, including photographs, microphotographs or photographic film, of reports required by law of accidents and applications for licenses to drive motor vehicles and for the registration thereof. The department may destroy any obsolete number plates and forms which, in the director's opinion, are no longer of any value to the state. The time limit provided herein shall not apply in the case of the destruction of original records, papers or documents as provided in RSA 260:19. This section shall not be construed as allowing the destruction of any record of conviction maintained for the purposes of RSA ~~[265:82]~~ **265-A:2**.

19 Habitual Offenders; Revocation of Registration. Amend RSA 261:180, III to read as follows:

III. The commissioner, when suspending a driver's license or privilege to drive because the driver is an habitual offender or has been convicted of negligent homicide involving the use of a motor vehicle, manslaughter involving the use of a motor vehicle, a subsequent offense of driving under the influence of intoxicating liquor or any controlled drug under RSA ~~[265:82]~~ **265-A:2**, or aggravated driving while intoxicated under RSA ~~[265:82-a]~~ **265-A:3**, shall also revoke the registration of any vehicle registered to the individual whose license is being revoked or suspended, for the period of revocation or suspension of the license or privilege to drive.

20 Convictions. Amend RSA 262:23, III to read as follows:

III. Notwithstanding paragraph I, any person who qualifies under RSA 259:39, who does not have a conviction under RSA ~~[265:82]~~ **265-A:2** or any misdemeanor or felony motor vehicle convictions pursuant to RSA title XXI, shall not be subject to the minimum mandatory provisions of paragraph I; provided, however, that any such person may be sentenced to one year or less. Any person incarcerated upon the effective date of this paragraph, pursuant to certification as an habitual offender under RSA 259:39, who does not have a conviction under RSA ~~[265:82]~~ **265-A:2** or any misdemeanor or felony motor vehicle convictions pursuant to RSA title XXI, may apply immediately to the superior court for sentence review and reduction.

21 Cross Reference Correction. Amend RSA 262:44 to read as follows:

262:44 Appearance; Default. Any person charged with a violation of the provisions of title XXI on vehicles, excluding a violation of RSA 263:1-a, 265:79, [~~265:82, 265:82-a~~] **265-A:2, 265-A:3**, 265:115, 265:117, a speeding offense under RSA 265:60 for which the defendant must appear in court, and any offense which is a misdemeanor or felony, may plead guilty, nolo contendere, or not guilty by mail in the following manner:

22 Youth Operators; Probationary Licenses. Amend RSA 263:14-a, I(a) to read as follows:

(a) Any person who shall apply for reissuance of his driver's license following revocation or suspension for an offense under RSA 265:79, RSA [~~265:82~~] **265-A:2** or RSA [~~265:82-a~~] **265-A:3** is an "at risk" driver and his *or her* driver's license shall be probationary for 3 years following the date of reissuance.

23 New Subparagraph; Refusal of Alcohol or Drug Concentration Testing. Amend RSA 263:56, I by inserting after subparagraph (h) the following new subparagraph:

(i) Has refused testing for alcohol or drug concentration, or has tested an excess concentration of alcohol or drugs, as provided in RSA 265-A:15.

24 Purge of Records. Amend RSA 263-56-a, II(b) to read as follows:

(b) The director shall purge the record of violations in default, related suspensions, and all fees and fines assessed against these defaults and suspensions under this section that have been on file for more than 7 years; provided, however, that the director shall not purge such records for a violation of RSA 265:79, RSA [~~265:82, RSA 265:82-a~~] **265-A:2, 265-A:3**, RSA 265:115, RSA 265:117, and any offense which is a misdemeanor or felony during the defendant's lifetime until the defendant's driver's license or driving privilege is reinstated. All courts shall notify the director of any such failure on a form prescribed by the director.

25 Cross Reference Correction. Amend RSA 263:94, I(a)(1) to read as follows:

(1) Driving a commercial motor vehicle under the influence of alcohol with an alcohol concentration of 0.04 or greater, or other controlled substance, notwithstanding RSA [~~265:89~~] **265-A:2**;

26 Cross Reference Correction. Amend RSA 263:96, I to read as follows:

I. Any person who drives a commercial motor vehicle upon the ways of New Hampshire shall be deemed to have given consent, subject to the provisions of RSA [~~265-A:11~~] **265-A:9**, to test or tests of any or all or any combination of the following: blood, breath, or urine, for the purpose of determining that person's alcohol concentration, or the presence of other drugs.

27 Cross Reference Correction. Amend RSA 263:96, IV to read as follows:

VI. The driver shall have the opportunity for a hearing and appeal as provided in RSA [~~263:75 and RSA 265:91-b~~] **265-A:26, RSA 265-A:27, and RSA 265-A:28 and RSA 265-A:29**.

28 Cross Reference Correction. Amend RSA 270:12-a, I(b) to read as follows:

(b) The provisions of RSA [~~270:48-a~~] **265-A:32**, relative to the operation of boats by a person under the influence of intoxicating liquor or a controlled drug or other unlawful

operation of boats thereunder and all other crimes and offenses occurring on the public bodies of inland waters of the state;

29 Reference Corrections. Amend RSA 270:46-a, I(c) and (d) to read as follows:

(c) RSA ~~[270:50]~~ **265-A:15**, refusal of consent.

(d) RSA ~~[270:48-a]~~ **265-A:32**, operating boats under the influence of liquor or drugs.

30 Deletion of Repealed Reference. Amend RSA 270:83 to read as follows:

270:83 Chocorua Lake. No person shall use, operate, or have aboard or attached to any boat ~~[as defined in RSA 270:48, II]~~ a petroleum- or electric-powered inboard or outboard motor, or any other type of power motor, upon the waters of Chocorua Lake in Tamworth. Whoever violates the provisions of this section shall be guilty of a violation.

31 Cross Reference Correction. Amend RSA 502-A:19-b, I to read as follows:

I. Such defendant shall receive, in addition to his *or her* summons, a uniform fine schedule entitled "Notice of Fine, New Hampshire District and Municipal Courts" which shall contain the usual fines for violations of the provisions of title XXI on vehicles, excluding violations of RSA 265:79, ~~[265:82]~~ **265-A:2** or any offense which is a misdemeanor or felony; the usual fines for violations of the provisions of RSA 270, 270-A, and 270-E, excluding any offense which is a misdemeanor or felony; and the usual fines for violations of the provisions of title XVIII on fish and game laws, excluding any offense which is a misdemeanor or felony. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except, if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally must do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the division of motor vehicles within 30 days of the date of summons. Defendants in violation of the provisions of title XVIII shall be subject to the provisions of RSA 207:18 and RSA 214:19.

32 Cross Reference Correction. Amend RSA 630:3, II to read as follows:

II. A person is guilty of a class A felony when in consequence of being under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and controlled drug while operating a propelled vehicle, as defined in RSA 637:9, III or a boat ~~[as defined in RSA 270:48, II]~~, he causes the death of another.

33 Annulment of Record. Amend RSA 651:5, III to read as follows:

III. Except as provided in RSA ~~[265:82-e]~~ **265-A:26** or **RSA 265-A:27**, in paragraphs V and VI, any person convicted of an offense may petition for annulment of the record of arrest, conviction and sentence when the petitioner has completed all the terms and conditions of the sentence and has thereafter been convicted of no other crime, except a motor vehicle offense classified as a violation other than driving while intoxicated under RSA ~~[265:82]~~ **265-A:2**, for a period of time as follows:

34 Extended Sentences. Amend RSA 651:6, I(l)-(m) to read as follows:

(l) Such person has previously been convicted of a violation of RSA 630:3, II, RSA ~~[265:82-a, I(b) or II(b)]~~ **265-A:3**, or any crime in any other jurisdiction involving driving a motor vehicle under the influence of controlled drugs or intoxicating liquors, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA ~~[265:82-a, I(b) or II(b)]~~ **265-A:3**; or

(m) Such person has twice previously been convicted in this state or any other jurisdiction, for driving a motor vehicle under the influence of intoxicating liquors or controlled drugs, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA ~~[265:82-a, I(b) or II(b)]~~ **265-A:3**.

35 Repeal. The following are repealed:

- I. RSA 215-A:11 through 215-A:11-q, relative to DWI provisions for OHRVs.
- II. RSA 259:3-a, relative to the definition of alcohol.
- III. RSA 259:3-b, relative to alcohol concentrations.
- IV. RSA 263:56-e, II(c), relative to attendance at impaired driver intervention programs.
- V. RSA 263:65-a, relative to attendance at impaired driver intervention programs.
- VI. RSA 263:66, relative to revocation of license for driving while intoxicated and appeals.
- VII. RSA 263:67, relative to not guilty findings; return of license.
- VIII. RSA 263:68, relative to suspension of license and recognizance on appeal.
- IX. RSA 263:69, relative to recognizance when appealing out of state convictions.
- X. RSA 263:70, relative to prohibition on issuance of new license.
- XI. RSA 263:71, relative to license restoration upon expiration of revocation period.
- XII. RSA 263:71-a, relative to license restoration upon proof of financial responsibility.
- XIII. RSA 263:73, relative to revocation of nonresident privilege.
- XIV. RSA 263:75, relative to appeals.
- XV. RSA 265:80, relative to possession of drugs.
- XVI. RSA 265:81, relative to transporting alcoholic beverages.
- XVII. RSA 265:81-a, relative to transportation of alcoholic beverages by a minor.

XVIII. RSA 265:82, relative to driving under influence of drugs or liquor; driving with excess alcohol concentration.

XIX. RSA 265:82-a, relative to aggravated driving while intoxicated.

XX. RSA 265:82-b, relative to penalties for intoxication or operating under the influence of drugs offenses.

XXI. RSA 265:82-c, relative to annulment; plea bargaining.

XXII. RSA 265:82-d, relative to payment of all obligations prior to restoration.

XXIII. RSA 265:83, relative to arrests without a warrant.

XXIV. RSA 265:84, relative to implied consent of driver to submit to testing.

XXV. RSA 265:85, relative to administration of alcohol concentration tests.

XXVI. RSA 265:85-a, relative to administration of physical tests.

XXVII. RSA 265:86, relative to additional tests.

XXVIII. RSA 265:87, relative to prerequisites to tests.

XXIX. RSA 265:88, relative to effect of evidence of alcohol concentration tests.

XXX. RSA 265:88-a, relative to evidence of refusal to take alcohol concentration tests.

XXXI. RSA 265:89, relative to evidence.

XXXII. RSA 265:90, relative to official records of tests.

XXXIII. RSA 265:91, relative to incapacity to give consent.

XXXIV. RSA 265:91-a, relative to administrative license suspensions.

XXXV. RSA 265:91-b, relative to administrative review and hearings.

XXXVI. RSA 265:91-c, relative to period of license suspension.

XXXVII. RSA 265:91-d, relative to appeals.

XXXVIII. RSA 265:91-e, relative to appeals.

XXXIX. RSA 265:92, relative to refusal of consent.

XXXX. RSA 265:92-a, relative to preliminary breath test.

XXXXI. RSA 265:93, relative to blood testing of certain motor vehicle fatalities.

XXXXII. RSA 270:47 through 270:58-b, relative to implied consent for boaters.

36 Effective Date. This act shall take effect January 1, 2001.

HB 1621-FN, allowing administrative home confinement for habitual offenders. OUGHT TO PASS

Rep. Frederick B. Andrews for Criminal Justice and Public Safety: Under current statute, anyone who has been found to be a habitual offender and is subsequently convicted of driving during the period of revocation or suspension, shall be sentenced to not less than one year or more than five years of imprisonment. HB 1621 allows the court to order home confinement with court imposed restrictions for the minimum sentence of one year. The cost of monitoring home confinement falls to the offender and the cost of imprisonment is eliminated. This will help the families of the offender when the offender is employed and still able to maintain his/her obligations. It may prevent a family from breakup, financial disaster or living on welfare. The court will have the authority to determine whether a particular convicted offender is an appropriate subject to be allowed home confinement vs. jail incarceration. Vote 16-0.

SB 336, relative to the issuance of fire permits. OUGHT TO PASS

Rep. Everett A. Weare for Criminal Justice and Public Safety: This bill eliminates a problem that has required a subjective decision to be made by those authorized to issue a burning permit as to the authorized area that a permit burn may be conducted. This change will now require a permit to be issued for all burns unless there is adequate snow covering the ground. Vote 12-0.

HB 1393-L, relative to teacher contract renewals and enforcement of teacher contracts.
INEXPEDIENT TO LEGISLATE

Rep. Robert H. Guest for Education: The committee is sympathetic with the intent of the bill, but believes the issues can be handled more effectively at the local level without resorting to complicated appeal mechanisms. Present law allows local school boards to adopt policies and levy appropriate damages to employees who break employment contracts. Indeed, there could be a number of valid reasons why a teacher might "break" a contract. Superintendents who testified, all of whom opposed the bill, pointed to cases in which such action could be mutually beneficial in a teacher exchange agreement with another school district. We question the punitive provisions of the bill. A civil penalty assessment of \$5,000 can, according to this bill, be imposed on a teacher. The bill also stipulates that a teacher's professional standards certificate can be suspended. A representative of the Department of Education, who opposed the bill, pointed out that professional qualification is an entirely different issue than that of individual employment contract agreements. Vote 18-0.

HB 1129-FN, relative to wetlands scientists. INEXPEDIENT TO LEGISLATE

Rep. Dana R. Landers for Executive Departments and Administration: This bill is an attempt to de-certify the wetland scientists, which is not needed at this time. HB 197, which was passed in 1998 certifying these scientists, ought to be given the chance to work. There are now over 169 certified scientists with more than 40 more applications pending. Vote 19-0.

HB 1133, establishing a committee to study issues regarding martial arts instruction in the state.
INEXPEDIENT TO LEGISLATE

Rep. Carolyn A. Virtue for Executive Departments and Administration: This bill established a committee to study the issues surrounding martial arts instruction and the need for licensure in the industry. The committee heard overwhelming testimony in opposition to the bill and no serious

consumer safety issues were identified. The committee unanimously supported inexpedient to legislate. Vote 15-0.

HB 1195, making technical changes to the law regulating acupuncture. OUGHT TO PASS WITH AMENDMENT

Rep. Nancy C. Stickney for Executive Departments and Administration: This bill as amended makes the technical correction to reflect the name change of the organization that the continuing education credit required each biennial period now comes from the National Certification Commission for Acupuncture and Oriental Medicine. Vote 19-0.

Amendment (3631h)

Amend the bill by replacing section 7 with the following:

7 Initial Licensure; Renewal. Amend RSA 328-G:9, IX and X to read as follows:

IX. All licenses issued by the board shall be valid for 2 years from the date of issuance and shall be renewed biennially or reissued pursuant to rules adopted, and ***upon payment of*** fees established, by the board.

X. As a condition of renewal of license, the board shall require each licensee to show proof of having completed ~~[in]~~ ***for*** each biennial period 30 continuing education units at approved institutions or as approved by the board. Maintaining continuous ~~[NCCA]~~ ***NCCAOM*** certification shall fulfill the continuing education requirement as long as ~~[NCCA]~~ ***NCCAOM*** certification continues to require at least 30 Professional Development Activity points ~~[in]~~ ***for*** each biennium.

HB 1203, relative to the cost to municipal libraries of access to services of the state library. OUGHT TO PASS WITH AMENDMENT

Rep. Howard C. Dickinson for Executive Departments and Administration: HB 1203, as amended, establishes a clear policy that no rule adopted by the commissioner of cultural resources shall require that our local public libraries increase their appropriation for maintenance, employee salaries and benefits, or material acquisitions in order to receive state library services. The funds for these purposes are raised by local property taxes and should be determined by the voters of each municipality in which a library is located. Furthermore, HB 1203, as amended, states that no rule adopted by the commissioner shall establish the qualifications for service as a local public library trustee. The voters in each municipality elect these trustees. The voters should be the sole judges of each trustee's qualifications to serve. The major issue in HB 1203 is the question of who sets policy. The ED&A committee is convinced that the New Hampshire General Court sets policy for all executive agencies, including the state library. Vote 17-1.

Amendment (3856h)

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

AN ACT relative to the adoption of rules by the commissioner of cultural resources regarding public libraries.

Amend the bill by replacing sections 1 and 2 with the following:

1 Statement of Purpose. The general court finds that since public libraries are operated to serve all of the residents in the communities in which they are located and the funds for the maintenance and operation of these libraries come largely from real estate taxes, the commissioner of cultural resources shall not dictate expenditure levels by rule. The general court further determines that the commissioner shall not adopt rules that designate qualifications for member library trustees elected by the voters pursuant to RSA 202-A.

2 Statewide Library Development System; State Library Services. Amend RSA 201-D:10 to read as follows:

201-D:10 Rulemaking.

I. The commissioner shall adopt rules under RSA 541-A and after public hearing, and subject to ratification by the state library council, relative to:

[~~I.~~](**a**) Standards for the associate, certified and accredited categories, and for any subcategory, concerning any or all of the following:

[~~(a)~~](**1**) Level of service;

[~~(b)~~](**2**) Evaluation and planning;

[~~(c)~~](**3**) Cooperation with other libraries;

[~~(d)~~](**4**) Participation in the library forum and statewide programs;

[~~(e)~~](**5**) Personnel qualifications;

[~~(f)~~](**6**) Organization of materials; and

[~~(g)~~](**7**) Physical facilities.

[~~II.~~](**b**) Allocation of state aid and other funds to individual libraries, cooperatives and other groups, and library areas. For state aid, this shall include setting the allocation rate for each membership category and the local library expenditures to be counted in applying the rate.

[~~III.~~](**c**) Requirements that member libraries adopt written policies concerning any or all of the following:

[~~(a)~~](**1**) General objectives;

[~~(b)~~](**2**) Organization of materials;

[~~(c)~~](**3**) Materials selection and collection development;

[~~(d)~~](**4**) Personnel;

[~~(e)~~](**5**) Public relations; and

[~~(f)~~](**6**) Cooperation with public school libraries.

~~[IV.]~~ **(d)** Reporting requirements for funded programs and services.

~~[V.]~~ **(e)** Number and boundaries of library areas.

~~[VI.]~~ **(f)** Democratic procedures for library forums.

II. No rule adopted by the commissioner shall require a member public library to increase its total appropriations for maintenance, employee salaries and benefits, and materials acquisitions in order to receive state library services.

III. No rule adopted by the commissioner shall establish qualifications for service as a library trustee.

AMENDED ANALYSIS

This bill provides that no rule adopted by the commissioner of cultural resources shall require a public library that is a member of the statewide library development system to increase its total appropriations in order to receive state library services. This bill also provides that no rule adopted by the commissioner shall establish qualifications for serve as a library trustee.

HB 1207, relative to establishing a retired status for licensed plumbers. INEXPEDIENT TO LEGISLATE

Rep. Dana L. Landers for Executive Departments and Administration: After extensive research the conclusion seems to be that the majority of older licensed plumbers are not in favor of this bill. The consensus is it is simply not fair to those younger up and coming plumbers. This bill would also open up the floodgates in regards to every licensed occupation in the state coming before us and asking for the same benefit which could dramatically effect the fee revenues Vote 19-0.

HB 1218, relative to discipline of state employees or officers making willful false statements. INEXPEDIENT TO LEGISLATE

Rep. Michael O'Neil for Executive Departments and Administration: The committee felt that the issue addressed in this legislation would be best handled under the New Hampshire division of personnel and not through new legislation. The department has established rules to deal with disciplinary hearings to ensure proper handling of personnel policies and procedure including grounds for dismissal of state employees. Vote 14-0.

HB 1220, establishing a New Hampshire conflict of interest law. INEXPEDIENT TO LEGISLATE

Rep. Howard C. Dickinson for Executive Departments and Administration: HB 1220 proposes to reaffirm and codify the principles set forth in the 13th amendment of the U.S. Constitution concerning the subject of conflict of interest. While the committee understands the sponsor's intent in the subject, the legislative ethics committee, the professional conduct and judicial conduct committees of the NH Bar, when functioning properly, offer adequate protection against conflicts of interest abuse. Vote 14-0.

HB 1276, establishing a committee to study the adoption of a regulated health professions act to promote consistency and efficiency in health occupation regulation. INEXPEDIENT TO LEGISLATE

Rep. Alida I. Millham for Executive Departments and Administration: This bill would establish a committee to study the adoption of a regulated health profession act for the purpose of promoting consistency and efficiency in health occupations regulation. This action was motivated by person who provides continuing health education programs who finds it difficult to work with the widely different continuing education requirements of the various health professions. The adoption of such an act has been recommended in a national study done by the Pew Foundation. However, such an act has not been adopted in any state in the union. The committee unanimously agreed that it is premature for New Hampshire to move in this direction at this time. Vote 14-0.

HB 1288, relative to the rulemaking hearing process for state agencies. INEXPEDIENT TO LEGISLATE

Rep. Howard C. Dickinson for Executive Departments and Administration: HB 1288 would require agencies to hold a second public hearing prior to approval of rule changes to give the public an opportunity to review final revisions. Under the current process, an agency, board or commission holds a public hearing on an initial proposal. This first draft can be revised based on information received and concerns expressed during this hearing and written comments received during the public comment period. The final copy of the proposed rules is then submitted to the joint legislative committee on administrative rules (JLCAR). After the JLCAR staff reviews these rules to insure that the proposal meets the intent of the legislature and is in the public interest, the JLCAR committee holds its own public hearing. Based upon the recommendation of the JLCAR staff and the public input received, the committee may object to the proposed rules in whole or in part and may ask the agency to make changes. After these changes are made, the JLCAR staff again reviews the new proposed rules. Final approval is then scheduled for a regular meeting of JLCAR at which public comment once again may be heard. The committee is convinced that the rule-making process has served us well since its introduction in the late 1970's. Unfortunately, the public and many members of the legislature do not fully understand how it works. If we all subscribe to the "rule-making register" and check on the rules in which we have an interest, the present process will work just fine. Vote 14-0.

HB 1338, increasing the membership of the American and Canadian French cultural exchange commission. OUGHT TO PASS

Rep. William R. Zolla for Executive Departments and Administration: This bill increases the membership from 7 to 11 in order to provide representation to a broader segment of the state's population as well as additional volunteers at no cost to the state. All testimony during the public hearing was in support of this bill. Vote 15-0.

HB 1347-FN, relative to review of administrative rules by the legislature prior to adoption. INEXPEDIENT TO LEGISLATE

Rep. Howard C. Dickinson for Executive Departments and Administration: While the idea of requiring greater policy committee involvement in the "rule-making" process as described in HB 1347 is laudable, the proposal is premature for several reasons: Since the sunset process was repealed in 1987, the specific responsibility for committee oversight has been blurred. Furthermore, relatively few members understand the functions and responsibilities of the Joint Legislative Committee on Administrative Rules and the rule-making process in RSA 541-A. (Please refer to the committee report on HB 1288 for a description of the rule-making process). Furthermore, HB 1347 is not necessary because the chairman of each policy committee should take the responsibility to insure that all proposed rules are consistent with legislation that their committee has passed. Vote 14-0.

HB 1371, relative to allocation and distribution of funds for community-based prevention and diversion programs for children and juveniles. OUGHT TO PASS

Rep. Merton S. Dyer for Executive Departments and Administration: The bill was referred to the ED&A committee, as a second committee, to review the section on administrative rules. The committee found that the rules the commissioner of health and human services must adopt covers the areas of accountability and reporting that are necessary to properly implement this bill. Vote 17-1.

HB 1415-FN, relative to the classification of certain personnel of the department of corrections. REFER FOR INTERIM STUDY

Rep. Ray F. Langer for Executive Departments and Administration: The committee needs to give further study to this bill. This is a complex bill dealing with some department of corrections personnel and whether they should be classified in group I or group II of the New Hampshire Retirement System. This will require additional study of each job description and supplemental job description to determine which positions meet the criteria set forth in RSA 100-A:1,VII. The retirement subcommittee will report their findings to the full committee in the fall and any new legislation will be filed for the 2001-2002 session. Vote 18-0.

HB 1467-FN, relative to the licensing of mail-order pharmacies. OUGHT TO PASS WITH AMENDMENT

Rep. Sylvia A. Holley for Executive Departments and Administration: This bill comes to us from the board of pharmacy. Mail order opportunities for prescriptions have been features in most health plans affording our citizens the opportunity of convenience and cost saving. With the advent of e-commerce the ease of ordering prescriptions over the Internet, at times without the need of a doctor's prescription, is causing great alarm. Today over 250 companies scattered all over the US, on off shore islands and in foreign countries have eased the process of obtaining drugs. Internet doctors, for a fee, are reviewing brief medical history questionnaires and approving prescription drugs. This bill requires mail order pharmacies located outside of New Hampshire who ship, mail or deliver prescription drugs into this state to be registered in New Hampshire and requires them to obtain a permit issued by the New Hampshire pharmacy board. A yearly registration fee of \$150 per out of state pharmacy/company covers the cost of implementing this oversight. Vote 14-2.

Amendment (3763h)

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

AN ACT relative to the registration of mail-order pharmacies.

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

2 Registration Required for Mail-order Pharmacies. Amend RSA 318:37 to read as follows:

318:37 Required[~~When~~]; **Compliance.**

I. No person shall conduct or operate a pharmacy for the sale at retail of drugs and medicines unless such pharmacy is registered with[~~5~~] and a permit therefor has been issued by[~~5~~] the pharmacy board, except as provided in this chapter.

II.(a) No person shall conduct or operate a mail-order pharmacy located outside of this state by shipping, mailing, or delivering prescription drugs into this state unless such pharmacy is registered in New Hampshire and a permit has been issued by the New Hampshire pharmacy board.

(b) To obtain a permit, a mail-order pharmacy shall comply with each of the following:

(1) Maintain a license in good standing from the state in which the mail-order pharmacy is located;

(2) Submit to the New Hampshire pharmacy board an application for registration as provided by the New Hampshire pharmacy board;

(3) Pay all appropriate registration fees;

(4) Submit to the New Hampshire pharmacy board a copy of the state pharmacy license from the state in which the mail-order pharmacy is located;

(5) Submit to the New Hampshire pharmacy board a copy of the state and federal controlled substance registrations from the state in which it is located, if controlled substances are to be shipped into this state.

(c) When requested to do so by the New Hampshire pharmacy board, each mail-order pharmacy shall supply the New Hampshire pharmacy board with any inspection reports, warning notices, disciplinary actions, notice of deficiency reports, or any other related reports from the state in which it is located concerning the operation of a mail-order pharmacy for review of compliance with state and federal drug laws.

(d) Except in emergencies that constitute an immediate threat to the public health and require expedited action by the board, the New Hampshire pharmacy board shall file a complaint with the licensing board of the state in which the mail-order pharmacy is located when known or suspected violations of the laws of the state in which the pharmacy is located are uncovered. If the licensing board in the state in which the mail-order pharmacy is located initiates disciplinary action, the New Hampshire pharmacy board may request the appropriate documents involved in the action for consideration of discipline against the pharmacy registration of the mail-order pharmacy. If no action is taken against the mail-order pharmacy by the licensing board of the state in which it is located, the New Hampshire pharmacy board may request copies of any investigation reports available from that state.

(e) The New Hampshire pharmacy board shall extend reciprocal cooperation to any state that licenses and regulates mail-order pharmacies for the purpose of investigating complaints against pharmacies located in New Hampshire or the sharing of information and investigative reports, as long as the other state shall extend the same reciprocal cooperation to the New Hampshire pharmacy board.

3 Effective Date. This act shall take effect October 1, 2000.

AMENDED ANALYSIS

This bill:

I. Defines "mail-order pharmacy".

II. Requires that mail-order pharmacies be registered with and receive a permit from the pharmacy board.

III. Provides requirements that a mail-order pharmacy must meet in order to obtain a permit to conduct business in this state.

IV. Provides procedures for the pharmacy board to be followed when known or suspected violations by a mail-order pharmacy are discovered.

V. Requires that the pharmacy board extend reciprocal cooperation for the purpose of investigating complaints to any state that licenses and regulates mail-order pharmacies, as long as the other state extends the same reciprocal cooperation to the pharmacy board.

This bill was requested by the New Hampshire pharmacy board.

HB 1606-FN, establishing the governor's commission on alcohol and drug abuse prevention, intervention, and treatment. OUGHT TO PASS WITH AMENDMENT

Rep. Maurice E. Goulet for Executive Departments and Administration: This bill establishes a high level commission to coordinate policy and review diverse funding streams to stem the growing tide of alcohol and drug abuse in New Hampshire. Federal funds go to many programs in the Departments of Health and Human Services, Education, Justice and to the National Guard, etc. This policy commission develops a statewide plan for the effective prevention of alcohol and drug abuse and establishes a comprehensive system of intervention and treatment. The amendment clarifies the appointing authority as the governor and council. Vote 14-0.

Amendment (3694h)

Amend RSA 12-J:1, I as inserted by section 2 of the bill by replacing it with the following:

I. Six public members, appointed by the governor and council, 2 of whom shall be professionals knowledgeable about alcohol and drug abuse prevention; 2 of whom shall be professionals knowledgeable about alcohol and drug abuse treatment, and 2 of whom shall be public members who are not professionals within the alcohol and drug addiction prevention and treatment system. The members appointed pursuant to this paragraph shall serve 3-year terms; provided that initially 2 members shall serve for one year, 2 members shall serve for 2 years, and 2 members shall serve for 3 years.

Amend RSA 12-J:2, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council shall designate a member of the commission to serve as chairperson. The executive director of the commission shall be the director of the appropriate division responsible for alcohol and drug abuse prevention and recovery who shall serve without additional compensation.

HB 1612-FN, establishing a state office of privacy. REFER FOR INTERIM STUDY

Rep. Robert C. Batchelder for Executive Departments and Administration: HB 1612-FN affirms the principle that the state has an obligation to protect the privacy of citizens' personal information collected by the state for the purpose of administering laws. The bill states that such personal information shall be kept confidential, shall not be used by the state for purposes other than those for which it was collected, and shall not be given or sold to others so that this information becomes a commodity in the marketplace. The bill establishes a "privacy unit" under the commissioner of administrative services to oversee this policy. Although the committee strongly supports the intent of this bill, as written it raises several complicated issues of implementation (such as its relation to the "right to know" law, and to requests for information by the federal government). The committee needs more time to sort out these issues. It therefore recommends interim study. Vote 14-2.

HB 1148-FN-L, relative to certain weighted pupils within the adequate education grant distribution formula. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: This bill provides that the additional weighting assigned to special education pupils and to pupils who are eligible to receive free or reduced-price meals be removed from the adequate education grant distribution formula. To take effect 60 days after passage, the bill reduces the amount the state will send to school districts from the education trust fund by \$79 and \$48.4 million respectively. Finance Committee members observed that changing the formula would considerably reduce the amount of state educational grants already budgeted by local communities for schools. Moreover donor communities, with large numbers of special needs and free or reduced lunch students, would see increased property taxes to make up for losses to state trust funds because the current formula contains these weighted provisions. Further the adequacy and tax equity commissions are examining the current formula along with a variety of taxing methods to meet the challenge of statewide funding for elementary and secondary education. Collectively the Finance Committee found the bill inexpedient to legislate. Vote 19-2.

HB 1284-FN, prohibiting the courts from charging fees. REFER FOR INTERIM STUDY

Rep. Kenneth L. Weyler for Finance: Access to the courts by all citizens was a fundamental belief of the framers of the Constitution. Escalation of costs in recent years has made it difficult for citizens of moderate means to fully participate in the justice system. The court arrangements for transcripts allow the court recorders to charge as much as \$2500 for a transcript that a litigant would need for an appeal. Filing fees are no longer used to directly fund the court system, but go to the general fund. A study of the costs for a citizen to pursue a claim seems in order. Vote 25-0.

HB 1459, requiring the state police to record and update information relative to the charges of criminal and civil non-support. OUGHT TO PASS WITH AMENDMENT

Rep. Robert K. Boyce for Finance: At the request of the state police and members of the policy committee, the committee amended this bill to give more flexibility to the state police. The amended language would allow the sheriffs and/or courts to be the designee to enter this information about arrest warrants and capias into the state police computer system. This amendment also clarifies that this bill only applies to in-state information. Vote 24-0.

Amendment (3848h)

Amend the bill by replacing section 1 with the following:

1 New Section; State Police; Intrastate Non-Support Recorded. Amend RSA 106-B by inserting after section 14-a the following new section:

106-B:14-b Intrastate Civil and Criminal Non-Support Recorded. The division of state police, or its designee, may record and update on its computer system on a daily basis the name of any person for whom there is an outstanding arrest warrant or capias issued for criminal or civil non-support, including failure to appear in connection with child support enforcement proceedings. The information recorded shall be made available upon request to all local and state law enforcement agencies and officers. The department of safety and its employees, agents, and designees shall not be held liable for errors of omission or commission in the recording and maintenance of this information unless the error is shown to be the result of gross negligence or an intentional act.

AMENDED ANALYSIS

This bill provides that the state police may record and update on its computer system any arrest warrant or capias issued for criminal or civil non-support.

HB 1552-FN-A, establishing a telecommunications development initiative in New Hampshire and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. David J. Alukonis for Finance: The Finance Committee amendment changes the source of funding for this bill from a special assessment by the Public Utilities Commission against certified telecommunications providers. The amended language allows the Department of Resources and Economic Development to solicit up to \$150,000 in donations, grants and gifts for the purpose of commencing the telecommunications development initiative. This change more correctly reflects the presumptions made during testimony that certain telecommunications providers have pledged to donate the funds necessary to start the program. Vote 24-1.

Amendment (3915h)

Amend section 5 of the bill by replacing all after paragraph I with the following:

II. The department of resources and economic development is authorized to accept up to \$150,000 in donations, grants and gifts for the purpose of commencing the telecommunications development initiative established by this act. The funds accepted are continually appropriated to the department of resources and economic development for the purpose of commencing the telecommunications development initiative.

HB 1572-FN-A-L, repealing the education trust fund, the sources of funding for the education trust fund, and the procedures for funding state aid for educational adequacy. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: Effective January 2, 2003, this bill repeals the education trust fund, all sources for the fund, and procedures for funding state educational adequacy. Revenue Administration indicates state restricted revenues will decrease by \$80.3 million in FY 2003. Not repealed is the mechanism for the statewide property tax. This proposal put a weighty burden on the first session of the next legislature to find a solution for state aid to education. Receiver towns, currently recipients of generous state educational grants, would lose state payments in 2003 if the legislature fails to act. History of the recent past gives faint hope that a solution will be found in a year. In addition, this legislation suggests that the Tax Equity Commission will be unsuccessful in proposing legislation to supercede the present grant system. Ending what is considered a temporary proposal with no proposal invites legislative muddle, so the committee found the bill inexpedient to legislate. Vote 18-1.

HB 1586-FN-A-L, relative to public highway safety grants and making an appropriation therefor. INEXPEDIENT TO LEGISLATE

Rep. David J. Alukonis for Finance: While the bill as introduced would distribute excess highway funds to donor communities, the bulk of the committee's discussion regarded several amendments, including one offered by the sponsors, which would re-distribute meals and rooms tax revenues to donor communities up to a level of \$300,000 each. Clearly, the intent of the bill is to lessen the tax impact felt by these communities as a result of the statewide property tax. The committee has heard a number of different proposals and suggestions regarding this issue, and with each, there have been questions of fairness, equity, and constitutionality. While a proposal such as this bill would assist the affected donor communities, it would neither negate the excess statewide property tax payments for all towns nor mitigate payments in an equal manner amongst these communities. The proposal, while innovative and resourceful, has its own problems of equity and fairness and would likely cause further discontent between our towns and cities should it be adopted. Vote 24-1.

HB 1615-L, relative to the application of a local per capita income weighting factor to the education property tax. INEXPEDIENT TO LEGISLATE

Rep. Linda T. Foster for Finance: This bill changes the calculation of the statewide property tax by adding a per capita income weighting factor. It also repeals RSA 198:38 VII (d) relative to weighting for free and reduced school lunch eligible pupils.

Although some may believe that an income factor should be included in the school funding solution, the committee recognized the following problems in this proposal: 1. The bill poses constitutional problems; it adjusts the tax itself on a community-to-community basis. Consequently, the tax may not be uniform and equal. 2. Local per capita income can be skewed by a few very wealthy individuals. 3. Although the calculation requires the use of a municipality's total equalized valuation, the income component does not include the incomes of all property owners, i.e., out-of-state owners. 4. The effective date, July 1, 2000 would unduly frustrate municipal and educational entities in their budget preparations.

The committee, therefore, voted this bill Inexpedient to Legislate, and asks the Tax Equity and Efficiency Commission to thoroughly examine the applicability of the bill's core concept. Vote 19-1.

HJR 22, relative to the unintended consequences of the Balanced Budget Act of 1997. OUGHT TO PASS WITH AMENDMENT

Rep. Carol F. Moore for Finance: This bill, as amended, requests the federal government to eliminate further medicare reductions of the Balanced Budget Act. The financial goals of the act have long ago been met, and further reductions would seriously damage access to needed levels of medicare services. Vote 22-1.

Amendment (3816h)

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

Whereas, the Medicare program has made medical services available to millions of senior and disabled citizens since its inception in 1965; and

Whereas, the success of the Medicare program relies on a fair and responsible partnership between the public and private sector to provide appropriate medical services for all eligible individuals; and

Whereas, the Balanced Budget Act of 1997 included the most comprehensive reforms to the Medicare program since its passage, resulting in a range of unintended consequences that are affecting the New Hampshire medical service delivery system accessed by our most frail and needy citizens and provided through hospitals, skilled nursing facilities, and home health agencies; and

Whereas, the Medicare revenue reductions projected by the Balanced Budget Act were intended only to slow the growth of Medicare expense, but have actually resulted in a reduction of Medicare expense that brings the 1999 expense below that of 1997 despite inflation factors of 3-5 percent during that time; and

Whereas, New Hampshire Medicare reimbursement to hospitals will be reduced by as much as an additional \$200,000,000 over the next 4 years above the reductions already experienced; and

Whereas New Hampshire home health agencies reimbursement has been reduced by \$24,000,000 to date and will be reduced by an additional 15 percent of the present Medicare reimbursement by October 1, 2001; and

Whereas, further reductions will seriously damage both beneficiary access to care and the ability of providers to continue to provide needed levels of service; and

Whereas, the ameliorative measures prescribed by the Balanced Budget Refinement Act of 1999 provide too little relief, restoring less than 10 percent of the reduction of Medicare revenue resulting from the Balanced Budget Act of 1997; now, therefore, be it

Resolved by the Senate and the House of Representatives in General Court convened

That the President of the United States and Congress instruct the Health Care Financing Administration and its fiscal intermediaries that the legislative intent under the Balanced Budget Act of 1997 has been accomplished; and

That the President of the United States and Congress act to eliminate further Medicare revenue reductions of the Act and thereby protect beneficiaries' access to quality care when needed; and

That copies of this resolution, signed by the President of the Senate and the Speaker of the House of Representatives, be forwarded by the house clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This house joint resolution urges the President of the United States and Congress to instruct the Health Care Financing Administration and its fiscal intermediaries that the legislative intent under the Balanced Budget Act of 1997 has been accomplished; and urges the President of the United States and Congress to act to eliminate further Medicare revenue reductions of the Act to protect beneficiaries' access to quality care when needed.

HB 1506, extending the reporting date of the committee studying ambulatory surgical facilities and relative to the threshold limit for certain new health facilities under RSA 151-C OUGHT TO PASS WITH AMENDMENT

Rep. Thomas E. Donovan for Health, Human Services and Elderly Affairs: This bill extends the reporting date of the committee studying ambulatory surgical facilities and clarifies the amounts to be used in calculating the adjusted thresholds of hospitals and ambulatory surgical centers at \$1,759,512 and \$1,173,008 respectively, and allows for an annual adjustment using an appropriate inflation index. Vote 18-0.

Amendment (3795h)

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

2 Adjusted Threshold Limit. Amend RSA 151-C:5, II(a) to read as follows:

(a) The construction, development, expansion, or alteration of any acute care facility requiring a capital expenditure of more than [~~\$1,500,000~~] **\$1,759,512**. The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index.

3 Adjusted Threshold Limit. Amend RSA 151-C:5, II(f) to read as follows:

(f) The construction, development, expansion, renovation, or alteration of any nursing home, ambulatory surgical facility, rehabilitation hospital, psychiatric hospital, specialty hospital, or other health care facility requiring a capital expenditure of more than [~~\$1,000,000~~] **\$1,173,008**. The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index.

4 Effective Date.

I. Section 1 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill extends the reporting date of the committee studying ambulatory surgical facilities.

This bill also clarifies the threshold amount to be used in calculating the adjusted threshold amount for certain new facilities under RSA 151-C.

HB 1145, limiting the liability of the state and its employees for personal injuries and civil damages resulting from fire standards and training instruction and programs. OUGHT TO PASS WITH AMENDMENT

Rep. James W. Craig for Judiciary: This bill provides immunity to state certified fire instructors employed by nonprofit fire departments or emergency medical service units from civil liability brought on the basis of any act or omission occurring during the instruction which results in damage or injury to any person. The committee was concerned that this immunity be very narrow and so the bill requires that the curriculum taught be approved by the Division of Fire Standards and Training, the instructor act in good faith and within the scope of his or her official functions and duties as an instructor and that he or she not act in a willful, wanton, or grossly negligent manner. Vote 12-0.

Amendment (3898h)

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

AN ACT limiting the liability of state certified fire instructors.

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

1 New Section; Liability of State Certified Fire Instructors. Amend RSA 21-P by inserting after section 12-a the following new section:

21-P:12-b Liability Limited; State Certified Fire Instructors.

I. Any person who is a state certified fire instructor employed by a nonprofit fire department or emergency medical service unit shall be immune from civil liability in any action brought on the basis of any act or omission during training which results in damage or injury to any person if:

(a) The instructor had prior written approval from the division, to teach a curriculum approved by the fire standards and training commission;

(b) The instructor was acting in good faith and within the scope of the instructor's official functions and duties as an instructor; and

(c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the instructor.

II. In this section:

(a) "Damage or injury" includes physical, nonphysical, economic and noneconomic damage and property damage.

(b) "Nonprofit fire department" shall include, but not be limited to, not for profit fire service organizations exempt from taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state.

(c) "State certified fire instructor" means a person who has completed the requirements to hold such certification as approved by the New Hampshire fire standards and training commission.

2 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill limits the liability of state certified fire instructors for personal injuries and civil damages resulting from acts or omissions during training.

HB 1190-FN, requiring that fiscal notes specify the exact amount of the fiscal impact.
INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Legislative Administration: The committee felt that this bill had a contradiction that would make it unworkable. There is some concern that the fiscal notes on bills may not accurately reflect the fiscal impact of the bill. The fiscal impact, as outlined in statute, is an

estimate and it may be difficult to obtain the exact cost in time for action by the first committee. As the bill passes from a committee to the floor, to another committee or the other chamber, the fiscal note is updated and is available in the clerk's office. An exact financial impact would be impossible to obtain. Vote 13-0.

HB 1248, relative to the out-of-state travel budget for house members. INEXPEDIENT TO LEGISLATE

Rep. Gene G. Chandler for Legislative Administration: If enacted, this bill would limit the amount of money any House member could utilize for out of state travel to just \$2,000 in any one biennium and change the method of determining who controls the funds and how the funds are utilized. Only one person spoke in favor of this legislation and the committee felt that there are cases where it is important to the state and the legislature for legislators to attend out of state conferences. It is always easy to target travel budgets, but the information gained at these conferences is very useful to the legislature and the state. Vote 13-1.

HB 1447, establishing a legislative oversight committee on judicial conduct. INEXPEDIENT TO LEGISLATE

Rep. Donnalee Lozeau for Legislative Administration: The committee felt that the existing checks and balances relative to oversight of the judiciary are appropriate. As elected officials and the public continue to discuss the issues as they relate to the judicial branch changes will continue to be made by the judiciary. The decision made by the judicial branch to make information about hearings public is a major first step in the quest for public accountability. Vote 13-0.

HB 1596, establishing a committee to study deadlines for the completion of work in the legislative process. INEXPEDIENT TO LEGISLATE

Rep. Mary Lou Nowe for Legislative Administration: The committee voted inexpedient to legislate because it feels that this subject is best left to each body. With the dynamics of the legislature, the rules for legislative deadlines is best left to the house rules, the senate rules and joint rules. With this process, each chamber will determine their own pace. Members of each body will have an opportunity to have input into the development of their rules during the public hearings and in the chambers when the rules are adopted. Vote 14-0.

HB 1597, relative to passage of fiscal note bills which do not contain an accompanying fiscal analysis. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Legislative Administration: This bill would require a separate vote of the house or senate on FN bills if the bill being voted upon does not have a completed fiscal note. At the printing of the bills, the complete fiscal information may not be available. As the bill proceeds through the process, the fiscal note is updated and is available from the clerk's office. The committee feels that the committee report or "blurb" would be the proper place to give notice of the fiscal impact of the bill. Some policy committees do not have the information available to them when the bills leave the committee. Most bills requiring a fiscal note are sent to the Finance Committee. This committee is charged with providing the fiscal effect of the bill. When the bill is voted on, after the finance committee action, this will constitute a second vote and this vote, now in place, follows a logical sequence. Vote 15-0.

HB 1144-L, relative to the property tax exemption of not-for-profit hospitals. OUGHT TO PASS WITH AMENDMENT

Rep. Robert W. Brundige for Municipal and County Government: This bill would require the legislative bodies of towns, cities and districts to authorize the tax exemption for not-for-profit hospitals at least every three years. Testimony revealed there is a wide discrepancy in the percentage of services which hospitals contribute for charitable purposes. The amendment established a committee to study the exemption from property taxes for not-for-profit hospitals. Vote 15-0.

Amendment (3850h)

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

AN ACT establishing a committee to study the exemption from property taxes for not-for-profit hospitals.

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

1 Committee Established. There is established a committee to study the exemption from property taxes for not-for-profit hospitals.

2 Membership and Compensation.

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

(a) Five members of the house of representatives, appointed by the speaker of the house.

(b) Five members of the senate, 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.

3 Duties. The committee shall study the exemption from property taxes for not-for-profit hospitals, including the process for review of their status by municipalities.

4 Chairperson; Quorum. 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. Six members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2001.

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

AMENDED ANALYSIS

This bill establishes a committee to study the exemption from property taxes for not-for-profit hospitals.

HB 1259-FN, establishing a coordinated and comprehensive effort by state agencies for economic growth, resource protection, and planning policy to encourage smart growth. OUGHT TO PASS WITH AMENDMENT

Rep. Anthony F. Simon for Municipal and County Government: This bill represents the culmination of many years of work to establish, statutorily, the framework for a statewide policy of proper growth and development that protects that which is unique about this state. It directs the Office of State Planning to foster "smart growth", defines that term, requires state agencies to give due consideration to this policy when expending state or federal funds to accomplish projects, establishes gubernatorial oversight over state agency actions in this area and enacts an annual reporting procedure for the council on resources and development. Vote 11-3.

Amendment (3766h)

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

1 Office of State Planning; Duties. Amend RSA 4-C:1, II(c) to read as follows:

(c) Encourage and assist planning, growth management and development activities of cities and towns and groups of cities and towns ***with the purpose of encouraging smart growth.***

2 Office of State Planning; Duties. Amend RSA 4-C:1, II(j) to read as follows:

(j) ***Take a leadership role in encouraging smart growth and preserving farmland, open space land, and traditional village centers.***

(k) Perform such other duties as the governor may assign.

3 New Subparagraph; Office of State Planning; Coordination. Amend RSA 4-C:6, I by inserting after subparagraph (i) the following new subparagraph:

(j) Smart growth.

4 Office of State Planning; Reports. Amend RSA 4-C:6-a, I(c) to read as follows:

(c) The environmental impact ***and smart growth impact*** of the program.

5 New Subparagraph; State Development Plan. Amend RSA 9-A:1, III by inserting after subparagraph (c) the following new subparagraph:

(d) Policies to protect and preserve farmland and open space land and to maximize smart growth.

6 New Chapter; State Economic Growth, Resource Protection, and Planning Policy. Amend RSA by inserting after RSA 9-A the following new chapter:

CHAPTER 9-B

STATE ECONOMIC GROWTH, RESOURCE

PROTECTION, AND PLANNING POLICY

9-B:1 Findings. The general court finds that:

I. In addition to clean water and air, productive mountain, forest and agricultural open space land is among the state's most valuable assets, and is necessary for the economy and health and welfare of the citizens. The maintenance of this asset is vital if the state is to provide future generations with the same quality of life and environment that we have traditionally enjoyed.

II. Economic development is essential to the well-being and prosperity of our citizens. However, when haphazard development sprawls across the state's landscape, our collective well-being suffers. Fortunately, economic development can take place in a form that maximizes smart growth.

III. The state can encourage development in accordance with this chapter by regularly reviewing its operating procedures, granting policies, and regulatory framework.

IV. A coordinated and comprehensive planning effort by state agencies on future development in the state is needed, which will not only improve our economy, but also encourages smart growth by locating development in appropriate growth areas and thus retaining as much open space land as possible for the long-term.

9-B:2 Policy. It shall be the policy of the state of New Hampshire that state agencies act in ways that encourage smart growth.

9-B:3 Definition. In this chapter, "smart growth" means the control of haphazard and unplanned development and the use of land which results over time, in the inflation of the amount of land used per unit of human development, and of the degree of dispersal between such land areas. "Smart growth" also means the development and use of land in such a manner that its physical, visual, or audible consequences are appropriate to the traditional and historic New Hampshire landscape. Smart growth may include denser development of existing communities, encouragement of mixed uses in such communities, the protection of villages, and planning so as to create ease of movement within and among communities. Smart growth preserves the integrity of open space in agricultural, forested, and undeveloped areas. The results of smart growth may include, but shall not be limited to:

I. Vibrant commercial activity within cities and towns.

II. Strong sense of community identity.

III. Adherence to traditional settlement patterns when siting municipal and public buildings and services.

IV. Ample alternate transportation modes.

V. Uncongested roads.

VI. Decreased water and air pollution.

VII. Clean aquifer recharge areas.

VIII. Viable wildlife habitat.

IX. Attractive views of the landscape.

X. Preservation of historic village centers.

9-B:4 Expenditure of State or Federal Funds. All state agencies shall give due consideration to the state's policy on smart growth under RSA 9-B:2 when providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities. The intent of this action is that new investments and grants for existing sites and buildings in existing community centers will be given preference over investments in outlying areas where that is a practical solution for the use and community in question.

9-B:5 Procedures for Review. The governor shall review actions taken by state agencies relative to the provisions of RSA 9-B:4 to ensure compliance with this chapter. The governor shall establish procedures for review no later than December 1, 2000.

9-B:6 Report to the General Court and the Governor. By October 1 of each year, beginning in the year 2000, the council on resources and development, established in RSA 162-C, shall report to the general court and the governor on the following:

I. Progress by state agencies in complying with the expenditure requirements under RSA 9-B:4.

II. Progress by the state agencies represented on the council in coordinating the activities to encourage smart growth.

III. Efforts made to encourage development in accordance with this chapter by regular review of state operating procedures, granting policies, and regulatory framework.

IV. Suggested policy changes or legislation that the council believes would strengthen the state's ability to achieve the smart growth goal of RSA 9-B:2.

7 Council on Resources and Development; Responsibilities. Amend RSA 162-C:2, I to read as follows:

I. Consult upon common problems in the fields of environmental protection, natural resources, and growth management ***including the encouragement of smart growth***;

8 Council on Resources and Development; Responsibilities. Amend RSA 162-C:2, V to read as follows:

V. Resolve differences or conflicts concerning development ~~[or]~~, resource management, ***or the encouragement of smart growth*** which result from the work of any agency represented on the council in developing policies, plans, or programs. The council shall investigate; if possible, resolve the problem; and if appropriate, submit its recommendations to the governor and council or to the general court. If investigation by the council shows that the laws and rules of an agency represented on the council are in conflict with those of another agency, the council shall submit a report with recommendations to the governor and council or to the general court;

9 Council on Resources and Development; Responsibilities. Amend RSA 162-C:2, VII and VIII to read as follows:

VII. Review the disposal of state owned real property pursuant to RSA 4:40; ~~and~~

VIII. Provide oversight relative to the statewide public boat access program, work with the public water access advisory board and provide recommendations to the governor and executive council regarding public access; ***and***

IX. Complete the annual smart growth report required under RSA 9-B:6.

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

HB 1294-L, relative to regional planning commissions. OUGHT TO PASS WITH AMENDMENT

Rep. Anthony F. Simon for Municipal and County Government: This bill makes several, largely technical, changes to the regional planning commission statute. The amendment was developed by the Committee in response to concerns that were expressed about the original bill. As amended, the bill recognizes that regional planning commissions are political subdivisions of the state but limits their power to that expressly allowed by statute. It clarifies that the commissions may establish lines of credit and incur short-term debt secured by their assets. It also provides a procedure for changing the boundaries of regions, gives the director of motor vehicles the authority to issue permanent number plates to commission vehicles and encourages consultation between commissions and agencies and institutions operating within their region. Vote 15-0.

Amendment (3790h)

Amend the bill by replacing sections 2-4 with the following:

2 Regional Planning Commissions; Purposes. Amend RSA 36:45 to read as follows:

36:45 Purposes. The purpose of this subdivision shall be to enable municipalities and counties to join in the formation of regional planning commissions whose duty it shall be to prepare a coordinated plan for the development of a region, taking into account present and future needs with a view toward encouraging the most appropriate use of land, such as for agriculture, forestry, industry, commerce, and housing; the facilitation of transportation and communication; the proper and economic location of public utilities and services; the development of adequate recreational areas; the promotion of good civic design; and the wise and efficient expenditure of public funds. The aforesaid plan shall be made in order to promote the health, safety, morals and general welfare of the region and its inhabitants. To promote these purposes the office of state planning shall delineate planning regions for the state so that each municipality of the state will fall within a delineated region and shall have the opportunity of forming or joining the regional planning commission for that planning region. In determining these regions the office shall consider such factors as community of interest and homogeneity, existing metropolitan and regional planning agencies, patterns of communication and transportation, geographic features and natural boundaries, extent of urban development, relevancy of the region for provision of governmental services and functions and its use for administering state and federal programs, the existence of physical, social and economic problems of a regional character, and other related characteristics. To accommodate changing conditions, the office may adjust the boundaries of the planning regions, ***after consultation with the respective regional planning commissions.***

3 Formation of Regional Planning Commissions; Representation of Not-For-Profit Agencies and Institutions. Amend RSA 36:46, III to read as follows:

III. Each municipality which shall become a member of a regional planning commission shall be entitled to 2 representatives on said commission. A municipality with a population of over 10,000 but less than 25,000 shall be entitled to have 3 representatives on said commission and a municipality with a population of over 25,000 shall be entitled to have 4 representatives on said commission. Population as set forth in this section shall be deemed to be determined by the last federal census. Representatives to a regional planning commission shall be nominated by the planning board of each municipality from the residents thereof and shall be appointed by the municipal officers of each municipality. Representatives may be elected or appointed officials of the municipality or county. In any county or counties in which a regional planning commission has been formed, the county may, by resolution of its county commissioners, become a member of said regional planning commission and shall be entitled to appoint 2 representatives on said commission. The terms of office of members of a regional planning commission shall be for 4 years, but initial appointments shall be for 2 and 4 years. In municipalities entitled to 3 or more representatives, initial appointment shall be for 2, 3 and 4 years. Vacancies shall be filled for the remainder of the unexpired term in the same manner as original appointments. Municipalities and counties may also appoint alternate representatives. A representative to a regional planning commission shall, when acting within the scope of his official duties and authority, be deemed to be acting as an agent of both the regional planning commission and of the municipality or county which he represents. ***In addition, regional planning commissions are encouraged to, at their discretion, consult with agencies and institutions operating within the region whose activities influence planning and development in that region.***

4 Regional Planning Commissions; Finances. Amend RSA 36:49 to read as follows:

36:49 Finances. A regional planning commission shall determine on a reasonable and equitable basis the proportion of its costs to be borne respectively by each municipality or county which is a member of said commission. A commission may accept and receive in furtherance of its functions, funds, grants, and services from the federal government or its agencies, from departments, agencies and instrumentalities of state, municipal or local government or from private and civic sources. Such funds may be used in conjunction with other funds from federal or state governments or from gifts, grants or contributions available for such work. Municipalities or counties are hereby authorized to appropriate funds to the use of a regional planning commission and to furnish a regional planning commission legal or other services which it may deem reasonable. Failure upon the part of any municipality or county to pay its proportionate annual share of the cost as determined by a regional planning commission shall constitute a termination of such municipality's or county's vote in the commission's affairs until such annual share is paid. Municipalities or counties are hereby authorized to enter into contracts with a regional planning commission for the furnishing of funds or services in connection with the preparation of a comprehensive regional master plan and any special planning work to be done by a regional planning commission for any member municipality or county. Within the amounts appropriated to it or placed at its disposal by gift, grant, or contribution, a regional planning commission may engage employees, contract with professional consultants, rent offices, and obtain such other goods, or services ***and incur short-term operating debt, not to exceed a term of one year and/or a line of credit secured by the assets of the commission,*** as are necessary to it in the carrying out of its proper function. ***Member municipalities and counties shall not be liable for any debt or line of credit incurred by a regional planning commission.*** Any private gifts or funds when received shall be deemed a contribution to the regional planning commission for a public purpose within the meaning of any federal or state laws relative to tax exemptions.

Amend the bill by replacing section 6 with the following:

6 New Section; Regional Planning Commissions; Status as Governmental Units. Amend RSA 36 by inserting after section 49 the following new section:

36:49-a Status As A Political Subdivision. Regional planning commissions are political subdivisions of the state. However, regional planning commissions have only that power and authority expressly provided for in RSA 36.

Amend the bill by inserting after section 6 the following and renumbering the original sections 7 and 8 to read as 8 and 9, respectively:

7 Motor Vehicles; Registration and Plates of Publicly Owned Vehicles. Amend RSA 261:92 to read as follows:

261:92 Publicly Owned Vehicles; Nonprofit Corporations. The director shall have the authority to prescribe special rules relative to registration of vehicles owned and driven by the government of the United States, the state, or by any county, city, town, **regional planning commission**, school district, volunteer fire department, eligible nonprofit corporation operating transportation under contract with the department of transportation for the public or for elderly or disabled persons, or public or private educational institution used for the purpose of student driver training, and may issue permanent number plates for such vehicles. Said vehicles displaying said number plates shall be deemed to be properly registered under the provisions of this title and may be driven upon the ways of the state without further registration or subsequent number plates.

AMENDED ANALYSIS

This bill:

- I. Retitles the chapter concerning regional planning commissions.
- II. Provides that the office of state planning may adjust the boundaries of planning regions after consultation with the respective regional planning commissions.
- III. Encourages consultation by regional planning commissions with agencies and institutions.
- IV. Provides that regional planning commissions shall have status as political subdivisions of the state.
- V. Allows regional planning commissions to borrow funds and establish lines of credit.
- VI. Repeals the authority of regional planning commissions to provide assistance to urban renewal projects or blight removal activities.
- VII. Gives the director of the division of motor vehicles the authority to prescribe special rules relative to registration of vehicles owned by regional planning commissions and issue permanent number plates for such vehicles.

HB 1563-FN-L, establishing the Wolfeboro Airport Authority. OUGHT TO PASS WITH AMENDMENT

Rep. Betsey L. Patten for Municipal and County Government: In Chapter III (HB 241) Laws of 1989 the General Court recognized that the public interest was served by the acquisition of privately owned airports either by gift or by purchase to protect their future operation as airports. As part of this policy the State was given a "Right of First refusal" to acquire any airport within the State offered for sale. The Wolfeboro Airport issue is a complicated emotional and financial issue between the current landowner and the State. A court case to resolve the dispute over the control of the present airport land is pending. Regardless of the outcome of that suit, an airport authority needs to be created in order to preserve the airport and to be eligible for Federal aviation funds to upgrade the runway. The Municipal and County Government Committee values the need for preserving small airports and worked with the sponsor to balance the needs of the landowners, investors, town and State. Two well-attended public informational meetings were held in Wolfeboro. The Board of Selectmen voted unanimously in favor of establishing the airport authority, and a record 48% voter turnout at town meeting on March 13, 2000 voted by the overwhelming margin of 78% to 22% to establish the airport authority. These votes show the strong commitment of the town of Wolfeboro to its aviation. The amendment, which replaces the whole bill, addresses concerns stated during the 4+ hour public hearing held by the Municipal and County Government Committee. The maintenance of the Wolfeboro (8B8) airport only, the requirement to comply with Wolfeboro's land use regulations and requiring a mandated member from the Board of Selectmen on the authority were addressed. The Committee's concern of a private "veto" power over a public entity was resolved by involving Wolfeboro's Board of Selectmen in the approval and appointment of the members of the authority and with the Commissioner of the Department of Transportation initially appointing two members. The overwhelming majority of the Municipal and County Government Committee voted Ought to Pass with amendment to further support the preservation of aviation in New Hampshire. Vote 14-1.

Amendment (3845h)

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

1 Incorporation. The Wolfeboro Airport Authority, hereinafter referred to as the "Authority" is hereby incorporated as a body politic with the powers and privileges herein provided. Said Authority is a body politic separate and distinct from, and is not a subordinate body of, the town of Wolfeboro, or its boards, commissions, agencies or authorities.

2 Declaration of Purpose. The establishment and maintenance of the airport authorized in section 4 of this act is declared to be for public purposes as an aid to national and state defense, and for the convenience and benefit of the public. The Authority shall be regarded as performing a governmental function in carrying out the provisions of these articles.

3 Powers. The Authority shall have the power:

I. To sue and be sued.

II. To select and have a seal. The seal of the Authority shall be the form of a circle and shall bear the name of the Authority, the year of its organization, and the words "Wolfeboro Airport Authority, State of New Hampshire."

III. To adopt bylaws consistent with the state and federal law, for the conduct of its business.

IV. To acquire, hold, lease and dispose of, in any manner other than by eminent domain, real and personal property deemed necessary or desirable for its purposes.

V. To construct, maintain, reconstruct, improve, operate and manage the "airport" described herein.

VI. To accept loans and grants, and the cooperation of the United States of America, the state of New Hampshire, or any agencies thereof, and private investors, in the purchase, lease, construction, maintenance, reconstruction, improvement, and operation of the airport, and to do any and all things necessary in order to avail itself of such aid and cooperation. The Authority is specifically authorized to enter into agreements with the federal government and the state of New Hampshire, through its various agencies, and private investors, relative to the purchase, lease, construction, maintenance, reconstruction, and improvement of the airport and its operation after completion.

VII. To prescribe and publish rules and regulations governing the use and operation of the airport

VIII. To levy and collect reasonable fees, not prohibited by law, for use of the airport and its facilities.

IX. To grant leases of the facilities of the airport for reasonable periods of time.

X. To employ such assistants, agents and servants, professional, technical, or otherwise, as it shall deem necessary or desirable for its purposes, and fix their compensation.

XI. To do all other lawful acts necessary and incidental to the foregoing powers.

4 Establishment and Operation of the Airport. The Authority is hereby authorized to establish and maintain an airport (8B8) in the town of Wolfeboro, and in connection therewith and as a part thereof, to establish and maintain auxiliary landing places and facilities contiguous to Lake Winnepesaukee.

5 Limitation of Powers. The Authority shall have no power to commit the state of New Hampshire nor any of its political subdivisions, including the town of Wolfeboro or any board, commission, agency or authority thereof, to any obligation or liability whatsoever, nor shall it have the power to encumber any state real estate, except in pursuance of the authority contained in section 3, paragraphs IV or IX of this act. The Authority shall be subject to, and shall comply with, the provisions of the Wolfeboro zoning ordinance and any applicable regulations of the Wolfeboro Planning Board, including those for site review.

6 Exemptions From Taxes, Levies, and Executions. All property, real or personal, and rights used or acquired by the Authority in the town of Wolfeboro or elsewhere, and used and occupied for an airport and auxiliary landing places and facilities shall be exempt from all taxation, except for property which is leased to other taxable entities.

7 Revenue and Funding. The net revenue of the Authority shall be held and invested by it exclusively for the purpose of the future maintenance, operation, and improvement of said airport. All funds to be used for the acquisition, maintenance, operation and improvement of the airport and auxiliary landing places and facilities shall come from federal, state and private airport and airways funding sources, and not from the revenues of the town of Wolfeboro.

8 Financial Aid. The Authority is authorized to make conveyances and appropriations for the use of the airport and auxiliary landing places and facilities. All contributions and appropriations

made prior to the effective date of this act by the Authority for the establishment of the airport and auxiliary landing places and facilities, as authorized in these articles, are hereby ratified.

9 Repayment of Initial Investment. The Authority shall give priority to the repayment of any monies advanced by private individuals toward the acquisition of the airport.

10 Membership of the Authority.

I. A member of the board of selectmen of the town of Wolfeboro shall constitute the mandated member of the authority. The selectmen member, together with 6 residents of the town of Wolfeboro nominated, approved and confirmed as hereinafter provided, shall constitute the Authority, and shall be vested with all the powers and charged with all the duties hereinafter granted to and imposed upon the Authority.

II. The mandated member of the authority shall appoint, with the approval of the board of selectmen, one member who has advanced money toward the acquisition of the airport. Three members shall be nominated by those private individuals who have advanced money toward the acquisition of the airport, and shall be approved and appointed by the board of selectmen. Two members shall be appointed by the commissioner of the department of transportation. The members of the Authority shall be nominated and appointed prior to any state acquisition of the airport and transfer to the Authority. Authority members shall serve for 3-year terms and until their successors are appointed. However, upon the initial formation of the Authority, 2 of the members shall serve for a period of 4 years, 2 of the members shall serve for a period of 3 years, and 2 of the members shall serve for a period of 2 years. Successor members shall be elected by the Authority.

III. After public hearing, any of the members of the Authority may be removed by a majority vote of the Authority members upon written findings of cause, including but not limited to inefficiency, neglect of duty, or malfeasance.

IV. Except for the mandated member, no person shall be eligible for membership of the Authority who at the time of the appointment of such member holds any remunerative public office or position or any employment for compensation (except as an independent contractor) with the United States, the state of New Hampshire, or any political subdivision of either.

11 Compensation. No member of the Authority shall receive any compensation for services. Each member of the Authority shall be reimbursed for actual necessary traveling and other expenses incurred in the performance of the member's duties, payable exclusively out of funds of the Authority available therefor. No member of the Authority shall be allowed any other fees, perquisites, or emoluments, reward, or compensation for services as a member of the Authority.

12 Vacancies. Any vacancies which occurs in the membership of the Authority shall be filled for the remainder of the term in the manner provided in section 10 of this act, as applicable.

13 Officers; Action by Majority. The Authority shall elect annually from its membership a chairperson, vice-chairperson, clerk and treasurer and prescribe their duties. The treasurer shall be the financial agent of the Authority and shall furnish such bond, payable to the Authority, as the Authority shall determine for the faithful performance of the duties of the office. The concurrence of a majority of the membership of the Authority shall be necessary to constitute action by the Authority.

14 Audits and Reports. All financial transactions of the Authority shall be independently audited annually and at such other times and in such manner as the Authority shall determine. The

Authority shall make an annual report of its financial and other transactions for the preceding calendar year. This report shall be open for inspection by the public and by the private investors.

15 Civil Liability; Indemnification. No member of the Authority shall incur personal or individual liability for any actions taken in good faith as a member of the Authority. Further, the Authority shall indemnify and save any member harmless from any loss, claim or damages suffered as a result of any vote or action taken in good faith as a member of the Authority, including but not limited to personal financial loss and expenses, such as reasonable legal fees and costs, if any, arising out of any claim, demand, suit or judgment arising from the good faith execution of his or her duties as a member of the Authority.

16 Penalties. Any violation of the published rules, ordinances and regulations of the Authority relating to the airport, and any refusal or neglect to pay lawfully prescribed fees for the use of the airport or its facilities, shall be a class B misdemeanor, provided, however, that nothing contained in this section shall be construed as a limitation upon the civil rights of the Authority.

17 Severability. If any provision of these articles, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of these articles which can be given effect without the invalid provisions or applications, and to this end the provisions of these articles are severable.

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

HB 1622-L, to budget information in town reports in towns which have adopted the official ballot referenda form of meeting OUGHT TO PASS WITH AMENDMENT

Rep. Priscilla P. Lockwood for Municipal and County Government: Current law requires that deputy town clerks, like the clerks themselves, reside in the town where they are in office. Due to labor shortages, lowered interest in public service and the increasing need for specialized skills, there are currently 41 towns which have non-resident deputy clerks in violation of State law. This creates a potentially huge legal problem for every one of those towns. This bill legalizes those 41 deputy clerks, but doesn't permit non-resident deputies to serve as acting clerks in elections and election-related matters. The New Hampshire Municipal Association supports this amendment which was drafted with the assistance of the Secretary of State. Vote 17-0.

Amendment (3929h)

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

AN ACT eliminating the requirement that a deputy town clerk have his or her domicile within the town.

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

1 Town Officers; Deputy Town Clerk; Town Domicile Not Required. Amend RSA 41:18 to read as follows:

41:18 Deputy Town Clerk. Each town may have a deputy town clerk who shall be qualified in the same manner as the town clerk, ***except that the deputy town clerk need not have his or her domicile in the town,*** and who shall perform all the duties of the town clerk in case of his ***or her***

absence by sickness, resignation, or otherwise. A deputy town clerk appointed hereunder shall be appointed by the elected town clerk with the approval of the selectmen.

2 Filling of Vacancies in the Office of Town Clerk; Towns With Non-domiciled Deputy Town Clerk. Amend RSA 669:65 to read as follows:

669:65 Town Clerk. Vacancies in the office of town clerk shall be filled by appointment made by the selectmen except in towns in which pursuant to RSA 41:18 the selectmen have previously appointed a deputy town clerk, in which case the deputy shall serve as town clerk until the next annual town election. ***In any town with a deputy town clerk who is not domiciled in the town, the selectmen shall appoint a qualified town clerk within 30 days of the vacancy, or if any election is scheduled within 30 days of the vacancy, the selectmen shall appoint a qualified town clerk at least 24 hours before the election.***

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

AMENDED ANALYSIS

This bill eliminates the requirement that a deputy town clerk have his or her domicile within the town. This bill also provides that in any town with a non-domiciled deputy town clerk, if a vacancy appears in the office of town clerk, the selectmen shall appoint a qualified town clerk within 30 days of the vacancy, or if any election is scheduled within 30 days of the vacancy, the selectmen shall appoint a qualified town clerk at least 24 hours before the election.

SB 333, relative to signs for churches. OUGHT TO PASS

Rep. Bernard J. Raynowska for Public Works and Highways: The bill provides for directional signs along state highways for churches. The Department of Transportation supported the bill. Vote 17-0.

HB 1209, restricting construction of class B and class C dams. OUGHT TO PASS WITH AMENDMENT

Rep. Michael W. Downing for Resources, Recreation and Development: This bill as amended provides a definition of reconstruction relative to Class B and C dams. It would allow the reconstruction of existing B and C dams to insure deficiencies are corrected and the public risk minimized. The bill further recognizes the potential public risk class B and C dams pose and addresses any future construction of new class B and C dams to ensure they provide a public benefit of water supply; flood control; storage and treatment of industrial agricultural, commercial or municipal wastes; hydropower; public recreation; or preservation of historic or cultural resources. Vote 13-3.

Amendment (3331h)

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

AN ACT relative to the construction and reconstruction of class B and class C dams.

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

1 New Paragraph; Dams, Mills, and Flowage; Definitions; Definition of "Reconstruction" Added. Amend RSA 482:2 by inserting after paragraph IX the following new paragraph:

X. "Reconstruction" means:

- (a) A change in the height, length, or discharge capacity of the structure;
- (b) Restoring a breached dam or one in ruins;
- (c) Modification of flashboards which either increases their height or increases the headwater elevation at which the flashboards will fail; or
- (d) A change in the structural configuration of a dam.

2 New Paragraph; Dams, Mills, and Flowage; Erection and Inspection of Dams; Preliminary Filing of Information Amended. Amend RSA 482:9 by inserting after paragraph IV the following new paragraph:

V. The department shall not permit the construction or reconstruction of any class B or class C dam unless:

- (a) The dam provides a public benefit of water supply, flood control, storage or treatment of industrial, agricultural, commercial, or municipal wastes, hydropower, public recreation, or preservation of historic or cultural resources; or
- (b) The reconstruction is ordered by the department to correct a deficiency identified by the department.

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

AMENDED ANALYSIS

This bill inserts a definition of "reconstruction" relative to class B and class C dams and provides that the department of environmental services shall not permit the construction or reconstruction of any class B or class C dam unless the dam provides a public benefit of water supply; flood control; storage and treatment of industrial, agricultural, commercial, or municipal wastes; hydropower; public recreation; or preservation of historic or cultural resources.

SB 331, requiring a report from the public utilities commission and the department of environmental services evaluating whether existing regulatory structures encourage or discourage regional cooperation for water resources management and water conservation. OUGHT TO PASS

Rep. Michael W. Downing for Resources, Recreation and Development: This bill directs the Department of Environmental Services (DES) and the Public Utilities Commission (PUC) to prepare a report as to whether regulatory structures for water utilities encourage or discourage regional cooperation for water resources management, and water conservation by June 30, 2001. Issues such as regionalization, interconnections, bond guarantees, zoning policies, wholesale purchase of water and water rates and franchise area have been discussed in at least 12 previous studies going back to 1952. The report, hopefully, will evaluate existing regulatory practices in order to make recommendations that could be the subject of future legislation. Vote 16-0.

SB 381-FN, relative to registration fees for off-highway recreation vehicles. OUGHT TO PASS

Rep. William E. Roberts for Resources, Recreation and Development: This bill will do much for the snowmobile clubs of the State of New Hampshire. These clubs take care of grooming the snowmobile trails of the state. Snowmobile clubs also donate thousands of hours of labor, material, and equipment for this purpose. With this grooming, the trails are kept in great condition for all the users and adds to the economics of the state. This bill allows owners of OHRV trails maintenance vehicles to register these vehicles at a rate of \$5.00 each per year. Vote 16-0.

HB 1107, establishing a committee to study whether the public utilities commission should regulate Internet service providers. OUGHT TO PASS WITH AMENDMENT

Rep. John H. Thomas for Science, Technology and Energy: The sponsor originally introduced the bill as including a committee to study whether the Public Utility Commission (PUC) should regulate Internet service. The sponsor agreed with the committee that this could be taken up by the Joint Oversight Committee on Telecommunications. The committee also added monitoring special contracts, examining non-disclosure issues, monitoring wireless telecommunications facilities deployment, and monitoring ala carte programming as issues for the Oversight Committee. Vote 15-0.

Amendment (3825h)

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

AN ACT relative to the duties of the oversight committee on telecommunications concerning telephone utility line use congestion.

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

1 Findings. The general court finds that it is important for the public utilities commission and other involved parties to expeditiously resolve the existing problem of telephone utility customers being unable to obtain a dial tone due to line use congestion.

2 New Paragraphs; Telephone Utilities Service Territories; Duties of the Oversight Committee. Amend RSA 374:22-j, X to read as follows:

X. Monitoring the issue of special contracts by telephone utilities.

XI. Examining the issue of non-disclosure by telecommunications carriers of customer information including information related to services subscribed to by individual customers.

XII. Examining the issue of network congestion on facilities and equipment owned by telephone utilities.

XIII. Monitoring the progress of the office of state planning in relation to wireless telecommunications facilities.

XIV. Monitoring the progress of a la carte programming substitute initiatives to a la carte programming in the cable television industry, and monitoring impacts of television violence on children and initiatives addressing those concerns.

XV. Submitting a report, together with any recommendations for legislation, to the speaker of the house of representatives, the senate president, and the governor on or before November 1 of each year.

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

AMENDED ANALYSIS

This bill adds duties to the oversight committee on telecommunications concerning special contracts by telephone utilities, carrier non-disclosure of customer service subscriptions, the issue of network congestion on facilities and equipment owned by telephone utilities, the progress of the office of state planning in relation to wireless telecommunications facilities, and alternatives to a la carte programming in the cable television industry.

HB 1274, limiting the services that a cable television operator may require a consumer to purchase as a condition of access to other video programming. INEXPEDIENT TO LEGISLATE

Rep. Roy D. Maxfield for Science, Technology and Energy: The FCC delegated authority to local governing bodies to negotiate a basic cable TV package of channels. All other programming is unregulated. The sponsor objected to TV programming that he was required to receive as part of his cable provider's optional services. Testimony from the industry, including a representative from the Discovery Channel Network, testified that bundling of channels allowed them to discount these services to providers. Advertisers and program developers would be severely impacted if they had to sell each channel a-la-carte, and additional costs would be passed along to subscribers. Many options are available to restrict unwanted programming at little or no cost to a subscriber. Vote 14-1.

HB 1412, relative to electric customer-generators. OUGHT TO PASS WITH AMENDMENT

Rep. Gary R. Gilmore for Science, Technology and Energy: Two years ago the legislature established a net energy metering law which allows individual customers to generate electricity and supply excess energy back to the utility by running the customer's meter backwards. There have been some operational problems installing the necessary equipment and disagreements between customer and a utility. Passage of this bill insured that the PUC will finish the necessary rulemaking to implement net energy metering, and that utilities cannot place additional requirements on customers than standards adopted by the PUC. Vote 15-1.

Amendment (3812h)

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

1 Public Utilities; Limited Electrical Energy Producers Act; Net Energy Metering. Amend RSA 362-A:9, I to read as follows:

I. A standard contract or tariff providing for net energy metering shall be developed and made available to eligible customer-generators by each electric distribution utility within ~~[6 months]~~ **90 days** of the start of retail choice of electric suppliers, **or within 90 days of the final approval of net metering regulations issued by the commission, whichever comes first.** Such tariffs or contracts shall be available on a first-come, first-served basis within each electric utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned and operated by eligible customer-generators totals 0.05 percent of the annual peak energy demand distributed by each such utility as determined by the commission from time to time.

2 New Paragraph; Public Utilities; Limited Electrical Energy Producers Act; Net Energy Metering; Equipment Requirements. Amend RSA 362-A:9 by inserting after paragraph VI the following new paragraph:

VII Once the commission has established standards for equipment used by eligible customer-generators, electric distribution utilities shall not require any additional standards or testing for transmission equipment as a condition of net energy metering.

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

AMENDED ANALYSIS

This bill clarifies the time frame within which electric distribution utilities shall make available to eligible customer-generators a standard contract or tariff for net energy metering. The bill also establishes equipment requirements for transmission of energy by a customer-generator to the electric grid.

HCR 27, requesting Congress to propose an amendment to the U.S. Constitution to prevent federal courts from instructing states or political subdivisions of states to levy or increase taxes. **OUGHT TO PASS WITH AMENDMENT**

Rep. Margaret E. Lynott for State-Federal Relations and Veterans Affairs: This House Concurrent Resolution and its amendment level the playing field for banking consumers in New Hampshire. When interstate banks do business in New Hampshire, they should adhere to the laws of New Hampshire and subdivisions of this state. The amendment gives New Hampshire residents more control over their banking interests. Vote 16-0.

Amendment (3682h)

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

A RESOLUTION requesting Congress to propose an amendment to the U.S. Constitution to prevent federal courts from instructing states or political subdivisions of states to levy or increase taxes and urging the federal government to allow states to exercise greater control over state-specific banking interests.

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

Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

Whereas, under the United States Constitution, the states are to determine public policy; and

Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates; and

Whereas, these mandates by way of statute, rule, or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

Whereas, federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with federal mandates; and

Whereas, these court actions violate the United States Constitution and the legislative process; and

Whereas, the time has come for the people of this great nation and their duly elected representatives in state government to reaffirm, in no certain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government whom they choose, such representatives being directly responsible and accountable to those who have elected them; and

Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and

Whereas, the amendment was previously introduced in Congress; and

Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the peoples' wishes; and

Whereas, allowing the states to exercise greater control over state-specific banking interests promotes greater efficiency in the administration of banking services at the state and local levels; and

Whereas, the federal government should allow the states to exercise such control over state-specific banking interests; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes"; and

That this application for an amendment to the Constitution is a continuing application in accordance with Article V of the Constitution of the United States; and

That the federal government should allow the states to exercise greater control over state-specific banking interests; and

That the house clerk transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, and each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This house concurrent resolution requests Congress to propose an amendment to the U. S. Constitution to prevent federal courts from instructing states or political subdivisions of states to

levy or increase taxes, and urges the federal government to allow the states to exercise greater control over state-specific banking interests.

HB 1193-FN, relative to the penalty for non-moving violations by youth operators. INEXPEDIENT TO LEGISLATE

Rep. Sherman A. Packard for Transportation: This subject matter is something the Transportation committee has been working on for over a year. The committee plans to take the summer and work with the Department of Safety and all interested parties on reversing the graduated licensing law and any further work that may be needed in the driver education program. In the interim, the DOS has initiated changes in the administrative rules governing the under 20 license suspension program. As these changes work their way through the system, the Commissioner of the DOS has instructed the Bureau of Hearings not to suspend any licenses for those under 20 years of age for certain violations. The license shall not be suspended under Saf-C 213.03 (a) 1-2-3, and (b) –1, all non-moving violations. In addition, any person under 20 years of age who has held a New Hampshire driver's license for two years and has not had any convictions in that first two years shall not have their license suspended on first offense, but shall be given a warning. Vote 15-0.

reconsideration

Having voted on the prevailing side, Rep. Leonard moved that the House reconsider its action whereby it voted **HB 1116-FN**, prohibiting partial-birth abortions Inexpedient to Legislate and spoke in favor.

motion to lay on the table

Rep. Hager moved that **HB 1116-FN**, prohibiting partial-birth abortions, be laid on the table.

Rep. Wendelboe requested a roll call; sufficiently seconded.

The question being the motion to lay on the table.

YEAS 171 NAYS 182

YEAS 171

BELKNAP

Millham, Alida

Pilliod, James

Turner, Robert

CARROLL

Babson, David Jr

Dickinson, Howard

Philbrick, Donald

Sullivan, P Judith

CHESHIRE

Batchelder, Robert	Burnham, Daniel	DePecol, Benjamin	Lerandeau, Alfred
Lynch, Margaret	Lynott, Margaret	McGuirk, Paul	Meadar, David
Mitchell, McKim	Pratt, Irene	Pratt, John	Richardson, Barbara
Riley, William	Robertson, Timothy	Russell, Ronald	

COOS

Davis, Perley	Gallus, John	Glines, Sara	Landers, Dana
Mears, Edgar	Pratt, Leighton		

GRAFTON

Almy, Susan	Cobb, John	Copenhaver, Marion	Densmore, Jessica
Guest, Robert	Johnson, Gary	Nordgren, Sharon	Scanlan, David
Solow, Martha			

HILLSBOROUGH

Ahern, Richard	Alukonis, David	Arthur, Rose	Belvin, William
Bergin, Peter	Buckley, Raymond	Burkush, James	Calawa, Leon Jr
Clemons, Jane	Cote, David	Cote, Peter	Curran, James
Daigle, Robert	Desmarais, Vivian	Dokmo, Cynthia	Durham, Susan
Fenton, James	Ford, Nancy	Foster, Linda	Franks, Suzan
Gagnon, Paul	Garrish, Linda	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Haettenschwiller, Alphonse	Hall, Betty	Herman, Richard
Johnson, Lionel	Keye, Harvey	Konys, Christine	Kurk, Neal
Lasky, Bette	Leishman, Peter	Lozeau, Donnalee	Lynde, Harold
McCarty, Winston	Melcher, Harold	Mendenhall, Leslie	Messier, Irene
O'Hearn, Jane	Peterson, Andrew	Sargent, Maxwell	Simon, Anthony
Thulander, O Alan	White, John	Williams, Carol	

MERRIMACK

Anderson, Eric	Bouchard, Candace	Brewster, Richard	Chase, George
Crosby, Toni	Davis, Francis	Feuerstein, Martin	Fortnam, Janet

Fraser, Marilyn	French, Barbara	Gile, Mary	Hager, Elizabeth
Hoadley, Elizabeth	Jacobson, Alf	Lockwood, Priscilla	Marple, Richard
Marshall, Kenneth	Maxfield, Roy	Moore, Carol	Owen, Derek
Potter, Frances	Reardon, Tara	Rodd, Beth	Rosenfield, Jay
Seldin, Gloria	Virtue, Carolyn	Wallin, Jean	Wallner, Mary Jane
Yeaton, Charles			

ROCKINGHAM

Abbott, Dennis	Blanchard, MaryAnn	Case, Margaret	Clark, Martha
Clark, Vivian	Dearborn, Bruce	Dowling, Patricia	Francoeur, Sheila
Gleason, John	Hutchinson, Karen	Hutchinson, Rebecca	Johnson, Robert
Kane, Cecelia	Kelley, Jane	McKinney, Betsy	Norelli, Terie
O'Keefe, Patricia	Pitts, Jacqueline	Sabella, Norma	Schanda, Frank
Shelton, Richard	Shultis, Elizabeth	Splaine, James	Stone, Joseph
Tufts, J Arthur	Vaughn, Charles		

STRAFFORD

Bickford, David	Brennan, William	DeChane, Marlene	Domingo, Baldwin
Dunlap, Patricia	Estabrook, Iris	Gilmore, Gary	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Lent, Donald
Lundborn, Raymond	Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie
Rollo, Michael	Smith, Marjorie	Spang, Judith	Spear, Barbara
Taylor, Kathleen	Twardus, Joseph	Vachon, Dennis	Vincent, Francis
Wall, Janet			

SULLIVAN

Allison, David	Burling, Peter	Kibbey, David	Phinizy, James
Robb-Theroux, Amy	Tuthill, John	Wiggins, Celestine	

NAYS 182

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Czech, Stanley
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Holbrook, Robert	Johnson, James	Lawton, David	Rice, Thomas
Rosen, Ralph	Russell, David	Thomas, John	Wendelboe, Francine

CARROLL

Bradley, Jeb	Chandler, Gene	Howard, Godfrey	Kenney, Joseph
Lyman, L Randy	Mock, Henry	Patten, Betsey	Torressen, Gary

CHESHIRE

Avery, Stephen	Roberts, William	Rose, William	Royce, H Charles
Zerba, Roger			

COOS

Guay, Lawrence	Horton, Lynn	Tholl, John Jr
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GRAFTON

Akins, Ralph	Alger, John	Dudley, Terri	Gilman, G Michael
Hall, David	Harmon, Hobart	Hinman, Harry	Marshall, Gene
Mirski, Paul	Ward, Brien	Weber, Phil	

HILLSBOROUGH

Andrews, Frederick	Arnold, Thomas Jr	Baroody, Benjamin	Batula, Peter
Beaupre, Roland	Brundige, Robert	Bruno, Pierre	Carlson, Donald
Chabot, Robert	Christiansen, Lars	Clegg, Robert Jr	Craig, James
Dalianis, Griffin	Daniels, Gary	Desrosiers, William	Drabinowicz, A Theresa
Dwyer, Paul Sr	Dyer, Merton	Emerton, Lawrence	Fields, Dennis
Fletcher, Richard	Flora, Kathleen	Gagnon, Eugene	Goulet, Maurice
Haley, Robert	Hansen, Herbert	Herman, Keith	Holley, Sylvia
Hunter, Bruce	Jean, Claudette	L'Heureux, Robert	LaPorte, George
LaRose, Richard	Lefebvre, Roland	Leonard, Peter	Lessard, Rudy
MacGillivray, Jeffrey	Martel, Andre	Martin, Mary Ellen	McCarthy, William
McColgan, Philip Jr	McDonald, James Sr	McDonough-Wallace, Alice	McGough, Tim
Mercer, Robert	Milligan, Robert	Moran, Edward	Moriarty, Mary
Mosher, William	Murphy, Robert	O'Connell, Timothy	Ouellette, Dean

Pappas, Marc	Pepino, Leo	Reeves, Sandra	Reidy, Frank
Rowe, Robert	Sarette, John	Tate, Joan	Turgeon, Roland
Vaillancourt, Steve	Wall, Nancy	White, Donald	Withee, Dennis

MERRIMACK

Daneault, Gabriel	Hess, David	Kennedy, Richard	Langer, Ray
Larrabee, David Sr	Leber, William	Nichols, Avis	Poulin, Dave
Soltani, Tony	St Cyr, Gerard	Whalley, Michael	Whittemore, James

ROCKINGHAM

Arndt, Janet	Beaulieu, Jon	Belanger, Ronald	Bishop, Franklin
Bridle, Russell	Christie, Andrew Jr	Cooney, Richard	Corbin, C David
Cote, Patricia	Cox, Russell	Downing, Michael	Fesh, Robert
Flanagan, Natalie	Flanders, David	Flanders, John Sr	Grant, Kenneth
Griffin, Mary	Hamel, Albert	Henderson, Warren	Katsakiores, George
Katsakiores, Phyllis	Kelley, William	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Lovejoy, Marian	Major, Norman
Mikowski, Walter	Moore, Benjamin	Morse, Charles	Nowe, Mary Lou
Nowe, Ronald	Noyes, Richard	O'Neil, Michael	Packard, Sherman
Priestley, Anne	Putnam, Ed II	Quandt, Marshall	Rabideau, Marie
Raynowska, Bernard	Reardon, Neil	Rubin, George	Ruffner, Walter
Stickney, Nancy	Stritch, C Donald	Varrell, Thomas	Weare, Everett
Welch, David	Weyler, Kenneth	Whittier, John	Zolla, William

STRAFFORD

Berube, Roger	Brown, George	Callaghan, Frank	Cossette, Larry
Heon, Richard	McKinley, Robert	Musler, George	Torr, Franklin
Woods, Phyllis			

SULLIVAN

Cloutier, John	Donovan, Thomas Jr	Flint, Gordon Sr	Jones, Constance
Leone, Richard	Young, David		

and the motion failed.

The question now being the motion to reconsider.

Reps. Rowe and Phyllis Woods spoke in favor.

Reps. Durham and Bouchard spoke against.

Rep. Wendelboe requested a roll call; sufficiently seconded.

YEAS 177 NAYS 182

YEAS 177

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Czech, Stanley
Holbrook, Robert	Johnson, James	Lawton, David	Rice, Thomas
Rosen, Ralph	Wendelboe, Francine		

CARROLL

Chandler, Gene	Howard, Godfrey	Kenney, Joseph	Lyman, L Randy
Mock, Henry	Patten, Betsey	Torressen, Gary	

CHESHIRE

Avery, Stephen	McGuirk, Paul	Roberts, William	Rose, William
Royce, H Charles	Zerba, Roger		

COOS

Guay, Lawrence	Tholl, John Jr
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GRAFTON

Akins, Ralph	Dudley, Terri	Gilman, G Michael	Hall, David
Harmon, Hobart	Hinman, Harry	Mirski, Paul	Ward, Brien
Weber, Phil			

HILLSBOROUGH

Andrews, Frederick	Arnold, Thomas Jr	Baroody, Benjamin	Batula, Peter
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Beaupre, Roland	Brundige, Robert	Bruno, Pierre	Chabot, Robert
Christiansen, Lars	Clegg, Robert Jr	Craig, James	Dalianis, Griffin
Daniels, Gary	Desrosiers, William	Drabinowicz, A Theresa	Dwyer, Paul Sr
Emerton, Lawrence	Fields, Dennis	Fletcher, Richard	Flora, Kathleen
Gagnon, Eugene	Gagnon, Paul	Goulet, Maurice	Haley, Robert
Hansen, Herbert	Herman, Keith	Holley, Sylvia	Hunter, Bruce
Jean, Claudette	Jean, Loren	L'Heureux, Robert	LaPorte, George
LaRose, Richard	Lefebvre, Roland	Leonard, Peter	Lessard, Rudy
MacGillivray, Jeffrey	Martel, Andre	Martin, Mary Ellen	McCarthy, William
McColgan, Philip Jr	McDonald, James Sr	McDonough-Wallace, Alice	McGough, Tim
Mercer, Robert	Milligan, Robert	Moran, Edward	Moriarty, Mary
Mosher, William	Murphy, Robert	O'Connell, Timothy	Ouellette, Dean
Pappas, Marc	Pepino, Leo	Reeves, Sandra	Reidy, Frank
Rowe, Robert	Sarette, John	Tate, Joan	Turgeon, Roland
Vaillancourt, Steve	Wall, Nancy	Withee, Dennis	

MERRIMACK

Daneault, Gabriel	Kennedy, Richard	Langer, Ray	Larrabee, David Sr
Leber, William	Nichols, Avis	Poulin, Dave	Soltani, Tony
St Cyr, Gerard	Whalley, Michael	Whittemore, James	

ROCKINGHAM

Arndt, Janet	Beaulieu, Jon	Belanger, Ronald	Bishop, Franklin
Case, Margaret	Christie, Andrew Jr	Cooney, Richard	Corbin, C David
Cote, Patricia	Cox, Russell	DiFruscia, Anthony	Downing, Michael
Fesh, Robert	Flanagan, Natalie	Flanders, David	Flanders, John Sr
Gibbons, Paul	Grant, Kenneth	Griffin, Mary	Hamel, Albert
Henderson, Warren	Johnson, Robert	Katsakiores, George	Katsakiores, Phyllis
Kelley, William	Kobel, Rudolph	Langley, Jane	Langone, John
Letourneau, Robert	Lovejoy, Marian	Major, Norman	Mikowski, Walter
Moore, Benjamin	Morse, Charles	Nowe, Mary Lou	Nowe, Ronald
Noyes, Richard	O'Neil, Michael	Packard, Sherman	Priestley, Anne
Putnam, Ed II	Quandt, Marshall	Rabideau, Marie	Raynowska, Bernard

Reardon, Neil
Stritch, C Donald
Weyler, Kenneth

Rubin, George
Varrell, Thomas
Zolla, William

Ruffner, Walter
Weare, Everett

Stickney, Nancy
Welch, David

STRAFFORD

Berube, Roger
Heon, Richard
Woods, Phyllis

Brown, George
McKinley, Robert

Callaghan, Frank
Torr, Franklin

Cossette, Larry
Tsiros, William

SULLIVAN

Cloutier, John
Robb-Theroux, Amy

Donovan, Thomas Jr
Jones, Constance
Young, David

Leone, Richard

NAYS 182

BELKNAP

Millham, Alida
Turner, Robert

Pilliod, James

Russell, David

Thomas, John

CARROLL

Babson, David Jr
Sullivan, P Judith

Bradley, Jeb

Dickinson, Howard

Philbrick, Donald

CHESHIRE

Batchelder, Robert
Lerandeau, Alfred
Mitchell, McKim
Riley, William

Blaisdell, Michael
Lynch, Margaret
Pratt, Irene
Robertson, Timothy

Burnham, Daniel
Lynott, Margaret
Pratt, John
Russell, Ronald

DePecol, Benjamin
Meader, David
Richardson, Barbara

COOS

Davis, Perley
Landers, Dana

Gallus, John
Mears, Edgar

Glines, Sara
Pratt, Leighton

Horton, Lynn

GRAFTON

Alger, John	Almy, Susan	Cobb, John	Copenhaver, Marion
Densmore, Jessica	Guest, Robert	Johnson, Gary	Marshall, Gene
Nordgren, Sharon	Scanlan, David	Solow, Martha	

HILLSBOROUGH

Ahern, Richard	Alukonis, David	Arthur, Rose	Belvin, William
Bergin, Peter	Buckley, Raymond	Burkush, James	Calawa, Leon Jr
Carlson, Donald	Clemons, Jane	Cote, David	Cote, Peter
Curran, James	Daigle, Robert	Desmarais, Vivian	Dokmo, Cynthia
Durham, Susan	Dyer, Merton	Fenton, James	Ford, Nancy
Foster, Linda	Franks, Suzan	Garrish, Linda	Ginsburg, Ruth
Goley, Jeffrey	Gorman, Mary	Haettenschwiller, Alphonse	Hall, Betty
Herman, Richard	Johnson, Lionel	Keye, Harvey	Konys, Christine
Kurk, Neal	Lasky, Bette	Leishman, Peter	Lozeau, DonnaLee
Lynde, Harold	McCarty, Winston	Melcher, Harold	Mendenhall, Leslie
Messier, Irene	O'Hearn, Jane	Peterson, Andrew	Sargent, Maxwell
Simon, Anthony	Thulander, O Alan	White, Donald	White, John
Williams, Carol			

MERRIMACK

Anderson, Eric	Bouchard, Candace	Brewster, Richard	Chase, George
Crosby, Toni	Davis, Francis	Feuerstein, Martin	Fortnam, Janet
Fraser, Marilyn	French, Barbara	Gile, Mary	Hager, Elizabeth
Hess, David	Hoadley, Elizabeth	Jacobson, Alf	Lockwood, Priscilla
Marple, Richard	Marshall, Kenneth	Maxfield, Roy	Moore, Carol
Owen, Derek	Potter, Frances	Reardon, Tara	Rodd, Beth
Rosenfield, Jay	Seldin, Gloria	Virtue, Carolyn	Wallin, Jean
Wallner, Mary Jane	Yeaton, Charles		

ROCKINGHAM

Abbott, Dennis	Blanchard, MaryAnn	Bridle, Russell	Clark, Martha
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Clark, Vivian	Dalrymple, Janeen	Dearborn, Bruce	Dowling, Patricia
Francoeur, Sheila	Gleason, John	Hutchinson, Karen	Hutchinson, Rebecca
Kane, Cecelia	Kelley, Jane	McKinney, Betsy	Norelli, Terie
O'Keefe, Patricia	Pitts, Jacqueline	Sabella, Norma	Schanda, Frank
Shelton, Richard	Shultis, Elizabeth	Splaine, James	Stone, Joseph
Tufts, J Arthur	Vaughn, Charles	Whittier, John	

STRAFFORD

Bickford, David	Brennan, William	DeChane, Marlene	Domingo, Baldwin
Dunlap, Patricia	Estabrook, Iris	Gilmore, Gary	Johnson, Nancy
Kaen, Naïda	Keans, Sandra	Knowles, William	Lent, Donald
Lundborn, Raymond	Musler, George	Pelletier, Arthur	Pelletier, Marsha
Rogers, Rose Marie	Rollo, Michael	Smith, Marjorie	Spang, Judith
Spear, Barbara	Taylor, Kathleen	Twardus, Joseph	Vachon, Dennis
Vincent, Francis	Wall, Janet		

SULLIVAN

Allison, David	Burling, Peter	Flint, Gordon Sr	Kibbey, David
Phinizy, James	Tuthill, John	Wiggins, Celestine	

and reconsideration failed.

Reps. Dalrymple and White voted Nay and intended to vote Yea.

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

REGULAR CALENDAR

HB 1293, relative to same-sex marriages contracted outside of the state of New Hampshire.
INEXPEDIENT TO LEGISLATE

Rep. David A. Bickford for Children and Family Law: The committee decided the bill is unnecessary at this time because our current statutes make same sex marriage illegal nor is it legal in any other state. Vote 9-5.

Reps. Nancy Wall and Kennedy spoke against.

Reps. Gary Johnson and Irene Pratt spoke in favor.

Rep. Torressen spoke against and yielded to questions.

Rep. Bickford spoke in favor and yielded to questions.

Rep. Torressen requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 232 NAYS 128

YEAS 232

BELKNAP

Millham, Alida	Pilliod, James	Rice, Thomas	Russell, David
Thomas, John			

CARROLL

Babson, David Jr	Dickinson, Howard	Mock, Henry	Sullivan, P Judith
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CHESHIRE

Batchelder, Robert	Blaisdell, Michael	Burnham, Daniel	DePecol, Benjamin
Lerandeau, Alfred	Lynch, Margaret	Lynott, Margaret	McGuirk, Paul
Meador, David	Mitchell, McKim	Pratt, Irene	Pratt, John
Richardson, Barbara	Riley, William	Robertson, Timothy	Royce, H Charles
Russell, Ronald	Zerba, Roger		

COOS

Davis, Perley	Gallus, John	Glines, Sara	Guay, Lawrence
Horton, Lynn	Landers, Dana	Mears, Edgar	Pratt, Leighton

GRAFTON

Akins, Ralph	Almy, Susan	Copenhaver, Marion	Densmore, Jessica
Guest, Robert	Ham, Bonnie	Johnson, Gary	Marshall, Gene
Nordgren, Sharon	Solow, Martha		

HILLSBOROUGH

Ahern, Richard	Alukonis, David	Arnold, Thomas Jr	Arthur, Rose
Baroody, Benjamin	Bergin, Peter	Buckley, Raymond	Burkush, James
Calawa, Leon Jr	Carlson, Donald	Chabot, Robert	Clemons, Jane
Cote, David	Cote, Peter	Craig, James	Curran, James
Daigle, Robert	Desmarais, Vivian	Desrosiers, William	Dokmo, Cynthia
Durham, Susan	Dyer, Merton	Emerton, Lawrence	Fenton, James
Fields, Dennis	Ford, Nancy	Foster, Linda	Franks, Suzan
Gagnon, Paul	Garrish, Linda	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Haettenschwiller, Alphonse	Haley, Robert	Hall, Betty
Hansen, Herbert	Herman, Richard	Jean, Claudette	Johnson, Lionel
Keye, Harvey	Konys, Christine	L'Heureux, Robert	LaRose, Richard
Lasky, Bette	Lefebvre, Roland	Leishman, Peter	Leonard, Peter
Lessard, Rudy	Lozeau, DonnaLee	Lynde, Harold	Martin, Mary Ellen
McCarthy, William	McCarty, Winston	McDonough-Wallace, Alice	Mendenhall, Leslie
Messier, Irene	Milligan, Robert	Moriarty, Mary	Murphy, Robert
Nolan-Piteri, Dawn	O'Connell, Timothy	O'Hearn, Jane	Pepino, Leo
Peterson, Andrew	Reidy, Frank	Sarette, John	Sargent, Maxwell
Simon, Anthony	Thulander, O Alan	Turgeon, Roland	Vaillancourt, Steve
White, Donald	White, John	Williams, Carol	

MERRIMACK

Bouchard, Candace	Chase, George	Crosby, Toni	Daneault, Gabriel
Davis, Francis	Feuerstein, Martin	Fortnam, Janet	French, Barbara
Gile, Mary	Hager, Elizabeth	Hess, David	Jacobson, Alf
Larrabee, David Sr	Lockwood, Priscilla	Maxfield, Roy	Moore, Carol
Owen, Derek	Potter, Frances	Poulin, Dave	Reardon, Tara
Rodd, Beth	Rosenfield, Jay	Seldin, Gloria	St Cyr, Gerard
Virtue, Carolyn	Wallin, Jean	Wallner, Mary Jane	Yeaton, Charles

ROCKINGHAM

Abbott, Dennis	Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell
Case, Margaret	Christie, Andrew Jr	Clark, Martha	Clark, Vivian

Dalrymple, Janeen	Dearborn, Bruce	Downing, Michael	Flanders, John Sr
Francoeur, Sheila	Gleason, John	Henderson, Warren	Hutchinson, Karen
Hutchinson, Rebecca	Kane, Cecelia	Katsakiores, George	Katsakiores, Phyllis
Kelley, Jane	Kelley, William	Langone, John	Lovejoy, Marian
Norelli, Terie	Noyes, Richard	O'Keefe, Patricia	O'Neil, Michael
Pitts, Jacqueline	Rabideau, Marie	Raynowska, Bernard	Reardon, Neil
Sabella, Norma	Schanda, Frank	Shelton, Richard	Shultis, Elizabeth
Splaine, James	Stone, Joseph	Stritch, C Donald	Tufts, J Arthur
Vaughn, Charles	Whittier, John		

STRAFFORD

Berube, Roger	Bickford, David	Brennan, William	Brown, George
Callaghan, Frank	DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris
Gilmore, Gary	Heon, Richard	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Lent, Donald	Lundborn, Raymond
Musler, George	Pelletier, Arthur	Pelletier, Marsha	Rogers, Rose Marie
Rollo, Michael	Smith, Marjorie	Spang, Judith	Spear, Barbara
Taylor, Kathleen	Torr, Franklin	Twardus, Joseph	Vachon, Dennis
Vincent, Francis	Wall, Janet		

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas Jr
Flint, Gordon Sr	Jones, Constance	Kibbey, David	Leone, Richard
Phinizy, James	Robb-Theroux, Amy	Tuthill, John	Wiggins, Celestine

NAYS 128

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Czech, Stanley
Holbrook, Robert	Johnson, James	Lawton, David	Rosen, Ralph
Turner, Robert	Wendelboe, Francine		

CARROLL

Bradley, Jeb	Chandler, Gene	Howard, Godfrey	Kenney, Joseph
Lyman, L Randy	Patten, Betsey	Philbrick, Donald	Torressen, Gary

CHESHIRE

Avery, Stephen	Roberts, William	Rose, William
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COOS

Tholl, John Jr

GRAFTON

Alger, John	Brothers, Richard	Cobb, John	Dudley, Terri
Gilman, G Michael	Hall, David	Harmon, Hobart	Hinman, Harry
Mirski, Paul	Scanlan, David	Ward, Brien	Weber, Phil

HILLSBOROUGH

Andrews, Frederick	Batula, Peter	Beaupre, Roland	Belvin, William
Brundige, Robert	Bruno, Pierre	Christiansen, Lars	Clegg, Robert Jr
Dalianis, Griffin	Daniels, Gary	Drabinowicz, A Theresa	Dwyer, Paul Sr
Fletcher, Richard	Flora, Kathleen	Gagnon, Eugene	Goulet, Maurice
Herman, Keith	Holley, Sylvia	Hunter, Bruce	Jean, Loren
Kurk, Neal	LaPorte, George	MacGillivray, Jeffrey	Martel, Andre
McColgan, Philip Jr	McDonald, James Sr	McGough, Tim	Melcher, Harold
Mercer, Robert	Moran, Edward	Mosher, William	Ouellette, Dean
Pappas, Marc	Reeves, Sandra	Rowe, Robert	Tate, Joan
Wall, Nancy	Withee, Dennis		

MERRIMACK

Anderson, Eric	Brewster, Richard	Hoadley, Elizabeth	Kennedy, Richard
Langer, Ray	Leber, William	Marple, Richard	Marshall, Kenneth
Nichols, Avis	Soltani, Tony	Whalley, Michael	Whittemore, James

ROCKINGHAM

Arndt, Janet	Beaulieu, Jon	Bishop, Franklin	Cooney, Richard
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Corbin, C David	Cote, Patricia	Cox, Russell	DiFruscia, Anthony
Dowling, Patricia	Fesh, Robert	Flanagan, Natalie	Flanders, David
Gibbons, Paul	Grant, Kenneth	Griffin, Mary	Hamel, Albert
Johnson, Robert	Kobel, Rudolph	Langley, Jane	Letourneau, Robert
Major, Norman	McKinney, Betsy	Mikowski, Walter	Moore, Benjamin
Morse, Charles	Nowe, Mary Lou	Nowe, Ronald	Packard, Sherman
Priestley, Anne	Putnam, Ed II	Quandt, Marshall	Rubin, George
Ruffner, Walter	Stickney, Nancy	Varrell, Thomas	Weare, Everett
Welch, David	Weyler, Kenneth	Zolla, William	

STRAFFORD

Cossette, Larry	McKinley, Robert	Tsiros, William	Woods, Phyllis
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SULLIVAN

Young, David

and the report was adopted.

Rep. Leighton Pratt voted Yea and intended to vote Nay.

HB 1430, establishing a committee to study the circumstances and investigations of the deaths of Janet and Steven Dow. INEXPEDIENT TO LEGISLATE

Rep. David A. Welch for Criminal Justice and Public Safety: HB 1430 establishes a study committee charged with investigating and reviewing the evidence surrounding the deaths of Janet and Steven Dow. The study committee would have the duty to consider the scope and quality of all investigations conducted by any federal, state, or local agency of the deaths of Janet and Steven Dow. In order to accomplish this the study committee would have the same investigatory powers as the general court. The study committee is authorized to take evidence under oath, issue subpoenas and search for and seize records, and compel testimony. Based upon research the committee found that in most cases where a legislature has become interested in a particular criminal matter, the legislature has usually addressed the issue by either authorizing a prosecutor (such as the state attorney general) to pursue the matter or had established a special crime commission or task force to conduct the investigation. In the latter approach, legislators sometimes comprise part of the membership of the special commission or task force but the membership also includes criminal investigating experts, prosecutors, attorneys, and regular citizens. The committee fears that there are dangers in establishing a legislative committee to investigate a crime. There are concerns that such a committee may conduct the hearings without certain protections. Hearsay evidence is admissible during these proceedings, as it would not be in a court of law. Because of the admissibility of hearsay evidence, the accused is seldom allowed to confront his accusers. There is therefore no cross-examination of witnesses for the prosecution. HB 1430 would allow the committee to engage in "fishing expeditions." The last time such a committee was convened in New Hampshire was a result of a resolution passed by both houses appointing the Attorney General, Louis Wyman, as a committee of one with subpoena powers, to find subversive activities in state government. This

investigation actually resulted in at least two cases being heard at the United States Supreme Court which have become text for some political science text books. The decision in *Sweezy v. New Hampshire*, 354 U.S. 234, imposed restrictions on the conduct of investigations by state legislative committees. It is the federal Supreme Court that warns of "fishing expeditions" and restricts the use of such committees to investigate activities of state government. The committee feels that investigations of suspected wrongdoing and law enforcement in general are the province of the executive, rather than the legislative branch. The committee would rather keep these powers separate instead of merging them. One of the sponsors of HB1430 submitted questions to the committee which he felt needed to be answered. The committee has pursued this and will include in the committee file, the questions asked and the answers obtained, thus supplying additional information. During the 1997-1998 session the committee did investigate the circumstances surrounding the deaths of Janet and Steven Dow and had concluded that the circumstances were indeed suspicious and that the accident had been staged to cover the fact that the deaths of these two people were not a result of the automobile accident. The original evidence has long since disappeared and the fact that the initial investigation was not complete, it is unlikely that sufficient evidence will ever be discovered to allow prosecution of this event. That this conclusion does not satisfy certain people that are intimately connected to this event cannot be helped. To allow a fishing expedition outside of due process of law would not be in the best interests of justice and would not increase the likelihood of successful prosecution. Therefore the committee recommends that HB1430 be Inexpedient to Legislate Vote 14-1.

Reps. Wiggins and James Johnson spoke against.

Reps. Weare and Welch spoke in favor and yielded to questions.

Rep. Wiggins requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 215 NAYS 133

YEAS 215

BELKNAP

Boriso, Thomas	Boyce, Robert	Czech, Stanley	Holbrook, Robert
Lawton, David	Millham, Alida	Pilliod, James	Rice, Thomas
Rosen, Ralph	Russell, David	Thomas, John	Turner, Robert

CARROLL

Bradley, Jeb	Chandler, Gene	Dickinson, Howard	Howard, Godfrey
Kenney, Joseph	Lyman, L Randy	Mock, Henry	Patten, Betsey
Philbrick, Donald	Sullivan, P Judith	Torressen, Gary	

CHESHIRE

Avery, Stephen	Blaisdell, Michael	Lerandean, Alfred	Roberts, William
Rose, William	Royce, H Charles	Zerba, Roger	

COOS

Davis, Perley	Gallus, John	Guay, Lawrence	Horton, Lynn
Pratt, Leighton	Tholl, John Jr		

GRAFTON

Akins, Ralph	Alger, John	Almy, Susan	Ham, Bonnie
Harmon, Hobart	Marshall, Gene	Scanlan, David	Solow, Martha
Ward, Brien			

HILLSBOROUGH

Ahern, Richard	Alukonis, David	Andrews, Frederick	Arnold, Thomas Jr
Batula, Peter	Beaupre, Roland	Belvin, William	Bergin, Peter
Burkush, James	Calawa, Leon Jr	Carlson, Donald	Chabot, Robert
Christiansen, Lars	Clegg, Robert Jr	Cote, David	Craig, James
Dalianis, Griffin	Daniels, Gary	Desmarais, Vivian	Dokmo, Cynthia
Drabinowicz, A Theresa	Durham, Susan	Dwyer, Paul Sr	Dyer, Merton
Emerton, Lawrence	Fenton, James	Fields, Dennis	Fletcher, Richard
Foster, Linda	Gagnon, Eugene	Ginsburg, Ruth	Goley, Jeffrey
Goulet, Maurice	Hansen, Herbert	Herman, Keith	Holley, Sylvia
Hunter, Bruce	Johnson, Lionel	Kurk, Neal	L'Heureux, Robert
LaRose, Richard	Leishman, Peter	Lozeau, Donnalee	MacGillivray, Jeffrey
Martel, Andre	McCarty, Winston	McGough, Tim	Melcher, Harold
Mercer, Robert	Milligan, Robert	Moran, Edward	Mosher, William
Murphy, Robert	Nolan-Piteri, Dawn	O'Connell, Timothy	O'Hearn, Jane
Ouellette, Dean	Pappas, Marc	Pepino, Leo	Peterson, Andrew
Reeves, Sandra	Rowe, Robert	Sarette, John	Sargent, Maxwell
Simon, Anthony	Tate, Joan	Thulander, O Alan	Turgeon, Roland
Wall, Nancy	White, Donald		

MERRIMACK

Anderson, Eric	Brewster, Richard	Daneault, Gabriel	Davis, Francis
Feuerstein, Martin	Fortnam, Janet	Hess, David	Kennedy, Richard
Langer, Ray	Larrabee, David Sr	Leber, William	Lockwood, Priscilla
Marple, Richard	Marshall, Kenneth	Maxfield, Roy	Moore, Carol
Nichols, Avis	Poulin, Dave	Reardon, Tara	Rodd, Beth
Rosenfield, Jay	Whalley, Michael		

ROCKINGHAM

Abbott, Dennis	Arndt, Janet	Belanger, Ronald	Bishop, Franklin
Case, Margaret	Christie, Andrew Jr	Clark, Vivian	Cooney, Richard
Cote, Patricia	Cox, Russell	Dearborn, Bruce	DiFruscia, Anthony
Downing, Michael	Fesh, Robert	Flanagan, Natalie	Flanders, David
Flanders, John Sr	Francoeur, Sheila	Gibbons, Paul	Gleason, John
Grant, Kenneth	Griffin, Mary	Hamel, Albert	Henderson, Warren
Johnson, Robert	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Langley, Jane	Letourneau, Robert	Major, Norman	McKinney, Betsy
Mikowski, Walter	Morse, Charles	Nowe, Mary Lou	Nowe, Ronald
O'Keefe, Patricia	O'Neil, Michael	Packard, Sherman	Pitts, Jacqueline
Priestley, Anne	Quandt, Marshall	Rabideau, Marie	Raynowska, Bernard
Reardon, Neil	Rubin, George	Ruffner, Walter	Sabella, Norma
Schanda, Frank	Stickney, Nancy	Stone, Joseph	Stritch, C Donald
Tufts, J Arthur	Varrell, Thomas	Weare, Everett	Welch, David
Weyler, Kenneth	Zolla, William		

STRAFFORD

Berube, Roger	Bickford, David	Brown, George	Callaghan, Frank
Cossette, Larry	Domingo, Baldwin	Dunlap, Patricia	Kaen, Naida
Knowles, William	McKinley, Robert	Musler, George	Rogers, Rose Marie
Spear, Barbara	Torr, Franklin	Tsiros, William	Vincent, Francis
Wall, Janet	Woods, Phyllis		

SULLIVAN

Kibbey, David	Young, David
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NAYS 133

BELKNAP

Bartlett, Gordon	Johnson, James	Wendelboe, Francine
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CARROLL

Babson, David Jr

CHESHIRE

Batchelder, Robert	Burnham, Daniel	DePecol, Benjamin	Lynch, Margaret
Lynott, Margaret	McGuirk, Paul	Meadar, David	Mitchell, McKim
Pratt, Irene	Pratt, John	Richardson, Barbara	Riley, William
Robertson, Timothy	Russell, Ronald		

COOS

Glines, Sara	Landers, Dana	Mears, Edgar
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GRAFTON

Brothers, Richard	Cobb, John	Copenhaver, Marion	Densmore, Jessica
Dudley, Terri	Gilman, G Michael	Guest, Robert	Hall, David
Hinman, Harry	Johnson, Gary	Mirski, Paul	Nordgren, Sharon
Weber, Phil			

HILLSBOROUGH

Arthur, Rose	Baroody, Benjamin	Brundige, Robert	Bruno, Pierre
Buckley, Raymond	Cote, Peter	Curran, James	Desrosiers, William
Ford, Nancy	Garrish, Linda	Gorman, Mary	Haettenschwiller, Alphonse
Haley, Robert	Hall, Betty	Herman, Richard	Jean, Claudette
Jean, Loren	Keye, Harvey	Konys, Christine	LaPorte, George
Lasky, Bette	Lefebvre, Roland	Leonard, Peter	Lynde, Harold
Martin, Mary Ellen	McCarthy, William	McColgan, Philip Jr	McDonald, James Sr

McDonough-Wallace, Alice	Mendenhall, Leslie	Messier, Irene	Moriarty, Mary
Reidy, Frank	Vaillancourt, Steve	White, John	Williams, Carol
Withee, Dennis			

MERRIMACK

Bouchard, Candace	Chase, George	Crosby, Toni	Fraser, Marilyn
French, Barbara	Gile, Mary	Hoadley, Elizabeth	Jacobson, Alf
Owen, Derek	Potter, Frances	Seldin, Gloria	Soltani, Tony
St Cyr, Gerard	Virtue, Carolyn	Wallin, Jean	Wallner, Mary Jane
Whittemore, James	Yeaton, Charles		

ROCKINGHAM

Beaulieu, Jon	Blanchard, MaryAnn	Clark, Martha	Dalrymple, Janeen
Dowling, Patricia	Hutchinson, Karen	Hutchinson, Rebecca	Kane, Cecelia
Kelley, Jane	Kelley, William	Langone, John	Norelli, Terie
Putnam, Ed II	Shelton, Richard	Shultis, Elizabeth	Splaine, James
Vaughn, Charles	Whittier, John		

STRAFFORD

Brennan, William	DeChane, Marlene	Estabrook, Iris	Gilmore, Gary
Heon, Richard	Keans, Sandra	Lent, Donald	Pelletier, Arthur
Pelletier, Marsha	Rollo, Michael	Smith, Marjorie	Spang, Judith
Taylor, Kathleen	Twardus, Joseph	Vachon, Dennis	

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas Jr
Flint, Gordon Sr	Jones, Constance	Leone, Richard	Phinizy, James
Robb-Theroux, Amy	Tuthill, John	Wiggins, Celestine	

and the report was adopted.

HB 1431, relative to protective orders in domestic violence cases. OUGHT TO PASS WITH AMENDMENT

Rep. Beth Rodd for Criminal Justice and Public Safety: The intent of the original bill was to protect the defendant from activities of the plaintiff that would cause the defendant to incur criminal penalties when violation of a restraining order occurred because the plaintiff contacted the defendant. This bill would have criminalized the victim's behavior as well as the abuser's behavior although no domestic violence charges were levied against the victim. The amended version of this bill addresses issues of mutual protection and provides a procedure to deal with emergency needs for contact between the parties. It also maintains the protective orders within the boundaries of federal protection making the orders effective across state lines. Vote 13-0.

Amendment (3900h)

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

1 New Paragraph; Protection of Persons From Domestic Violence; Relief Amended. Amend RSA 173-B:5 by inserting after paragraph VIII the following new paragraph:

VIII-a. Upon issuing an order against a defendant, the court shall advise the plaintiff that it would be unwise and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the defendant for any reason, the court shall advise the plaintiff that such contact be made only after petitioning the court for a modification of the order. In an emergency situation, plaintiff or plaintiff's family may request that the local police department notify defendant and the local police may accompany the defendant to a designated location, such as a hospital, if appropriate.

2 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill requires that the court, upon issuing an order against a defendant, issue a warning to the plaintiff advising them that it would be unwise and possibly unsafe to contact the defendant. The bill also provides that if the plaintiff wishes to contact the defendant, the plaintiff should petition the court for a modification of the order.

Adopted.

Rep. Loren Jean offered a floor amendment.

Floor Amendment (3971h)

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect 30 days after its passage.

Reps. Loren Jean and Welch spoke in favor.

Adopted.

Report adopted and ordered to third reading.

HB 1270-FN-L, relative to charter schools and open enrollment districts. OUGHT TO PASS WITH AMENDMENT

Rep. John R. Alger for Education: As amended, this bill provides an alternative for charter school applicants to apply directly to the State Board of Education for a charter, followed by an approval vote at the school district meeting. It leaves the local school board charter approval process in place. The bill also revises the money given to a charter school to be either 80% of the district average per pupil cost of education (present law) or the district's adequate education grant, whichever is less. In so doing, the bill relieves a school district of paying more than the state adequacy grant, which has been an issue for taxpayers voting on approval of charter schools. Vote 10-8.

Amendment (3815h)

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

1 New Paragraph; Charter Schools; Establishment and Application Procedures. Amend RSA 194-B:3 by inserting after paragraph I the following new paragraph:

I-a. Persons eligible to submit an application to establish a charter school under this chapter shall have the option of initiating a charter school application with the school board of the district in which the charter school intends to be located or, in the alternative, with the state board of education.

2 Charter Schools; Establishment and Application; Role of State Board of Education. Amend the introductory paragraph of RSA 194-B:3, II to read as follows:

II. Except as expressly provided in this chapter, the duty and role of the local school board **and the state board** relative to the establishment of a charter school shall be to approve or disapprove the proposed charter school application based upon whether or not the proposed application contains in specific detail the following required elements:

3 Charter Schools; Establishment and Application Procedures Amended. Amend the introductory paragraph of RSA 194-B:3, II (cc) to read as follows:

(cc) In addition to an application, each charter school applicant, in consultation with **either** the local school board **or the state board depending on which body receives the charter school applicant's initial application**, shall prepare a proposed contract. The contract shall include, but shall not be limited to, the following elements:

4 Charter Schools; Establishment and Application Procedures Amended. Amend RSA 194-B:3, III (a)-(b) to read as follows:

(a) Applications for approval of a charter school shall not be submitted to the school board **or to the state board** until the provisions of RSA 194-B:4, I(d)(1) have been adopted by the school district legislative body.

(b) Proposed applications and contracts to establish a charter school shall be presented by July 1 of the year preceding intended operation of the charter school by its prospective board of trustees to the school board of the district in which the charter school intends to be located **or to the state board, depending on which body the applicants select to review the initial charter school application**.

5 Charter Schools; Establishment and Application Procedures Amended. Amend RSA 194-B:3, XI to read as follows:

XI.(a) A charter grantee may apply to the school board **or state board** for amendment to its application and contract, which shall be granted or denied within 30 days at the ~~[school board's]~~ discretion **of the school board or state board**. The school board **or state board** shall notify the school in writing of the decision to grant or deny the proposed amendment, providing reasons for the decision. An approved amended contract shall be promptly signed by the school board within one month of approval.

(b) A charter grantee may appeal the denial **by the school board** of a proposed application and contract amendment to the state board. The state board shall review the proposed amendment and within 30 days shall notify the school ~~[and the school board]~~ in writing of the decision to grant or deny the amendment, providing reasons for the decision. **For applications initiated with the state board, the school may, in writing, petition the state board to reconsider its decision to deny a proposed application and contract amendment. Upon granting reconsideration, the state board shall within 30 days notify the school in writing of its reconsideration decision on the proposed amendment, providing reasons for the decision.**

(c) Within one month of receipt of a notice of approval from the state board ~~[on appeal from a school board denial]~~, the school board shall promptly execute the proposed amended contract.

(d) ~~[When executed]~~ **Upon execution** by the school board, an appealed amended application and contract shall be submitted promptly to the school district legislative body for subsequent ratification or denial without amendment, which decision shall be final. The ratification question shall be placed on the warrant of the next special or annual school district meeting. In districts without annual meetings, the legislative body shall have final authority to ratify or deny the proposed amended application and contract.

6 Charter Schools; Funding Provisions Amended. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school, the pupil's resident district shall pay to such school an amount equal to ~~[not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department]~~ **either 80 percent of the district's average per pupil cost of an adequate education as determined by data from the most current fiscal year or the district's adequate education grant amount as calculated pursuant to RSA 198:41, whichever is less.** Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, funding for a pupil attending a charter or open enrollment school shall be paid on the same time schedule as the resident district, or on such other terms as the school and the funding source may find mutually acceptable.

7 Repeal. RSA 194-B:3, IV(a) and (b), relative to an appeal from a denial of a charter school application by a school board is repealed.

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

AMENDED ANALYSIS

This bill changes establishment and application procedures for charter schools by authorizing a proposed charter school application to be submitted directly to the state board of education. The bill also provides that the payment for all pupils attending a charter school shall be equal to either 80 percent of the district's average per pupil cost of an adequate education grant amount, whichever is less.

Adopted.

Rep. McGough requested a roll call; not sufficiently seconded.

On a division vote, 204 members having voted in the affirmative and 122 in the negative, the report was adopted and ordered to third reading.

HB 1376-L, relative to the procedure for voting on the school administrative unit budget. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Clair A. Snyder for the Majority of Education: This bill, while enabling, would provide a sort of cafeteria option to each town or city for funding the SAU budget. This could be chaotic in trying to fund services provided by the SAU, which are district-wide and not clearly focused on one town or city. If one town turns down a new copier when the current one is unusable, are they then denied copier services? Many SAU's have many towns included and if each one had veto power on portions of the total bill, services to each town or city could suffer. Vote 17-2.

Rep. John R. Alger for the Minority of Education: This is simply enabling legislation for a single school district of a SAU to elect a single district SAU budget. With an amendment, it would enable citizens to vote on their SAU budget on a one person, one vote basis, required by constitution, not possible with the single SAU budget currently required by law. However, the bill preserves the current single SAU budget option simply enabling a school district to vote one year to adopt a single district SAU budget that would be implemented the succeeding year.

Majority report adopted.

HB 1308, relative to nomination paper requirements. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. C. Donald Stritch for the Majority of Election Law: This bill addresses the process for candidates to be nominated for office that are not members of any state political party. It requires that any political organization will file in June and submit such names nominated for the primary in September. It allows, in the case of more than one name nominated for an office, to have both names on the ballot. It requires a political organization to pay a \$500 fee in June. Vote 9-6.

Rep. Raymond Buckley for the Minority of Election Law: The bipartisan minority strongly believes that HB1308 as amended makes overly-complicated substantial changes to the process of ballot access for candidate on general election ballot while retaining the confusing situation of having multiple candidates for the same office run under the "Independent" label. The minority believes that there are simpler solutions to the concerns that HB1308 attempts to address. Separate legislative bills can be filed next term.

Amendment (3304h)

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

1 Elections; Nominations by Primary; Declaration of Intent; Political Organizations. Amend RSA 655:17-a to read as follows:

655:17-a Declaration of Intent; Other Candidates.

I. Declarations of intent for nonparty or other candidates shall be in the following form and signed by the candidate:

I, _____, declare that I am domiciled in Ward _____, in the city (or town or unincorporated place) of _____, county of _____, state of New Hampshire, and am a registered voter herein; that I intend to be a candidate for the office of _____ to be chosen at the general election to be held on the ____ day of ____; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

II. The declaration of intent for a political organization shall be in the following form and signed by the chairman of the political organization.

I, _____, chairman of the _____ organization hereby declare that the _____ organization intends to file nomination papers by the deadline established under RSA 655:43. I further declare that the _____ organization intends to file the names of candidates for the following offices with the nomination papers:

2 New Subparagraph; Elections; Nominations; Nominations by Primary; Administrative Assessment; Primary Petitions; Nomination Papers; Party Organizations. Amend RSA 655:19-c, I by inserting after subparagraph (f) the following new subparagraph:

(g) For party organization, \$500.

3 Elections; Nominations; Nomination by Nomination Papers. Amend RSA 655:40-43 to read as follows:

655:40 General Provisions. As an alternative to nomination by party primary, a candidate ~~[may]~~ **shall** have his **or her** name placed on the ballot for the state general election by submitting the requisite number of nomination papers **pursuant to RSA 655:42, I or II**. Such papers shall contain the name and domicile of the candidate, the office for which ~~[he]~~ **the candidate** is nominated, and the political party or principles ~~[he]~~ **the candidate** represents, and shall be signed by such persons only as are qualified to vote at the state general election. No voter shall sign more than one nomination paper for each office to be voted for, and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each **qualified** voter **desiring to sign a nomination paper** shall sign an individual petition.

655:40-a Nomination of ~~[Party]~~ **Political Organization**. A political ~~[party may]~~ **organization shall** have ~~[its name]~~ **candidates** placed on the ballot for the state general election by submitting the requisite number of nomination papers, in the form prescribed by the secretary of state, pursuant to RSA 655:42, III. Such **nomination** papers shall contain the name of the political ~~[party]~~ **organization** and shall be signed by such persons only as are qualified to vote at the state general election. No voter shall sign more than one nomination paper which allows a political ~~[party]~~ **organization** access to the state general election ballot.

655:40-b Filing Names of Candidates. The names of the candidates to be listed on the state general election ballot under the political ~~[party]~~ **organization** nominated pursuant to RSA 655:40-a shall be submitted to the secretary of state no later than 5:00 p.m. on ~~[the Monday immediately following the]~~ **state primary day**. When the list of candidates is filed, it shall be accompanied by a declaration of candidacy signed by each of the candidates. The declaration of candidacy shall be in the form provided by RSA 655:17 with the understanding that, where the form says primary election, it shall be construed to mean general election.

655:41 Certification. Each nomination paper, **either pursuant to RSA 655:40 or pursuant to RSA 655:40-a**, shall be submitted to the supervisors of the checklist of the town or ward in which the signer is domiciled or is registered, and a majority of the supervisors **of the checklist** shall certify whether or not the signer is a legal voter in said town or ward. The supervisors of the checklist shall certify nomination papers under this section in a timely fashion, so that their certification shall be complete for each candidate, together with any objections to the nomination papers submitted, no later than 5:00 p.m. on the Wednesday 2 weeks before the primary. Each nomination paper shall be submitted to the supervisors of the checklist no later than 5:00 p.m. on the Wednesday 5 weeks before the primary.

655:42 Number.

I. It shall require the names of 3,000 legal voters, 1,500 from each United States congressional district in the state, to nominate by nomination papers a candidate for president, vice-president, United States senator, or governor.

II. It shall require the names of 1,500 legal voters to nominate by nomination papers a candidate for United States representative; 750 to nominate a candidate for councilor or state senator; and 150 to nominate a candidate for state representative or county officer.

III. It shall require the names of legal voters equaling 3 percent of the total votes cast at the previous state general election to nominate by nomination papers a political ~~[party]~~ **organization**.

655:43 Filing Deadline.

I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the Wednesday one week before the primary. No nomination papers shall be accepted by the secretary of state unless the candidate shall have met the age and domicile qualifications for the office he **or she** seeks at the time of the general election and meets all the other qualifications at the time of filing; and if a candidate for the office of governor, executive councilor, state senator, or state representative, unless he **or she** shall file with the nomination papers an affidavit of qualifications as provided in RSA 655:28 and 655:29; and if a candidate for United States senator or United States representative, unless he **or she** shall meet the qualifications for office under RSA 655:3 and 655:4.

II. No candidate who intends to run for any state or federal office in the state general election by means of nomination papers **pursuant to RSA 655:40** shall have his **or her** name placed on the ballot unless ~~[he]~~ **the candidate** files a declaration of intent, as provided in RSA 655:17-a or 655:17-b, within the filing deadline required by RSA 655:14-a.

III. No political organization shall have the names of their candidates placed on the ballot, unless the organization files a declaration of intent, as provided in RSA 655:17-c, within the filing deadline required by RSA 655:14-a.

~~[III]~~ **IV.** No person who filed as a candidate in the state primary election shall be eligible to have his *or her* name placed on the ballot for the state general election by submitting nomination papers as provided in this subdivision.

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

Adopted.

Majority report adopted and ordered to third reading.

HB 1417-FN-A-L, setting priorities for the disposal of certain components of the solid waste stream.
REFER FOR INTERIM STUDY

Rep. George T. Musler for Environment and Agriculture: The effort to meet the 40% reduction vote is important to the Committee and the State. The Committee supports that basic objective and will be working to present a supportable piece of legislation and recommendation in November. Vote 13-2.

Adopted.

HB 1418-FN-L, relative to mercury-containing products. OUGHT TO PASS WITH AMENDMENT

Rep. Harold P. Melcher for Environment and Agriculture: This bill is a very small forward step in an ongoing effort to resolve mercury pollution, forged with the cooperation of the industries involved. This is a regional initiative in which NH must coordinate with surrounding states. At this time the current bill is all we should be considering. Vote 12-0.

Amendment (3827h)

Amend the bill by replacing section 2 with the following:

2 New Subdivision; Mercury Reduction. Amend RSA 149-M by inserting after section 50 the following new subdivision:

Mercury Reduction

149-M:51 Definitions. In this subdivision:

I. "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture which produces a product containing mercury or an importer or domestic distributor of a product containing mercury produced in a foreign country. In the case of a multi-component product containing mercury the manufacturer is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the manufacturer is the importer or domestic distributor.

II. "Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, and items of apparel, including footwear.

III. "Mercury-added product" means a product or a product with a component that contains mercury or a mercury compound intentionally added to the product or component in order to provide a specific characteristic, appearance, or quality or to perform a specific function or for any other reason.

IV. "Mercury fever thermometer" means a mercury-added product that is used for measuring body temperature.

V. "Product containing mercury" means any product or any product with a component that contains mercury or a mercury compound from any source or cause, whether intended or unintended, including, but not limited to, a mercury-added product and a product manufactured using mercury.

149-M:52 Notification.

I. Six months after the effective date of this section no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in this state without prior notification in writing by the manufacturer of the product to the department in accordance with the requirements of this section. Such notification shall at a minimum include:

(a) A brief description of the product to be offered for sale, use, or distribution.

(b) The amount of mercury in each unit of the product reported as an exact number or average per product with an upper and lower limit.

(c) The name and address of the manufacturer.

(d) The total amount of mercury used by the manufacturer of the mercury-added products reported by a company or aggregated by a trade organization for a group of companies.

II. With the approval of the department, the manufacturer may supply the information required above for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is significant change in the information or when requested by the department. The department may define and adopt specific requirements in accordance with RSA 541-A for the content and submission of the required notification.

III. This section shall not apply to prescription drugs or any substance that may be lawfully sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et. seq.

149-M:53 Restrictions on the Sale of Certain Mercury-Added Products.

I. No later than one year after the effective date of this section, no toy, game, card, ornament, or mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in this state if the seller knows or has reason to know that the product contains mercury. Manufacturers that produce and sell mercury-added novelties shall notify retailers about the provisions of this section and how to dispose of the remaining inventory properly.

II. Six months after the effective date of this section, a person shall not sell or supply mercury fever thermometers to consumers and patients, except by prescription. The manufacturers of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescriptions.

III. As of the effective date of this section, no school in this state shall use or purchase for use in a primary or secondary classroom, elemental mercury, mercury compounds, or mercury-added instructional equipment and materials, except measuring devices and thermometers for which no adequate substitute exists which are used in school laboratories.

149-M:54 Disclosure for Mercury-Containing Products That Are Used in Health Care Facilities.

I. The requirements of this section apply to all products containing mercury that are used in health care facilities including, but not limited to: acids; alkalis; bleach (sodium hypochlorite); materials used for cleaning, in maintenance, or for disinfection; pharmaceutical products; stains, reagents, preservatives, fixatives, buffers, and dyes.

II. For all products containing mercury offered for sale to health care facilities, within one year of the effective date of this section, the manufacturer shall provide both the department and the purchaser a certificate of analysis documenting the mercury content of the product, down to a 1 part per billion level.

III. The certificate of analysis shall report the result of an analysis performed for mercury on the specific batch or lot of that product offered for sale. The batch or lot number of the product shall be clearly identified on the product and on the certificate of analysis.

IV. Upon receipt of the certificate of analysis, the department may review the data, in consultation with the manufacturer, and take appropriate action to require the manufacturer to eliminate or reduce the mercury content of the product, if feasible.

149-M:55 Limitations on the Use of Elemental Mercury. As of the effective date of this section, no person shall sell or provide elemental mercury to another person in this state without providing a material safety data sheet, as defined in 42 U.S.C. section 11049, and requiring the purchaser or recipient to sign a statement that the purchaser:

I. Will use the mercury only for medical, dental amalgam dispose-caps, research, or manufacturing purposes;

II. Understands that mercury is toxic and that the purchaser will store and use it appropriately so that no person is exposed to the mercury; and

III. Will not place or allow anyone under the purchaser's control to place the mercury or cause the mercury to be placed in solid waste for disposal or in a wastewater disposal system.

149-M:56 Public Education and Outreach.

I. The department shall implement a public education, outreach, and assistance program for households, hazardous waste generators, local and regional solid waste management agencies, dismantlers, institutions, and schools on the hazards of mercury, the requirements and

obligations of individuals, manufacturers, and agencies under this subdivision, and voluntary efforts that individuals, institutions, and businesses can undertake to help further reduce mercury in the environment. The department shall cooperate with manufacturers of mercury-added products and other affected businesses in the development and implementation of public education and technical assistance programs.

II. The department shall cooperate with the neighboring states and provinces and regional organizations in the northeastern United States and Canada on developing outreach, assistance, and education programs, where appropriate.

149-M:57 Interstate Clearinghouse. The department is hereby authorized to participate in the establishment and implementation of a regional, multi-state clearinghouse to assist in carrying out the requirements of this subdivision and to help coordinate reviews of the manufacturers' notifications regarding mercury-added products, applications for phase-out exemptions, reviews of the collection plans, the disclosures of mercury content, applications for alternative labeling, and education and outreach. The clearinghouse may also maintain a list of all products containing mercury, including mercury-added products; a file on all exemptions granted by the states; a file of all the manufacturers' reports on the effectiveness of their collection systems; and a file of the certificates of analysis for certain products containing mercury used by health care facilities as required by RSA 149-M:54.

149-M:58 State Review. The department shall, in consultation with the Committee on the Environment of the Conference of New England Governors and Eastern Canadian Premiers, review the effectiveness of this subdivision no later than 4 years after the effective date of this section and shall provide a report based upon that review to the governor and the legislature. The report shall review the effectiveness of the programs required under the subdivision and may contain recommendations for improving them.

AMENDED ANALYSIS

This bill:

I. Prohibits the sale of certain mercury-added products.

II. Establishes notification and disclosure requirements for permissible mercury-containing products.

III. Establishes limitations on the use of elemental mercury.

IV. Requires the department of environmental services to implement a public education, outreach, and assistance program on the hazards of mercury and relative to the reduction of mercury in the environment.

This bill was requested by the department of environmental services.

Adopted.

Report adopted and ordered to third reading.

HB 1286, relative to relicensure by the pharmacy board of a certain pharmacist. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Alida I. Millham for the Majority of Executive Departments and Administration: This bill would require the board of pharmacy to relicense a certain pharmacist without imposition of any penalties or late fees. In February 1994, this pharmacist was asked, in a routine audit, to submit his continuing education documentation. This coincided with his regular application for relicensure. He supplied "education material", but was unable to supply any certificates of attendance. The pharmacist felt he had been erroneously informed about what the documentation should be, asked for, and received additional time to obtain the certificates. When they were not produced a disciplinary hearing was held in October 1994. His license was suspended for 30 days and he was fined \$500, which is the customary penalty for such an offense. The pharmacist filed a request for voluntary surrender of his license and withdrew his reapplication. The board did not accept the surrender of the license, but it expired in December 1994. He filed for a reconsideration of the decision and requested the tape of the proceedings. It was then discovered that the tape was blank. Because of this, at the April 1995 reconsideration hearing, the board vacated their decision and proceeded with a new hearing. The pharmacist refused to participate in the hearing saying he had surrendered his license and the board no longer had any jurisdiction. The board completed the hearing and arrived at the previous conclusion and assessed a \$500 fine. In September 1995, the pharmacist appealed the decision to the Supreme Court. On December 20, 1996, the Supreme Court issued an opinion that affirmed the board of pharmacy findings and adjudication. The pharmacist had no subsequent contact with the board until he filed for relicensure about two weeks ago. While sympathetic with the situation, the majority of the committee agreed that the pharmacist had not exhausted all available administrative remedies before seeking legislative intervention. Vote 11-8.

Rep. Carolyn A. Virtue for the Minority of Executive Departments and Administration: This bill requires the board of pharmacy to reinstate the license of a certain pharmacist, whose license was not renewed due to a situation that arose after he received incorrect information and misleading direction from the board concerning requirements for relicensure. The definitions in the rules relative to the issue (C.E.U.'s) were unclear at the time as well. The individual made a good faith effort to obtain clarification from the board of pharmacy and to act in accordance with the rules and the direction he received from the board. Despite performing in accordance with the pharmacy board's direction, the board refused the applicant's relicensure as a pharmacist. Subsequent changes in rules and statute have clarified the issue to prevent this problem from recurring. This bill provides for restitution to the aggrieved party.

Reps. Mirski and Virtue spoke against.

Reps. Millham and Goulet spoke in favor.

On a division vote, 198 members having voted in the affirmative and 135 in the negative, the majority report was adopted.

HB 417-FN-A, relative to the rehabilitation of the Walker building at New Hampshire hospital and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kenneth L. Weyler for Finance: The Walker Building sits empty on the state hospital campus. While structurally sound, it was closed years ago as an office building due to a need to update heating, ventilating and electrical systems. It now suffers from years of neglect. The demolition and hazardous waste removal will exceed \$2 million. The cost of repairing the roof, removing wild animals and halting deterioration will be about \$3 million. Neither of these measures will provide the state with any more office space. The state leases hundreds of thousands of square feet of office space at ever-increasing rates.

This bill enables the Walker Building to be rehabilitated to make 100,000 square feet available for office space. The bill directs the Council to use the time- and money-saving method called construction management. It also permits the flexibility of a new funding method. Some national construction companies have had success in other states with fronting the money for construction, doing the job, then accepting fixed payments for twenty years that are generally less than paying for leased space. We would also enjoy the advantage of having the payments fixed for ten years, an adjustment, then another ten years fixed. Plus the project promises to be done years earlier than other methods. Vote 23-0.

Amendment (3928h)

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

1 Design for Rehabilitation of New Hampshire Hospital's Walker Building.

I. The department of transportation shall develop and issue a request for proposals from experienced and qualified construction firms or developers for the design, rehabilitation, and reconstruction, and/or financing of the Walker building at New Hampshire hospital.

II. Proposals shall be submitted on or before July 1, 2000.

III. Notwithstanding the provisions of RSA 228:4, 228:4-a and 21-I:22, the department of transportation shall develop criteria for awarding the contract.

IV. The project shall be built under the construction management process, provided that selection and award are based on an objective standard and that there are measurable criteria for evaluation.

2 Decision of the State Treasurer. The state treasurer shall, after consultation with the capital budget overview committee, render a decision as to which of the financing methods provided in paragraphs II and III of section 3 of this act is least costly to the state, and that method shall be utilized for the purposes of this act.

3 Appropriation; Bonds Authorized; Funding Options.

I. The sum not to exceed \$12,600,000 is hereby appropriated to the department of transportation for the purpose of the design, rehabilitation, and reconstruction of the Walker building at New Hampshire hospital authorized in section 1 of this act.

II. To provide funds for the appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$12,600,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from rents to be paid by non-general-fund agencies occupying the Walker building. The bonds shall be 20-year bonds.

III. To provide funds for the appropriation made in paragraph I, the state treasurer is authorized to provide funds from rents to be paid by non-general-fund agencies occupying the Walker building for a financing arrangement not utilizing state bonds.

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

AMENDED ANALYSIS

This bill authorizes the department of transportation to develop and issue a request for proposals for the design, rehabilitation and reconstruction of the Walker building at New Hampshire hospital and to establish criteria for the contract. The bill also makes a bonded appropriation for the cost of the Walker building project, and provides a funding option for the state treasurer regarding funding the project.

Adopted.

Report adopted and ordered to third reading.

HB 1188-FN-L, relative to alternative kindergarten programs. OUGHT TO PASS WITH AMENDMENT

Rep. Jean R. Wallin for Finance: The Finance Committee recommends that this bill be passed as amended to enable school districts to contract with privately-owned kindergartens as alternatives to district-owned kindergartens. The alternative kindergartens shall meet the same standards and fulfill the same requirements as public kindergartens, i.e., designed for five-year-olds; available at district expense to all district children; offered immediately preceding other elementary grades. The private schools chosen shall be non-sectarian. When the so-called kindergarten bill was approved these schools were included. Due to an oversight they were left out of subsequent school funding legislation. Passage will increase the likelihood of all New Hampshire children having access to publicly-funded kindergarten. Vote 24-1.

Amendment (3897h)

Amend RSA 198:48-a, VII as inserted by section 1 of the bill by replacing it with the following:

VII. Until such time as pupils enrolled in an approved alternative kindergarten program shall be counted in the average daily membership in residence, an adequate education grant of \$750 per pupil shall be distributed to school districts, from the education trust fund created in RSA 198:39, for the education of its resident kindergarten pupils enrolled in an approved alternative kindergarten program established pursuant to RSA 198:48-a. Once pupils enrolled in an approved alternative kindergarten program have been counted in the average daily membership in residence, school districts shall receive, for each such pupil, an adequate education grant pursuant to RSA 198:40 through RSA 198:42.

Adopted.

Report adopted and ordered to third reading.

HB 1468-FN, relative to the registration of pharmacy technicians. OUGHT TO PASS

Rep. Joseph E. Stone for Finance: This bill gives the pharmacy board rulemaking authority regarding the duties, functions and standards of conduct of pharmacy technicians. It further provides for the requirement of the supervision and the registration of pharmacy technicians. Although there is a state general fund expenditure of \$13,098 in FY 01 and \$9,398 in subsequent years, the pharmacy board indicates the general fund revenue will increase by \$15,000 in FY 01 and \$17,500 in FY 02 and FY 03, and by \$20,000 in each year thereafter. There is no fiscal impact on county or local expenditures. Vote 17-8.

Adopted and ordered to third reading.

HB 1525, establishing a legislative oversight committee to review the procedures of the health services planning and review board. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. James P. Pilliod for the Majority of Health, Human Services and Elderly Affairs: Noting that there is no appeals mechanism for the function and policies of the Health Services Planning and Review Board, excepting the Supreme Court, and realizing the value of this oversight to legislatively created boards and commissions, the majority of the committee, after much deliberation, voted ought to pass with amendment to provide this much needed review. Vote 12-6.

Rep. Marion L. Copenhaver for the Minority of Health, Human Services and Elderly Affairs: The minority of the committee has some grave reservations about this oversight committee. The genesis of this bill was a perceived feeling of an unfair decision on an Ambulatory Surgical Facility by the Health Services Planning and Review Committee, commonly called the C.O.N. Board. Because of this, it seems clear to the minority of the committee that the oversight committee would have a biased point of view, which could undermine the fairness and proper function of the board. Furthermore, it should be the prerogative of the legislature to establish an appeals mechanism if such action is necessary. Finally, there is no reason to provide this oversight committee with powers of investigation rarely provided to other oversight committees.

Amendment (3713h)

Amend the bill by replacing section 2 with the following:

2 New Section; Oversight Committee Established. Amend RSA 151-C by inserting after section 15 the following new section:

151-C:16 Legislative Oversight Committee Established; Duties.

I. There is hereby established a legislative oversight committee to review the policies and procedures of the board.

II. The committee shall consist of 6 members, 3 of whom shall be members of the house of representatives, appointed by the speaker of the house, and 3 of whom shall be senators appointed by the president of the senate. Members shall be appointed for their term of office. All members shall be eligible for reappointment so long as they are qualified under this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for an unexpired term within 30 days of the creation of such vacancy, and the initial appointments under this section shall be made within 30 days of the effective date of this section. The members shall choose from their number a chairperson, provided that the chair shall rotate biennially between the house and senate members. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall consider the need to review the policies and procedures of the board and shall make recommendations as it deems necessary. The committee may also investigate the possibility of requiring the executive branch to create an additional appeal mechanism.

IV. The committee shall have the same investigatory powers as the general court.

Rep. Copenhaver spoke against.

Rep. Pilliod spoke in favor.

Rep. Burnham spoke against and yielded to questions.

Rep. Haettenschwiller spoke in favor and yielded to questions.

Adopted.

Majority report adopted and ordered to third reading.

HB 1236, granting a defendant the right to inform the jury of its right to find the defendant not guilty under certain circumstances when the state or a political subdivision is the opposing party. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Tony F. Soltani for Majority of Judiciary: New Hampshire juries inherently have the right to judge the law as well as the facts of the case before them. The juries have had this power since the provincial days, through the revolutionary period, through the civil rights efforts, and to this day. No one challenges the right of the juries, sitting in this state, to acquit a defendant in a case which they find unjust or one which may do violence to their conscience. The opponents, however, argue that we should not inform the jury that they have this right. The majority of the committee was of the opinion that a fully informed juror is the best juror for both sides of the controversy. It makes no sense to withhold from a jury information to which it is entitled. Nor is it appropriate to convey information to a jury in language which is coded or incomprehensible. A jury which is forced to remain ignorant of its legal prerogative is not better suited to serve the purposes of the state or to mete our justice as recognized under New Hampshire law. Vote 8-6.

Rep. Andrew R. Peterson for the Minority of Judiciary: The bill would effectively require that the burden of proof be raised for the prosecution in criminal trials from "...beyond a reasonable doubt" to one where the perceived validity of the law and the personal prejudices of the individual jurors would also need to be overcome. In other words, a prosecutor would have to not only prove the facts but defend the law in every criminal trial. No other state was found which requires this practice. The minority felt that a better way of doing this would have been to allow a presiding judge flexibility in this matter, but require that he or she state the reasons in writing when a request that jury nullification instructions be given is denied.

Amendment (3907h)

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

AN ACT relative to an informed jury.

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

1 Findings and Intent. Under the decisions of both the New Hampshire supreme court and the United States supreme court, the jury has an undeniable right to judge both the law and the facts in controversy. The jury system functions at its best when it is fully informed of these prerogatives. The general court wishes to perpetuate and reiterate the rights of the jury, as ordained

under common law and recognized in the American jurisprudence, while preserving the rights of a criminal defendant.

2 New Section; Right of Accused; Jury Instruction. Amend RSA 519 by inserting after section 23 the following new section:

519:23-a Right of Accused. In all criminal proceedings, where the defendant has made a timely request, the court shall instruct the jury of its inherent right to judge the law as well as the facts and to nullify.

3 Effective Date. This act shall take effect January 1, 2001.

AMENDED ANALYSIS

This bill states that a criminal defendant has a right to make a request that the court instruct the jury of its inherent right to judge the law and the facts in controversy and to nullify.

Adopted.

Rep. Peterson spoke against and yielded to questions.

Rep. Loren Jean spoke in favor and yielded to questions.

Rep. Craig requested a roll call; sufficiently seconded.

The question being the adoption of the report.

YEAS 189 NAYS 138

YEAS 189

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Boyce, Robert	Czech, Stanley
Holbrook, Robert	Johnson, James	Lawton, David	Pilliod, James
Rice, Thomas	Rosen, Ralph	Russell, David	Thomas, John
Turner, Robert	Wendelboe, Francine		

CARROLL

Babson, David Jr	Chandler, Gene	Dickinson, Howard	Howard, Godfrey
Lyman, L Randy	Mock, Henry	Patten, Betsey	Sullivan, P Judith
Torressen, Gary			

CHESHIRE

Lynch, Margaret	Lynott, Margaret	Pratt, Irene	Riley, William
Roberts, William	Robertson, Timothy	Rose, William	Royce, H Charles

COOS

Davis, Perley	Guay, Lawrence	Horton, Lynn	Landers, Dana
Pratt, Leighton	Holl, John Jr		

GRAFTON

Alger, John	Brothers, Richard	Cobb, John	Gilman, G Michael
Hall, David	Harmon, Hobart	Hinman, Harry	Johnson, Gary
Marshall, Gene	Mirski, Paul	Scanlan, David	Solow, Martha
Ward, Brien	Weber, Phil		

HILLSBOROUGH

Alukonis, David	Andrews, Frederick	Batula, Peter	Beaupre, Roland
Brundige, Robert	Bruno, Pierre	Calawa, Leon Jr	Chabot, Robert
Christiansen, Lars	Clegg, Robert Jr	Daniels, Gary	Desmarais, Vivian
Desrosiers, William	Dyer, Merton	Fenton, James	Fields, Dennis
Fletcher, Richard	Gagnon, Eugene	Ginsburg, Ruth	Goulet, Maurice
Haley, Robert	Hall, Betty	Hansen, Herbert	Herman, Keith
Holley, Sylvia	Hunter, Bruce	Jean, Loren	Kurk, Neal
L'Heureux, Robert	LaPorte, George	LaRose, Richard	Lefebvre, Roland
Leonard, Peter	Lozeau, Donnalee	Lynde, Harold	MacGillivray, Jeffrey
Martel, Andre	Martin, Mary Ellen	McCarthy, William	McCarty, Winston
McDonald, James Sr	McGough, Tim	Mercer, Robert	Milligan, Robert
Moran, Edward	Mosher, William	Murphy, Robert	Nolan-Piteri, Dawn
Ouellette, Dean	Pappas, Marc	Pepino, Leo	Reeves, Sandra
Rowe, Robert	Sargent, Maxwell	Tate, Joan	Turgeon, Roland
Vaillancourt, Steve	Wall, Nancy	White, Donald	Withee, Dennis

MERRIMACK

Anderson, Eric	Bouchard, Candace	Daneault, Gabriel	Kennedy, Richard
Langer, Ray	Larrabee, David Sr	Leber, William	Lockwood, Priscilla

Marple, Richard
Virtue, Carolyn

Nichols, Avis
Wallin, Jean

Soltani, Tony
Whalley, Michael

St Cyr, Gerard
Whittemore, James

ROCKINGHAM

Beaulieu, Jon
Clark, Vivian
Fesh, Robert
Griffin, Mary
Katsakiores, Phyllis
Letourneau, Robert
Morse, Charles
Packard, Sherman
Quandt, Marshall
Ruffner, Walter
Stickney, Nancy
Weare, Everett

Belanger, Ronald
Dalrymple, Janeen
Flanders, John Sr
Hamel, Albert
Kelley, William
Major, Norman
Nowe, Mary Lou
Pitts, Jacqueline
Rabideau, Marie
Sabella, Norma
Stone, Joseph
Welch, David

Bishop, Franklin
DiFruscia, Anthony
Gleason, John
Hutchinson, Karen
Kobel, Rudolph
McKinney, Betsy
Nowe, Ronald
Priestley, Anne
Raynowska, Bernard
Shultis, Elizabeth
Stritch, C Donald
Weyler, Kenneth

Case, Margaret
Dowling, Patricia
Grant, Kenneth
Katsakiores, George
Langley, Jane
Mikowski, Walter
O'Neil, Michael
Putnam, Ed II
Reardon, Neil
Splaine, James
Varrell, Thomas
Whittier, John

STRAFFORD

Bickford, David
Pelletier, Arthur
Woods, Phyllis

Brown, George
Pelletier, Marsha

McKinley, Robert
Spang, Judith

Musler, George
Tsiros, William

SULLIVAN

Donovan, Thomas Jr
Tuthill, John

Kibbey, David

Leone, Richard

Phinizy, James

NAYS 138

BELKNAP

Millham, Alida

CARROLL

Bradley, Jeb

Kenney, Joseph

Philbrick, Donald

CHESHIRE

Batchelder, Robert	Blaisdell, Michael	Burnham, Daniel	DePecol, Benjamin
Lerandeau, Alfred	Meador, David	Mitchell, McKim	Richardson, Barbara
Russell, Ronald	Zerba, Roger		

COOS

Gallus, John	Glines, Sara	Mears, Edgar
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GRAFTON

Almy, Susan	Copenhaver, Marion	Guest, Robert	Ham, Bonnie
Nordgren, Sharon			

HILLSBOROUGH

Ahern, Richard	Arnold, Thomas Jr	Arthur, Rose	Baroody, Benjamin
Belvin, William	Bergin, Peter	Buckley, Raymond	Carlson, Donald
Cote, David	Cote, Peter	Craig, James	Curran, James
Dokmo, Cynthia	Drabinowicz, A Theresa	Durham, Susan	Dwyer, Paul Sr
Ford, Nancy	Foster, Linda	Garrish, Linda	Goley, Jeffrey
Gorman, Mary	Haettenschwiller, Alphonse	Herman, Richard	Jean, Claudette
Johnson, Lionel	Keye, Harvey	Konys, Christine	Lasky, Bette
Leishman, Peter	McColgan, Philip Jr	McDonough-Wallace, Alice	Melcher, Harold
Mendenhall, Leslie	Messier, Irene	Moriarty, Mary	O'Connell, Timothy
O'Hearn, Jane	Peterson, Andrew	Reidy, Frank	Sarette, John
Simon, Anthony	Thulander, O Alan	White, John	Williams, Carol

MERRIMACK

Brewster, Richard	Crosby, Toni	Davis, Francis	Feuerstein, Martin
Fortnam, Janet	Fraser, Marilyn	French, Barbara	Gile, Mary
Hess, David	Hoadley, Elizabeth	Jacobson, Alf	Marshall, Kenneth
Maxfield, Roy	Moore, Carol	Potter, Frances	Poulin, Dave
Rodd, Beth	Rosenfield, Jay	Seldin, Gloria	Wallner, Mary Jane

Yeaton, Charles

ROCKINGHAM

Abbott, Dennis	Blanchard, MaryAnn	Clark, Martha	Cooney, Richard
Cox, Russell	Dearborn, Bruce	Downing, Michael	Flanagan, Natalie
Flanders, David	Francoeur, Sheila	Gibbons, Paul	Henderson, Warren
Hutchinson, Rebecca	Johnson, Robert	Kane, Cecelia	Kelley, Jane
Langone, John	Norelli, Terie	O'Keefe, Patricia	Schanda, Frank
Shelton, Richard	Tufts, J Arthur	Vaughn, Charles	Zolla, William

STRAFFORD

Brennan, William	Callaghan, Frank	Cossette, Larry	DeChane, Marlene
Domingo, Baldwin	Dunlap, Patricia	Estabrook, Iris	Gilmore, Gary
Kaen, Naida	Keans, Sandra	Knowles, William	Lent, Donald
Rogers, Rose Marie	Rollo, Michael	Smith, Marjorie	Taylor, Kathleen
Twardus, Joseph	Vachon, Dennis	Wall, Janet	

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Flint, Gordon Sr
Jones, Constance	Robb-Theroux, Amy	Wiggins, Celestine	Young, David

and the majority report was adopted.

Ordered to third reading.

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

CACR 33, relating to meetings of the legislature. Providing that the legislature shall assemble biennially. **OUGHT TO PASS**

Rep. Gene G. Chandler for Legislative Administration: CACR 33 would allow the citizens of New Hampshire to vote on the question of whether the legislature should meet biennially. Meeting every year has become increasingly difficult for segments of our society, most importantly citizens with regular jobs and young people with families. Despite meeting annually we still have a two-year budget and if issues come up during the off year, a special session can always be called. If a number of bills were sent to study in the off year the workload for members would be far less than a regular session and more meaningful thought could be put into important issues. If we are to truly be a citizen's legislature we need to avail ourselves of every opportunity to allow all segments of our state to become involved, without creating undue hardship. Vote 10-4.

Rep. Jacobson spoke against.

Rep. Mock spoke in favor.

On a division vote, 171 members having voted in the affirmative and 151 in the negative, the report failed lacking the constitutionally required three-fifths.

Rep. Chandler moved Refer for Interim Study.

laid on the table

Rep. Wallin moved that **CACR 33**, relating to meetings of the legislature. Providing that the legislature shall assemble biennially, be laid on the table.

On a division vote, 236 members having voted in the affirmative, and 86 in the negative, the motion was adopted.

regular calendar (cont'd.)

HB 1598-L, relative to fluoride in drinking water. INEXPEDIENT TO LEGISLATE

Rep. Betsey L. Patten for Municipal and County Government: The current procedures for the introduction of fluorides into a public water supply specify the requirements for a public hearing, voter referendum with a majority vote, the engineering and public health merits of the fluoridation proposal and the approval of the Department of Environmental Services. HB 1589 would increase the voter referendum margin to a 2/3 (two-thirds) super majority. The simple majority referendum vote has served public health interests well over a number of years as evidenced by the 10 water works systems which currently fluoride their water. The Municipal & County Government Committee did not hear sufficient evidence that fluoride use in a public water supply requires a change from a majority vote to a super majority vote. There are two local issues that require a super majority. Approving a bond issue and changing the form of government. On the State level, a super majority is required to change the New Hampshire State Constitution. The Municipal & County Government Committee believes that a super majority vote should be reserved for bonding issues and a change in the form of government. Vote 9-5.

Adopted.

HB 1229, requiring the completion of a rate proceeding prior to legislative approval of a settlement agreement with PSNH. MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.

Rep. Jeb E. Bradley for the Majority of Science, Technology and Energy: This bill would require that the Public Utilities Commission (PUC) complete a traditional rate case for Public Service of New Hampshire prior to legislative authorization of the proposed Settlement with PSNH. Per the proposed legislation, a completed rate case would provide a "benchmark comparison" with the Settlement. The majority of the STE Committee is very sympathetic to the goal of the sponsor. This is why the majority will propose that the bill be laid upon the table pending a final order by the PUC on an expected outcome of a rate case. The majority believes this is the best way for the House to retain full control over this critical issue affecting the proposed PSNH Settlement. According to

Chapter 289, enacted in July 1999, the PUC is already charged with comparing or benchmarking the projected electric rates of the Settlement with electric rates that would be expected under a traditional rate case. While comparing the expected electric rates of the Settlement to an expected rate case outcome is not the same as completing the rate case, the process is similar. Rate case related testimony by three different witnesses has been submitted to the PUC. These three witnesses project entirely different results were the PUC to complete a rate case for PSNH. One witness, a proponent of the Settlement, projects a rate case would yield rate decreases of 3.5%. A second witness, representing PUC staff, has testified a rate case could yield rate reductions of 7.5% to 12% with a 10% rate reduction likely. Lastly, the Office of Consumer Advocate has projected that a rate case could reduce electric rates 11-16%. Additionally the consumer advocate testified that rate reduction could exceed 25% when refunds from past over charges are factored in. With such a wide disparity of views being submitted as testimony to the PUC, the majority of the STE Committee believes it is prudent to lay this bill on the table while awaiting the actual final orders of the PUC comparing the electric rates of the Settlement to a realistic outcome of a rate case. If the PUC rules that a completed rate case is likely to produce customers benefits as great or better than the Settlement, the STE Committee is very likely to request that the House remove the bill from the table and pass it immediately! It is expected that the PUC orders will be completed by early April with the benchmark comparison also required to be completed. The majority believes it is therefore prudent to await the PUC orders before taking further action when all the facts are known. Laying the bill on the table leaves the House with all its options and time enough to act. Vote 14-2.

Rep. Gary R. Gilmore for the Minority of Science, Technology and Energy: Ratemaking has always been and likely will remain the responsibility of individual states. By the ratemaking process utilities are guaranteed a fair return and ratepayers a fair rate. Under the Northeast Utilities (NU) Agreement, New Hampshire was to return to traditional ratemaking in the summer of 1997. New Hampshire last had a ratemaking procedure in the late 1980's. Since then it has been governed by the annual increases in the 1990's dictated by the NU Rate Agreement. As a result New Hampshire has the highest rates in the nation. In the proposed settlement the majority of the committee is seemingly placing faith in the Public Utilities "benchmarking" of what a rate case result would be. "Benchmarks" have no validity in law or ratemaking. Benchmarks are just the commission's best guess of what a rate case result might be were a rate case held. The minority believes that New Hampshire ratepayers deserve a true, honest ratemaking process as a necessary first step. A rate case is relatively simple and quick especially as compared to the proposed settlement. Were a rate case initiated at the same time as this settlement it would likely have been resolved several months ago. The settlement still has no end in sight and like the NU Agreement, the settlement produces rates with no basis in ratemaking principles. Passage of this legislation at this time does not harm the legislature in the settlement process, indeed it could serve to strengthen the legislature's ability to negotiate a fair accord. Sending this legislation to interim study or tabling it jeopardizes the ability of this legislature to pass this simple and fair legislation.

Rep. Rose spoke in favor and yielded to questions.

laid on the table

Rep. Bradley moved that **HB 1229**, requiring the completion of a rate proceeding prior to legislative approval of a settlement agreement with PSNH, be laid on the table.

Adopted.

regular calendar (cont'd.)

HB 1281, relative to disqualification of public utility commissioners. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Gary R. Gilmore for Science, Technology and Energy: Current law establishes that a commissioner may be disqualified from a particular docket. There currently is no guidance as to how a disqualification request should be handled. This legislation establishes a simple expedient procedure by which the process can be conducted in an impartial and fair manner to all parties. Rather than the commissioners writing their own opinion as to why they should or should not be disqualified from a particular docket, the bill refers a disqualification request to a master appointed by the Supreme Court. Vote 9-7.

Rep. Jeffrey C. MacGillivray for Science, Technology and Energy: The minority of the committee believes that this bill is undesirable. Once a person has been appointed to an office by governor and council, we should not be looking for ways to make it easier to deprive them of that office on a case by case basis, no matter what the office and no matter how important the case. The committee heard testimony that the existing process for treating requests for disqualifying a public utilities commissioner has only been needed twice in the last 20 years. The presumption should be that a person appointed to an office by governor and council is generally capable of determining when a conflict of interest exists, and there are ample opportunities to appeal a decision under the current process. The courts have enough to do without becoming the party of first resort for every request that a commissioner disqualify himself or herself.

Amendment (3315h)

Amend RSA 363:19-a as inserted by section 1 of the bill by replacing it with the following:

363:19-a Disqualification Request. Any party, as defined in RSA 363:30, V, may request the disqualification of a commissioner from a specific docket or dockets. If the commissioner does not disqualify himself or herself following the request, the request shall be referred to the supreme court for the appointment of a judicial referee to conduct a hearing and make findings of fact and rulings. The hearing on the disqualification request shall be held within 60 days from the filing date of the disqualification request. Within 30 days after the hearing the judicial referee shall issue a decision on the request. The decision shall be subject to the procedure for rehearings and appeals prescribed by RSA 541.

Adopted.

Rep. MacGillivray spoke against.

Rep. Gilmore spoke in favor.

On a division vote, 157 members having voted in the affirmative and 143 in the negative, the majority report was adopted.

Ordered to third reading.

HB 1609, establishing a commission to study issues of diversity, immigration, and English as a second language in New Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Michael O'Neil for Executive Departments and Administration: This bill would establish a 24 member state commission on cultural diversity and immigration which would study issues surrounding English as a second language and immigration patterns with particular focus on the changing economic and educational needs of the diverse cultures in the state. After much discussion, the committee voted inexpedient to legislate. It was the consensus of the committee that the issues of cultural diversity are best handled at the local level where the community can address the problems directly affecting them. Vote 18-0.

Rep. Garrish spoke against.

Adopted.

HJR 23, urging the executive branch to negotiate an expedient settlement resolving the Claremont dispute. INEXPEDIENT TO LEGISLATE

Rep. Charles L. Vaughn for Finance: This joint resolution tells the executive branch that it should negotiate a settlement with the Claremont II plaintiffs to resolve the dispute as quickly as possible because further delay has a detrimental impact on the delivery of public education to the children of the state. Ideas expressed in the resolution are devoutly wished by all members of the New Hampshire House as citizens' representatives. Still, committee members questioned the probity of the general court demanding certain actions of the chief executive even if the word "ought" might moderate the bluntness of a resolution about the Claremont dispute. Separation of powers requires understanding and respect for the functions of each branch. Thus the committee found the resolution inexpedient to legislate. Vote 20-0.

Adopted.

HB 1177, relative to the effective date of legislation establishing a chaptered or statutory legislative committee. INEXPEDIENT TO LEGISLATE

Rep. Merton S. Dyer for Legislative Administration: This bill will establish the effective date of chapter and statutory study committees approved by the legislature to be effective upon passage of the bill authorizing the study committee. This will allow the appointing authorities to make appointments immediately after passage and allow the committee to begin their work in a timely fashion. Vote 13-0.

Rep. Dyer spoke against.

The report failed

Rep. Dyer moved Ought to Pass and spoke in favor.

Adopted and ordered to third reading.

HB 1231, requiring proposed legislation to be reviewed by a house or senate special committee to determine constitutionality prior to its introduction. INEXPEDIENT TO LEGISLATE

Rep. John H. Thomas for Legislative Administration: The committee voted this bill inexpedient to legislate because the legislature proposes, the governor executes, and the judicial system interprets. The house, which is ever-changing, has good common sense but may not have the expertise and the research capabilities to determine the constitutionality of all legislation before it has been introduced

and heard. The state constitution is one item, but the United States Constitution is another matter. The bill allows only the special committee to make amendments or recommends that the bill not be passed. There is no provision on what action will be taken if the committee finds the bill is not in conflict with the constitution. Vote 13-1.

Rep. Mirski spoke against.

Adopted.

HB 1452, establishing a committee to study the recodification of laws relating to the joint committee on legislative facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Donnalee Lozeau for Legislative Administration: The amendment replaced the bill which created a study committee to look at recodification of laws relating to the joint legislative facilities committee. The committee believes it is reasonable to put into statute the current responsibilities of the joint facilities committee. The sponsor's primary concern was that session law contained most of this information. When people look for information they are most accustomed to looking in the RSA's. This now accomplishes the recodification goal. Vote 12-0.

Rep. Dyer moved Re-commit to Committee.

Adopted.

RESOLUTION

Rep. Chandler offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, March 30, 2000 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

HB 1611, recodifying the state's DWI laws.

HB 1621-FN, allowing administrative home confinement for habitual offenders.

SB 336, relative to the issuance of fire permits.

HB 1195, making technical changes to the law regulating acupuncture.

HB 1203-L, relative to the adoption of rules by the commissioner of cultural resources regarding public libraries.

HB 1338, increasing the membership of the American and Canadian French cultural exchange commission.

HB 1371, relative to allocation and distribution of funds for community-based prevention and diversion programs for children and juveniles.

HB 1467-FN, relative to the registration of mail-order pharmacies.

HB 1606-FN, establishing the governor's commission on alcohol and drug abuse prevention, intervention, and treatment.

HB 1459, requiring the state police to record and update information relative to the charges of criminal and civil non-support.

HB 1552-FN-A, establishing a telecommunications development initiative in New Hampshire and making an appropriation therefor.

HJR 22, relative to the unintended consequences of the Balanced Budget Act of 1997.

HB 1506, extending the reporting date of the committee studying ambulatory surgical facilities and relative to the threshold limit for certain new health facilities under RSA 151-C.

HB 1145, limiting the liability of state certified fire instructors.

HB 1144-L, establishing a committee to study the exemption from property taxes for not-for-profit hospitals.

HB 1259-FN, establishing a coordinated and comprehensive effort by state agencies for economic growth, resource protection, and planning policy to encourage smart growth.

HB 1294-L, relative to regional planning commissions.

HB 1563-FN-L, establishing the Wolfeboro Airport Authority.

HB 1622-L, eliminating the requirement that a deputy town clerk have his or her domicile within the town.

SB 333, relative to signs for churches.

HB 1209, relative to the construction and reconstruction of class B and class C dams.

SB 331, requiring a report from the public utilities commission and the department of environmental services evaluating whether existing regulatory structures encourage or discourage regional cooperation for water resources management and water conservation.

SB 381-FN, relative to registration fees for off-highway recreation vehicles.

HB 1107, relative to the duties of the oversight committee on telecommunications concerning telephone utility line use congestion.

HB 1412, relative to electric customer-generators.

HCR 27, requesting Congress to propose an amendment to the U.S. Constitution to prevent federal courts from instructing states or political subdivisions of states to levy or increase taxes and urging the federal government to allow states to exercise greater control over state-specific banking interests.

HB 1431, relative to protective orders in domestic violence cases.

HB 1270-FN-L, relative to charter schools and open enrollment districts.

HB 1308, relative to nomination paper requirements.

HB 1418-FN-L, relative to mercury-containing products.

HB 417-FN-A, relative to the rehabilitation of the Walker building at New Hampshire hospital and making an appropriation therefor.

HB 1188-FN-L, relative to alternative kindergarten programs.

HB 1468-FN, relative to the registration of pharmacy technicians.

HB 1525, establishing a legislative oversight committee to review the procedures of the health services planning and review board.

HB 1236, relative to an informed jury.

HB 1281, relative to disqualification of public utility commissioners.

HB 1177, relative to the effective date of legislation establishing a chaptered or statutory legislative committee.

unanimous consent

Reps. Burling, Craig and Kennedy addressed the House.

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

Adopted.

Rep. Burling: Thank you, Madam Speaker and thank you, my colleagues. This is not an easy task. We all know what an extraordinary place of extremes this House can be. Last week I was moved and amazed to watch as representatives came to these two speaking places and shared not only their intellectual view about important issues but opened their hearts and in some cases, opened their faiths to us, that we might examine them and understand their minds. That process reached a particular point when two representatives, both, I'm proud to say, members of the New Hampshire Bar and members of this House, stood before us and talked about the reasons that they had tried to amend a bill that was before us to make that bill constitutional. It is then, with shock and dismay,

that I read this in the newspaper published in Manchester. There are right ways and wrong ways of speaking about politics and faith and human worth and what we do in this House. This particular effort is as bad a job as I have ever seen. It's bad not because it disagrees with what a given representative said in here. It is bad because it attacks the given representative's faith. It attacks the vulnerability that he exposed when he tried to speak about what he was doing. It denigrates and condemns his relationship to God and that is without mercy and it is without reason and it will not be tolerated. I rise today to say something to my colleague from Manchester, Rep. Craig. I want to say just these words: "I am proud of you and I'm proud to call you a colleague and a fellow member of the Bar. I'm dazzled that you were willing to show us the nature of your faith and the amount of hurt that you were experiencing as you tried to make your way through a tough issue. I just want to say to all of my colleagues, but particularly to you, whenever you do something that brave you'll have my support and the support of all of us in this House and I say, thank you".

RECESS MOTION

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

Adopted.

The House recessed at 6:05 p.m.

RECESS

(Rep. Keith Herman in the Chair)

enrolled bills report

The Committee on Enrolled Bills has examined and found correctly enrolled the House Bills 246, 1114, 1126, 1134, 1196, 1206, 1225, 1283, 1287, 1378, 1409, 1455 and 1523 and Senate Bills 341, 355 and 382.

Rep. Ronald Nowe, Sen. D'Allesandro for the Committee

RECESS