

HOUSE JOURNAL No. 16

Wednesday, May 17, 2000

The House assembled at 1:00 p.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Compassionate Creator of all that is, seen and unseen. We ask Your blessing upon the deliberations and decisions within this hallowed chamber. May Your divine grace transform our darkened world and generate in us and in every citizen of our beloved New Hampshire the spark of thanksgiving which enlightens our paths and uplifts our hearts. In the assurance of Your eternal power, we pray. Amen.

Rep. McGuirk led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Patricia Cote, Langer, Nichols, Perkins and Searles, the day, illness.

Reps. Doucette, Dowling, Dudley, Emerton, Fenton, David Flanders, Eugene Gagnon, Glines, Grassie, Karen Hutchinson, Langone, Leishman, Martin, Nolan-Piteri, Phinney, Picconi, Rice, Riley, Robb-Theroux, Ruffner, Ronald Russell, Salatiello, Spear and Tsiros, the day, important business.

Reps. Julie Brown, Carol Moore and Tate, the day, illness in the family.

INTRODUCTION OF GUESTS

Arpad Toth, guest of Reps. Robertson and Meader. Paul Speis, guest of the Amherst Delegation. Kay Lohnes and Nancy Sandberg, guests of Rep. Marjorie Smith. Barbara Brewster, wife of Rep. Brewster. John Coughlin, Jr., son of Rep. Coughlin. Maz DeLuca, guest of the House.

SPECIAL GUEST

Tony DeLuca, the New Hampshire winner of the *Speak for Yourself* letter-writing contest sponsored by the Respecteen National Youth Forum, guest of the House.

CLERK'S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

AMENDMENT TO HOUSE RULES

The Rules Committee offered the following:

Amendment (4495h)

Amend House Rule 64 by adding:

September 13, 2000, Wednesday – First day for incumbents who are candidates for re-election to file LSR's with complete information.

November 1, 2000, Wednesday – Final day to file interim study reports with the house clerk.

November 8, 2000, Wednesday – First day for new members to file LSR's with complete information; Begin requirements of 10 day sign-off rule.
Reps. Chandler and Nordgren spoke in favor.
Adopted by the necessary two-thirds.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 683-FN, requiring teachers and school administrators to report incidents of disruptive behavior by students. (Amendment printed SJ 5/11/00)
Rep. Welch moved that the House concur and spoke in favor.
Adopted by the necessary two-thirds.

HB 1183, relative to consumer access to providers for the term of the consumer's health benefit plan and relative to the committee studying certain financial arrangements. (Amendment printed SJ 5/11/00)
Rep. Hunt moved that the House concur and spoke in favor..
Adopted by the necessary two-thirds.

HB 1424, relative to reevaluation of a person's competency to stand trial. (Amendment printed SJ 4/27/00)
Rep. Welch moved that the House concur.
Adopted by the necessary two-thirds.

HB 1431, relative to protective orders in domestic violence cases. (Amendment printed SJ 5/11/00)
Rep. Welch moved that the House concur and spoke in favor.
Adopted by the necessary two-thirds.

CLERK'S NOTE

The Constitutionally required two-thirds of the membership was declared present.

SENATE MESSAGES (CONT'D.)

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 226-L, establishing municipality bond payment schedules and percentages. (Amendment printed SJ 4/20/00)
Rep. Hess moved that the House nonconcur and request a Committee of Conference.
Adopted.
The Speaker appointed Reps. Leone, Brundige, St. Cyr and Simon.

HB 304, relative to school employee and volunteer background investigations. (Amendment printed SJ 4/20/00)
Rep. O'Hearn moved that the House concur.
Adopted.

HB 521-L, allowing municipalities that have adopted the municipal budget act to override the 10 percent limitation on exceeding appropriations recommended by the budget committee. (Amendment printed SJ 4/6/00)
Rep. Hess moved that the House concur.
On a division vote, 252 members having voted in the affirmative and 62 in the negative, the motion was adopted.

HB 713-FN, relative to penalties for multiple DWI offenses. (Amendment printed SJ

5/11/00)

Rep. Welch moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Christie, Tholl, Sargent and Rodd.

HB 1124-L, relative to local building codes. (Amendment printed SJ 4/6/00)

Rep. Hess moved that the House concur.

Adopted.

HB 1165-FN-L, reclassifying certain roads in the town of Northfield, Tilton and Waterville Valley, (Amendment printed SJ 5/11/00)

Rep. Edwin Smith moved that the House concur and spoke in favor.

Adopted.

HB 1233, relative to interest on judgements. (Amendment printed SJ 5/11/00)

Rep. Mock moved that the House nonconcur.

Adopted.

HB 1377, prohibiting managed care organizations from excluding certain physicians as providers and establishing a committee to study contracting methods. (Amendment printed SJ 4/27/00)

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

Adopted.

HB 1448, relative to the partition of real property. (Amendment printed SJ 4/20/00)

Rep. Mock moved that the House concur.

Adopted.

HB 1570-FN, requiring parolees and probationers from other states to comply with the Interstate Compact on Parole in order to be lawfully present in New Hampshire.

(Amendment printed SJ 5/11/00)

Rep. Welch moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Christie, Tholl, Knowles and O'Keefe.

HB 1607, establishing a study committee to consider legislation reducing to zero the number of mentally retarded or developmentally disabled individuals in the state who are not receiving or have not received medicaid services. (Amendment printed SJ 4/20/00)

Rep. Batula moved that the House concur.

Adopted.

HB 1617-FN, relative to suspension of a driver's license for sufficient cause. (Amendment printed SJ 5/11/00)

Rep. Packard moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Packard, Bartlett, Letourneau and Turgeon.

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.

SB 393, relative to single producer licensing, removed by Rep. Torr.

SB 459, relative to underinsured motorists, removed by Rep. Craig.

SB 436, relative to permanent revocation of drivers' licenses for causing a fatality or serious bodily injury while driving intoxicated, removed by Rep. Welch.

SB 439-FN, relative to motor vehicle offenses resulting in serious bodily injury, removed by Rep. Packard.

SB 457, relative to ownership of certified public accounting firms, removed by Rep. Rosenfield.

SB 424, relative to controlled substances used for pain management, removed by Rep. Lozeau.

Consent Calendar adopted.

SB 310, relative to New Hampshire state-chartered banks and interstate banking. OUGHT TO PASS

Rep. Sheila T. Francoeur for Commerce: This bill will increase the maximum dollar volume of a bank's deposits as a percentage of the dollar volume of total bank deposits in the state from 20% to 30%. This total includes deposits, time, savings and demand accounts in state-chartered banks, national banks and federal savings and loan associations. Deposits in Credit Unions are not included in this total. The current deposit cap of 20% was instituted in 1963. Currently 40 states have deposit caps higher than New Hampshire. This bill also specifies the conditions required for an out-of-state bank to establish branches in New Hampshire and allows state-chartered banks to participate in activities authorized by the Financial Modernization Act. Vote 19-0.

SB 316, relative to "most favored nation" or "equally favored nation" provisions in insurance provider contracts. OUGHT TO PASS

Rep. Tim S. McGough for Commerce: Most favored or equally favored nation provisions in insurance provider contracts refer to language in a contract between a doctor or hospital and an insurance carrier that require the provider to give the same or better fee scale to any carrier with this clause in the contract. For example, an insurance plan negotiates a price for a given service from a hospital and they have a most favored nation clause in their contract, then another plan negotiates a better price from the same hospital. The hospital must now offer that better price to the first plan because of the MFN clause. The committee felt that this type of contract provision discourages competition in the market and unfairly allows certain insurance plans with very large market share to benefit from the negotiating of smaller plans trying to break into the New Hampshire health care marketplace. Although the committee is usually uncomfortable intruding into contract negotiations between private parties, the committee feels the health care consumer is best served by prohibiting this type of provision in order to encourage more insurance plans to enter into our state's market. In the past many types of legislative remedies involving health insurance contracts have passed including terms of payment, review period for new contracts and many benefit mandates. The committee examined this issue in subcommittee and found that many small providers such as small family practice physician groups are forced to "take it or leave it" when it comes to contracts with large insurance plans. Larger hospitals have the ability to refuse these provisions but many of the state's 26 acute-care hospitals do not have that luxury. Only one insurance plan, the state's largest, appeared in opposition to this bill, and the insurance department, the NH Medical Society, and several other insurance plans appeared in support. While we found only one such EFN agreement in place and no MFN clauses readily apparent, the committee believes passage of this legislation is in the best long-term interest of the New Hampshire health insurance market and in the best interest of the consumer. Vote 18-1.

SB 332, relative to risk-based capital for health organizations. OUGHT TO PASS

Rep. Tim S. McGough for Commerce: This bill adds health organizations to the law regarding risk-based capital for insurers. In doing so, health maintenance organizations, health service

corporations, and dental and vision insurance plans will be subject to the same scrutiny to ensure fiscal soundness based on the amount of risk-based capital held by a given organization that life insurance plans currently are subject to. This bill was requested by the Department of Insurance and was not opposed by the industry because most companies affected by this legislation currently conform to its requirements. Vote 19-0.

SB 359, establishing a committee to study the issues relative to manufactured housing parks in New Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Anthony R. DiFruscia for Commerce: The subject matter of this legislation is currently in interim study by the Senate so there is no need for this study committee. Vote 14-2.

SB 368, relative to insurance fraud. OUGHT TO PASS WITH AMENDMENT

Rep. Tim S. McGough for Commerce: In order to clarify the duties and powers of the insurance fraud investigation unit, this bill was requested by the New Hampshire Department of Insurance. The language in the amendment broadens the type of law enforcement agency the unit may assist or request assistance from in carrying out their duties to detect and prosecute insurance-related criminal activity, and corrects a typographical error in current statute. No one appeared in opposition to this legislation that the committee viewed as a positive step to protect the consumer from rising insurance costs due to fraudulent claims. Vote 13-0.

Amendment (4320h)

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

1 Fraud Investigation Unit. Amend RSA 417:23 to read as follows:

417:23 Insurance Fraud Investigation Unit Established. There is established in the department of insurance the insurance fraud investigation unit. The unit shall assist the commissioner ~~[in administratively investigating allegations of]~~, **or any law enforcement agency, in investigating** insurance fraud **or other insurance-related criminal activity** and in developing and implementing programs to prevent insurance fraud and abuse. The unit shall have the power to subpoena witnesses and administer oaths in any ~~[proceeding before it]~~ **investigation it conducts**, and to compel the production of any books, papers or other memoranda or documents by subpoena duces tecum. The unit shall promptly notify the attorney general of any insurance application, claim, or activity which involves criminal conduct. When required by the commissioner and the attorney general, the unit shall cooperate with the attorney general in the investigation and prosecution of criminal violations.

2 Evidence Collection; Criminal Activity. Amend RSA 417:26 to read as follows:

417:26 Evidence Collection. If, by its own inquiries or as a result of complaints, the insurance department has any reason to believe that a person has engaged in, or is engaging in, any ~~[insurance fraud or has violated any provision of RSA 638:20]~~ **criminal activity or any violations involving title XXXVII**, it may administer oaths, serve subpoenas ordering the attendance of witnesses or production of material, and collect evidence.

3 Antifraud Initiatives. Amend RSA 417:30, I(a)

(a) Fraud ~~[investigations]~~ **investigators**, who may be insurer employees or independent contractors; or

4 New Paragraph; Failure to Submit Plan; Penalty. Amend RSA 417:30 by inserting after paragraph III the following new paragraph:

IV. If the commissioner finds that an insurer licensed to do business in New Hampshire has failed to submit a plan, as required under paragraph I of this section, reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts, or has submitted but failed to execute that plan, the commissioner may issue a fine or suspend the right of the insurer to do business in this state until such time as that insurer comes into compliance with the provisions of this chapter.

5 Concealment; Fraud. The unnumbered paragraph of RSA 407:22 relative to concealment, fraud is repealed and reenacted to read as follows:
Concealment, fraud.

Coverage under this policy shall be void for the insured who, whether before or after a loss, has intentionally concealed or misrepresented any material or circumstance; engaged in fraudulent conduct; or made false statements relating to this insurance.

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

SB 375, relative to motor vehicle dealerships. **OUGHT TO PASS WITH AMENDMENT**
Rep. Gene B. Marshall for Commerce: As introduced, this bill totally restricted the circumstances under which any auto manufacturers could operate dealerships in competition with area dealers or franchisees. The committee worked with representatives of all concerned parties to craft a solution which meets the needs of all while preserving a high degree of protection for New Hampshire businesses and consumers alike. The bill also includes amendments requested by the Division of Motor Vehicle clarifying procedures of the NH Motor Vehicle Industry Board for dealing with challenges to (dealer service) chargebacks and with appeals from the board's decisions. Vote 14-0.

Amendment (4396h)

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

1 Unfair Methods of Competition; Motor Vehicle Manufacturers or Distributors Prohibited from Acting As Dealers or Franchisees. RSA 357-C:3, III(k) is repealed and reenacted to read as follows:

(k) Compete with a motor vehicle dealer operating under an agreement or franchise from such manufacturer or distributor in the relevant market area; provided, however:

(1) If any manufacturer, distributor, distributor branch or division, or factory branch or division, either directly or indirectly, or through any subsidiary, affiliated entity or person, owns, operates or controls, in full or in part, a motor vehicle dealership in this state for the sale or service of motor vehicles in this state, the relevant market area shall be the area within the entire state of New Hampshire and, except for circumstances in which subparagraph (3) may apply, the New Hampshire motor vehicle industry board shall find good cause under RSA 357-C:9 before any such ownership, operation, or control shall be permitted. In addition to those factors listed in RSA 357-C:9, II, the board in such circumstances shall also consider in its determination of good cause whether the proposed dealership will create an unfair method of competition to other franchisees of the same manufacturer, distributor, distributor branch or division, factory branch or division, subsidiary or affiliated entity;

(2) That a manufacturer or distributor shall not be deemed to be competing when operating a dealership either temporarily, for a reasonable period in any case not to exceed 2 years; provided that if a manufacturer or distributor shows good cause, the board may extend this time limit and extensions may be granted by the board for periods of up to 12 months; or unless the manufacturer or dealer through a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions; and

(3) A manufacturer that has no more than 5 franchised new motor vehicle dealers licensed to do business in this state and that directly or indirectly owns one or more of them shall not be deemed to be competing with any unaffiliated new motor vehicle dealer trading in the manufacturer's line make at a distance of 18 miles or greater provided that:

(A) All the new motor vehicle dealerships selling such manufacturer's motor vehicles trade exclusively in the manufacturer's line make;

(B) As of March 1, 2000, the manufacturer shall have directly or indirectly owned one or more new motor vehicle dealers in this state for a continuous period of at least 1 year; and

(C) Neither the manufacturer nor any entity in which the manufacturer has a majority ownership interest shall acquire, operate, or control any dealership that the manufacturer did not directly or indirectly own as of March 1, 2000.

2 Chargebacks; Audits. Amend RSA 357-C:5, II (d)(5) to read as follows:

(5) Any chargeback resulting from any audit shall not be made until a final order is issued by the New Hampshire motor vehicle industry board if a protest to the proposed chargeback is filed within 30 days of the notification of the *final* amount claimed by the manufacturer, distributor, branch, or division to be due *after exhausting any procedure established by the manufacturer, distributor, branch, or division to contest the chargeback, other than arbitration*. If the chargeback is affirmed by a final order of the board, the dealer shall be liable for interest on the amount set forth in the order at a rate of the prime rate effective on the date of the order plus one percent per annum from the date of the filing of the protest. In the absence of fraud, the board may order, based on the equities and circumstances of the parties, that the chargeback plus applicable interest be paid in installments not exceeding 12 months. If the board finds that a warranty chargeback is the result of a fraudulent warranty claim, no installment payments shall be allowed by the board.

3 Appeals; Enforcement. Amend RSA 357-C:12, VII to read as follows:

VII. Within 20 days after any order or decision of the board, any party to the proceeding may apply for a rehearing with respect to any matter determined in the proceeding, or covered or included in the order or decision. The application for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the board shall be taken unless the appellant makes an application for rehearing as provided in this paragraph, and when such application for rehearing has been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown allows the appellant to specify additional grounds. Any party to the proceeding may appeal *the final order, including all interlocutory orders or decisions*, to the superior court within 30 days after the date the board rules on the application for reconsideration *of the final order or decision*. All findings of the board upon all questions of fact properly before the court shall be prima facie lawful and reasonable. The order or decision appealed from shall not be set aside or vacated except for errors of law. No additional evidence shall be heard or taken by the superior court on appeals from the board.

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

AMENDED ANALYSIS

This bill restricts the circumstances whereby a motor vehicle manufacturer or distributor may operate a dealership in the state without engaging in unfair competition with area dealers or franchisees.

The bill also makes certain changes regarding chargebacks from audits and appeals from decisions and orders of the New Hampshire motor vehicle industry board.

SB 378, relative to Article 9 of the Uniform Commercial Code. OUGHT TO PASS WITH AMENDMENT

Rep. Tara G. Reardon for Commerce: This bill changes the effective date of the computerized filing system for security interests under Article 9 of The Uniform Commercial Code from July 1, 2001 to the earlier of July 1, 2002 or a date 3 months after the secretary of state certifies to the governor that the participating cities and towns are prepared to accept filings on behalf of the centralized filing system. Additionally, the bill clarifies the fee for filing each debtor name and replaces the 75 cents per page copy fee inadvertently deleted from 382-A:9-

407(2). Vote 17-0.

Amendment (4369h)

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

1 Uniform Conditional Sales Law; Destruction of Certain Records Authorized; References Changed. Amend RSA 361:10-a to read as follows:

361:10-a Destruction of Certain Records Authorized. Any town or city clerk may destroy any financing statement required to be filed in a town under RSA 382-A:9-401(1)(c) as effective until ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, and any amendments, continuation statements, termination statements, or other documents and records relating thereto after ~~[July 1]~~ **5 years after the certification date established pursuant to RSA 382-A:9-412(1)**. Any town or city clerk may destroy any financing statement required to be filed under RSA 382-A:9-401(1)(a) **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, and any amendments, continuation statements, termination statements, or other documents and records relating thereto 6 years after the filing of the last continuation statement.

2 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Formal Requisites of Financing Statement, Amendments, Mortgage as Financing Statement; Amendments; Place of Filing. Amend RSA 382-A:9-402(4) to read as follows:

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments. On and after ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any amendment to a financing statement filed ~~[in a city or town or]~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~[401(a) or (c)] 401(1)(c)~~ of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, and shall reference the date and file number of the financing statement filed with the secretary of state;

(b) with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).

3 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; What Constitutes Filing, Duration of Filing, Effect of Lapsed Filing, Duties of Filing Officer; Continuation; Place of Filing. Amend RSA 382-A:9-403(3) to read as follows:

(3) A continuation statement may be filed by the secured party within 6 months prior to the expiration of the 5-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of Section 9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for 5 years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if ~~[he]~~ **the filing officer** has retained a microfilm, electronic, or other record conforming to the requirements of section 410 of this

article, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if ~~he~~ **the filing officer** physically destroys or electronically erases the financing statements of a period more than 5-years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. On and after ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any continuation statement to a financing statement filed ~~[in a city or town or]~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~[401(a) or (e)]~~ **401(1)(c)** of this Article, **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, **and shall reference the date and file number of the financing statement filed with the secretary of state;**

(b) **with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).**

4 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; What Constitutes Filing, Duration of Filing, Effect of Lapsed Filing, Duties of Filing Officer; Fees; Debtor Name. Amend RSA 382-A:9-403(5) to read as follows:

(5) The fee for filing **each debtor name**, indexing **each debtor name**, and furnishing filing data for an original or a continuation statement, or any amendment thereof, on a form conforming to standards prescribed by the secretary of state shall be in accordance with the fees established pursuant to RSA 478:17-g, or, if the statement does not conform to such form but otherwise conforms to the requirements of Section 9-402, the fee shall be in accordance with RSA 478:17-g.

5 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; What Constitutes Filing, Duration of Filing, Effect of Lapsed Filing, Duties of Filing Officer; Reference Changed. Amend RSA 382-A:9-403(8) to read as follows:

(8) On and after ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, the secretary of state, registers of deeds, and those clerks of cities and towns participating in the centralized filing system administered by the secretary of state are filing officers for the purposes of this chapter and for all other filings required by law to be made with or through them in accordance with this chapter, including, but not limited to, filings under RSA 21-J, RSA 147-B, RSA 161-C, RSA 204-C, RSA 282-A, RSA 450, RSA 454-B, RSA 511, and RSA 511-A.

6 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Termination Statement; Place of Filing. Amend RSA 382-A:9-404(4) to read as follows:

(4) On and after ~~[July 1, 2001]~~ **the certification date established pursuant to RSA 382-A:9-412(1)**, any termination statement relating to a financing statement filed ~~[in a city or town or]~~ **prior to the certification date established pursuant to RSA 382-A:9-412(1)**

(a) with the secretary of state under section ~~[401(a) or (e)]~~ **401(1)(c)** of this Article, **as effective until the certification date established pursuant to RSA 382-A:9-412(1)**, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, **and shall reference the date and file number of the financing statement filed with the secretary of state;**

(b) **with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).**

7 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Assignment of Security Interest, Duties of Filing Officer, Fees; Assignment; Place of Filing. Amend RSA 382-A:9-405(4) to read as follows:

(4) On and after ~~[July 1, 2001]~~ ***the certification date established pursuant to RSA 382-A:9-412(1)***, any assignment of a secured party's rights under a financing statement filed ~~[in a city or town or]~~ ***prior to the certification date established pursuant to RSA 382-A:9-412(1)***

(a) with the secretary of state under section ~~[401(a) or (c)]~~ ***401(1)(c)*** of this Article, ***as effective until the certification date established pursuant to RSA 382-A:9-412(1)***, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, ***and shall reference the date and file number of the financing statement filed with the secretary of state;***

(b) ***with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).***

8 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Release of Collateral, Duties of Filing Officer, Fees; Place of Filing. Amend RSA 382-A:9-406 to read as follows:

382-A:9-406 Release of Collateral; Duties of Filing Officer; Fees.

(1) A secured party of record may by his ***or her*** signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of Section 9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer, ~~[he]~~ ***the filing officer*** shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. On and after ~~[July 1, 2001]~~ ***the certification date established pursuant to RSA 382-A:9-412(1)***, any release of a financing statement filed ~~[in a city or town or]~~ ***prior to the certification date established pursuant to RSA 382-A:9-412(1)***

(a) with the secretary of state under section ~~[401(a) or (c)]~~ ***401(1)(c)*** of this Article, ***as effective until the certification date established pursuant to RSA 382-A:9-412(1)***, ~~[prior to July 1, 2001]~~ shall only be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state, ***and shall reference the date and file number of the financing statement filed with the secretary of state;***

(b) ***with the office of the clerk of a town under section 401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall only be filed according to RSA 382-A:9-412(3).***

(2) The uniform fee for filing and noting such a statement of release shall be in accordance with the fees established pursuant to RSA 478:17-g.

9 Uniform Commercial Code; Secured Transactions; Information From Filing Officer. Amend RSA 382-A:9-407(2) to read as follows:

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The fee for such a certificate shall be the sum of:

(a) \$5 if the request for the certificate is in the standard form prescribed by the secretary of state and otherwise \$7, plus

(b) A database search fee determined by the secretary of state pursuant to RSA 382-A:9-411(d) for any search or compilation of data in the centralized files maintained by the secretary of state.

In the case of certificates issued by the clerk of a city or town the fee charged under subparagraph (a) shall be retained by the city or town and the search fee under subparagraph (b) shall be transferred to the state treasurer to be administered in accord with RSA 293-A:1.37. The secretary of state may provide certificated and uncertificated search reports or compilations of data, charging database search fees to be determined by the secretary of state pursuant to RSA 382-A:9-411(d), and the resulting funds shall be administered in accordance with RSA 293-A:1.37. ***Upon request, the filing officer shall furnish a photocopy of any filed financing statement or statement of assignment for a uniform fee of \$.75 per page.***

10 Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Computerized Filing System; Date Changed. Amend RSA 382-A:9-411(b) to read as follows:

(b) The system shall, by ~~[July 1, 2001]~~ ***the certification date established pursuant to RSA 382-A:9-412(1)***, permit filings to be made in electronic form from the clerk's office of any participating city or town.

11 New Section; Uniform Commercial Code; Secured Transactions, Sales of Accounts and Chattel Paper; Filing; Transition Provisions for Computerized Filing System. Amend RSA 382-A by inserting after section 9-411 the following new section:

382-A:9-412 Transition Provisions for Computerized Filing System.

(1) For purposes of this chapter, "certification date" shall mean either a date which shall be 3 months after the secretary of state certifies to the governor that the participating cities and towns are prepared to accept filings on behalf of the centralized filing system, or December 31, 2001, whichever occurs earlier.

(2) A financing statement filed prior to the certification date established pursuant to RSA 382-A:9-412(1), at the office of the clerk of the town under section 9-401(1)(c) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall no longer be effective as of the certification date established pursuant to RSA 382-A:9-412(1). The related financing statement filed at the office of the secretary of state shall remain effective until lapsed, terminated, or continued according to this Article.

(3) A financing statement filed prior to the certification date established pursuant to RSA 382-A:9-412(1), at the office of the clerk of the town under section 9-401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), shall remain effective until lapsed or terminated, subject to subsection (3).

(4) At such time on or after the certification date established pursuant to RSA 382-A:9-412(1), that an amendment, assignment, release of collateral, continuation, or termination is required to a financing statement filed prior to the certification date established pursuant to RSA 382-A:9-412(1), at the office of the clerk of the town under section 9-401(1)(a) of this Article, as effective until the certification date established pursuant to RSA 382-A:9-412(1), in which the city or town does not participate in the centralized filing system administered by the secretary of state, a new financing statement shall be filed with the clerk of a city or town participating in the centralized filing system administered by the secretary of state before the financing statement would otherwise lapse. The new financing statement shall state, "This financing statement continues the financing statement dated _____, file number _____, filed in the town (city) of _____." A copy of the financing statement so referenced, including any amendments, releases, assignments, and continuations, shall be attached to the new financing statement. The new financing statement continues the effectiveness of the financing statement so referenced.

(5) Any new financing statement or amendment, continuation, termination, assignment, or release of collateral, filed on or after the certification date established pursuant to RSA 382-A:9-412(1), under section 9-401(1)(a) or section 9-401(1)(c) of this

Article, as effective until the certification date pursuant to RSA 382-A:9-412(1), with the secretary of state or a clerk of a city or town not participating in the centralized filing system administered by the secretary of state shall not be effective.

12 Conveyances and Mortgages of Realty; Registers of Deeds; Fees; Date Changed. Amend RSA 478:17-g, IV to read as follows:

IV. Commencing ~~[July 1, 2001]~~ ***on the certification date established pursuant to RSA 382-A:9-412(1)***, the secretary of state shall cease to accept filings of financing statements or amendments, assignments, releases, continuations, or terminations thereof (except for those pertaining to security interests in collateral of a transmitting utility). Commencing ~~[July 1, 2001]~~ ***on the certification date established pursuant to RSA 382-A:9-412(1)***, the secretary of state shall also cease to accept filings of attachments of personal property under RSA 511 and RSA 511-A. All such filings shall be made through the office of the clerk of a city or town participating in the centralized filing system administered by the secretary of state under RSA 382-A:9-411. Clerks of those cities and towns participating in the centralized filing system administered by the secretary of state under RSA 382-A shall charge a single fee of \$30 for the first page of each filing under RSA 382-A and \$8 for each additional page, one half of which shall be held for the use of the state and transferred quarterly to the state treasurer.

13 Amendments to Place of Filing; Effective Date Changed. Amend 1998, 382:16, I to read as follows:

I. Sections 2 and 13 of this act shall take effect ~~[July 1, 2001]~~ ***on the certification date established pursuant to RSA 382-A:9-412(1)***.

14 Effective Date.

I. Section 9 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 changes the effective date of the computerized filing system for security interests under the Uniform Commercial Code from July 1, 2001 to a date which shall be 3 months after the secretary of state certifies to the governor that the participating cities and towns are prepared to accept filings on behalf of the centralized filing system, or December 31, 2001, whichever occurs earlier. This bill also establishes certain transition provisions for the filing system.

SB 383, requiring the department of health and human services and insurers to make prompt payments. **OUGHT TO PASS WITH AMENDMENT**

Rep. Sheila T. Francoeur for Commerce: This bill, as amended, requires payment from the department of health and human services within 45 days of the receipt of a clean claim. The bill also requires insurers to make payment within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. The amendment also provides an exception if the failure to make payment in a timely manner is caused by a directive from a federal, state, or court agency, or if the insurer is in liquidation or rehabilitation. Vote 17-0.

Amendment (4350h)

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

1 New Section; Prompt Payment Required. Amend RSA 126-A by inserting after section 12 the following new section:

126-A:12-a Prompt Payment Required. The department shall pay health care providers, including dental providers, within 45 days of receipt of a clean claim for services rendered to medicaid recipients. For the purposes of this section "clean claim" means a claim for payment of covered health care expenses that is submitted to the department on the department's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the department's published filing requirements.

2 New Section; Prompt Payment Required. Amend RSA 415 by inserting after section 6-g the following new section:

415:6-h Prompt Payment Required.

I. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses for its insured persons shall pay for services rendered by New Hampshire health care providers within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the insurer is denying or pending the claim, the insurer shall have 15 calendar days upon receipt of the claim to notify the health care provider or certificate holder of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The insurer's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to an insurer on the insurer's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the insurer's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the insurer.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the insurer in writing of the insurer's noncompliance with this section. If the insurer fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the insurer, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an insurer for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No insurer shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The insurer is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The insurer's compliance is rendered impossible due to matters beyond the insurer's control which are not caused by such insurer.

(b) No insurer shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No insurer shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review process.

V. The commissioner may assess an administrative fine against any insurer or may suspend or revoke the license or certificate of authority of any insurer after determining that the insurer has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

3 New Section; Prompt Payment Required. Amend RSA 415 by inserting after section 18-j the following new section:

415:18-k Prompt Payment Required.

I. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses for its insured persons shall pay for services rendered by New Hampshire health care providers within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the insurer is denying or pending the claim, the insurer shall have 15 calendar days upon receipt of the claim to notify the health care provider or certificate holder of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The insurer's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to an insurer on the insurer's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the insurer's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the insurer.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the insurer in writing of the insurer's noncompliance with this section. If the insurer fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the insurer, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an insurer for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No insurer shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The insurer is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The insurer's compliance is rendered impossible due to matters beyond the insurer's control which are not caused by such insurer.

(b) No insurer shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No insurer shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review process.

V. The commissioner may assess an administrative fine against any insurer or may suspend or revoke the license or certificate of authority of any insurer after determining that the insurer has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

4 New Section; Prompt Payment Required. Amend RSA 420-A by inserting after section 17-c the following new section:

420-A:17-d Prompt Payment Required.

I. Every health service corporation, and every other similar corporation licensed under the laws of another state that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses for its insured persons shall pay for services rendered by New Hampshire health care providers

within 45 calendar days upon receipt of a clean written claim or 15 calendar days upon receipt of a clean electronic claim. If the health service corporation is denying or pending the claim, the corporation shall have 15 calendar days upon receipt of the claim to notify the health care provider or subscriber of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The corporation's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to a health service corporation on the corporation's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the corporation's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the corporation.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the health service corporation in writing of the health service corporation's noncompliance with this section. If the health service corporation fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the health service corporation, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an health service corporation for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No health service corporation shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The corporation is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The corporation's compliance is rendered impossible due to matters beyond the corporation's control which are not caused by such corporation.

(b) No health service corporation shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No health service corporation shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review process.

V. The commissioner may assess an administrative fine against any health service corporation or may suspend or revoke the license or certificate of authority of any health service corporation after determining that the health service corporation has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

5 New Section; Prompt Payment Required. Amend RSA 420-J by inserting after section 8 the following new section:

420-J:8-a Prompt Payment Required.

I. Health carriers issuing health benefit plans subject to this chapter shall pay claims submitted by health care providers for services rendered in New Hampshire to covered persons within 45 calendar days upon receipt of a clean written claim or 15 calendar

days upon receipt of a clean electronic claim. If the health carrier is denying or pending the claim, the carrier shall have 15 calendar days upon receipt of the claim to notify the health care provider or covered person of the reason for denying or pending the claim and what, if any, additional information is required to process the claim. The health carrier's failure to comply with the time limits in this section shall not have the effect of requiring coverage for an otherwise non-covered claim. This section shall only apply to payments made on a claims basis and shall not apply to capitation or other forms of periodic payment.

II. In this section:

(a) "Clean claim" means a claim for payment of covered health care expenses that is submitted to a health carrier on the carrier's standard claim form using the most current published procedural codes, with all the required fields completed with correct and complete information in accordance with the carrier's published filing requirements.

(b) "Electronic claim" means the transmission of data for purposes of payment of covered health care services in an electronic data format specified by the health carrier.

III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the health carrier in writing of the carrier's noncompliance with this section. If the health carrier fails to pay the claim within 10 days of receiving the notice, then:

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the carrier, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an carrier for payment of the claim.

IV. Exceptions to the requirements of this section are as follows:

(a) No health carrier shall be in violation of this section for a claim submitted by a health care provider if:

(1) Failure to comply is caused by a directive from a court or a federal or state agency;

(2) The health carrier is in liquidation or rehabilitation or is operating in compliance with a court-ordered plan of rehabilitation; or

(3) The carrier's compliance is rendered impossible due to matters beyond the carrier's control which are not caused by such carrier.

(b) No health carrier shall be in violation of this section for any claim submitted more than 90 days after the service was rendered.

(c) No health carrier shall be in violation of this section while the claim is pending due to a fraud investigation that has been reported to a state or federal agency, or an internal or external review determination pursuant to RSA 420-J:5, or RSA 420-J:5-a-e.

V. The commissioner may assess an administrative fine against any health carrier or may suspend or revoke the license or certificate of authority of any health carrier after determining that the health carrier has established a pattern of overdue payments and that the contemplated enforcement action would not promote the deterioration of the financial condition of an at-risk insurer. Such fine shall be up to \$5,000 per violation, not to exceed \$100,000.

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

AMENDED ANALYSIS

This bill requires the department of health and human services to pay its dental and other health care providers for services rendered to medicaid recipients promptly.

This bill also requires insurers offering health benefit plans to pay health care providers in a timely manner.

SB 425-FN, relative to the private activity bond limit. **INEXPEDIENT TO LEGISLATE**
Rep. Gene B. Marshall for Commerce: This bill proposed an ongoing formula for allocating the state ceiling on private activity bond capitalization among users, including provisions for

future increases in the ceiling. Establishing a stable, predictable base level of support for higher education loan programs was of particular interest. The committee felt that a statutory allocation was too rigid, and the matter could better be settled by agreements among the parties. The parties succeeded in arriving at written agreements acceptable to all, making this bill unnecessary. Vote 16-0.

SB 437-FN, relative to retail selling. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen G. Avery for Commerce: This bill would have negated a bill that the House passed just last year. The committee felt it should not be a burden for businesses to supply both a phone number and an address for people with complaints or other inquiries to access. Vote 14-2.

SB 302, relative to certain employment requirements for liquor licensees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert M. Fesh for Criminal Justice and Public Safety: This bill specifies that restrictions on liquor licensees relating to the employment of convicted felons apply only to the designation of persons to be in charge of the premises. This bill also establishes a limited time period (60 days) within which to obtain the necessary waiver for the designation as a person to be in charge of the premises if the licensee is to employ a convicted felon to sell, serve, or otherwise handle alcoholic beverages. It also establishes a fine for noncompliance. The liquor commission agreed to this bill as amended. The bill would take effect 30 days after passage. Vote 15-0.

Amendment (4268h)

Amend RSA 179:23 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. Notwithstanding paragraph V, a licensee may employ a person convicted of a felony to sell, serve or otherwise handle alcoholic beverages in a non-managerial capacity for a period of 60 days without meeting the provisions of paragraph V. A convicted felon employed under this section shall not be allowed to work longer than 60 days without the licensee complying with the provisions of paragraph V. Any licensee knowingly employing a person convicted of a felony to serve alcoholic beverages longer than 60 days without obtaining a waiver under paragraph V shall be fined not more than \$50 per day for each day of employment beyond 60 days.

Amend the bill by replacing section 3 with the following:

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

AMENDED ANALYSIS

This bill specifies that restrictions on liquor licensees relating to the employment of convicted felons apply only to the designation of persons to be in charge of the premises. The bill limits the amount of time that a licensee can employ a convicted felon prior to obtaining the necessary waiver. It also establishes a fine for noncompliance.

SB 413-FN, relative to confidentiality of addresses for victims of domestic violence, stalking or sexual assault. **OUGHT TO PASS WITH AMENDMENT**

Rep. William V. Knowles for Criminal Justice and Public Safety: This legislation makes it more difficult for a perpetrator to locate his or her victim in cases of domestic violence, stalking or sexual assault. They may use the address of the attorney general's office as their official address and he will forward their first class mail to them at their confidential address. Vote 15-0.

Amendment (4324h)

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

1 New Subdivision; Address Confidentiality Program for Victims of Domestic Violence, Stalking, and Sexual Assault. Amend RSA 7 by inserting after section 40 the following new subdivision:

Address Confidentiality Program for Victims of Domestic Violence, Stalking, or Sexual Assault

7:41 Findings and Purpose. The legislature finds that persons attempting to escape from actual or threatened domestic violence, stalking, or sexual assault frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this program is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, stalking, or sexual assault, to enable interagency cooperation with the attorney general in providing address confidentiality for victims of domestic violence, stalking, or sexual assault, and to enable state and local agencies to accept a program participant's use of an address designated by the attorney general as a substitute mailing address.

7:42 Definitions. As used in this subdivision:

I. "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this subdivision.

II. "Program participant" means a person certified as a program participant under RSA 7:43.

III. "Domestic violence" means an act as defined in RSA 173-B and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

IV. "Sexual assault" means an act as defined in RSA 632-A.

V. "Stalking" means an act as defined in RSA 633:3-a.

7:43 Address Confidentiality Program.

I. An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply to the attorney general to have an address designated by the attorney general serve as the person's address or the address of the minor or incapacitated person. The attorney general shall approve an application if it is filed in the manner and on the form prescribed by the attorney general and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, stalking, or sexual assault; and that the applicant fears for his or her safety, or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the attorney general as agent for purposes of service of process and for the purpose of receipt of mail.

(c) The mailing address where the applicant can be contacted by the attorney general, and the phone number or numbers where the applicant can be called by the attorney general.

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, stalking, or sexual assault; and

(e) The signature of the applicant and the date on which the applicant signed the application.

II. Applications shall be filed with the attorney general.

III. Upon filing a properly completed application, the attorney general shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date.

IV. A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly

provides false or incorrect information upon making an application, shall be guilty of a class B misdemeanor.

7:44 Certification Cancellation.

I. If the program participant obtains a name change, he or she loses certification as a program participant and may immediately reapply for certification under their new name.

II. The attorney general may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the attorney general notice of the change of address within 7 days.

III. The attorney general may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

IV. The attorney general shall cancel certification of a program participant who applies using false information.

7:45 Agency Use of Designated Address.

I. A program participant may request the state and local agencies use the address designated by the attorney general as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the attorney general as a program participant's substitute address, unless the attorney general had determined that:

(a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this subdivision; and

(b) This address will be used only for those statutory and administrative purposes.

II. A program participant may use the address designated by the attorney general as his or her work address.

III. The attorney general shall forward all first class mail to the appropriate program participants.

7:46 Voting by Program Participants.

I. A program participant who is otherwise qualified to vote may apply as a absentee voter. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual resides in the same manner as absentee voters pursuant to RSA 657:15. Notwithstanding RSA 654, neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

II. The city or town clerk shall not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency;

and

(b) If directed by a court order, to a person identified in the order.

7:47 Disclosure of Records Prohibited; Exceptions. The attorney general shall not make any records in a program participant's file available for inspection or copying, other than the address designated by the attorney general, except under the following circumstances:

I. If requested by a law enforcement agency, to the law enforcement agency.

II. If directed by a court order, to a person identified in the order.

III. If certification has been cancelled; or

IV. To verify the participation of a specific program participant, in which case the attorney general may only confirm participation in the program.

7:48 Assistance for Program Applicants. The attorney general shall refer participants to crisis centers that provide counseling and shelter services to either victims of domestic violence, stalking, or sexual assault to assist persons applying to be program participants.

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

AMENDED ANALYSIS

This bill establishes in the office of the attorney general an address confidentiality program for victims of domestic violence, stalking, or sexual assault which would allow

victims to establish the attorney general as their mailing address for purposes of requests for public records by state and local agencies, and for receiving service of process and regular mail.

SB 444-FN, relative to methadone maintenance treatment. INEXPEDIENT TO LEGISLATE

Rep. Maxwell D. Sargent for Criminal Justice and Public Safety: The committee received two methadone maintenance bills at the same time, SB 444-FN and SB 445-FN. The decision was made to combine the material from both into SB 445-FN, and therefore, this bill was no longer needed. Vote 14-0.

SB 470, relative to the administrative authority of the board of trustees for the regional community-technical colleges. OUGHT TO PASS WITH AMENDMENT

Rep. Warren C. Henderson for Education: As amended, SB 470 directs the Commission on the status of community-technical education to examine the feasibility of allowing the regional community-technical college board of trustees to appoint and fix the compensation of the college presidents, as part of their existing study. That report is due by November 1, 2000. The committee supports the goals and the work of the community-technical college system and believes that this measure will assure that the subject of compensation for the community-technical college presidents is addressed within the context of other issues related to the system. Vote 12-0.

Amendment (4409h)

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

AN ACT relative to the duties of the commission on the status of community-technical education.

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

1 Commission on the Status of Community-Technical Education; Duties Expanded.

Amend 1998, 272:37, II to read as follows:

II. The areas of study shall include, but are not limited to:

(a) The classified state employee classification series.

(b) The rights and benefits provided to all faculty and staff of the New

Hampshire regional community-technical colleges including wages, insurance, pension, personnel rules, and bargaining rights.

(c) ***The feasibility of allowing the regional community-technical college board of trustees to appoint and fix the compensation of the presidents of the regional community-technical college system.***

(d) Any other area of inquiry that the commission deems relevant or necessary to its main purpose.

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

AMENDED ANALYSIS

This bill expands the duties of the commission on the status of community-technical education established in 1998, 272 to include studying the feasibility of allowing the regional community-technical college board of trustees to appoint and fix the compensation of the presidents of the regional community-technical colleges.

HB 1369-FN-L, clarifying authority to regulate asbestos. OUGHT TO PASS WITH AMENDMENT

Rep. Robert S. Mercer for Executive Departments and Administration: This bill was referred to the Executive Departments and Administration Committee to review the rulemaking provisions. The committee amended the bill to clarify certain authority given to the Commissioner of Health and Human Services and the Commissioner of Environmental Services to regulate asbestos licensing and disposal sites. No changes were made that would compromise the states authority to run the federal program. No changes were made

regarding the policy established by the House Environment and Agriculture Committee.
Vote 16-0.

Amendment (4349h)

Amend RSA 141-E:1, IV and V as inserted by section 1 of the bill by replacing it with the following:

IV. Relative to asbestos abatement activities, as defined by RSA 141-E:2, II, it shall be the responsibility of the department of health and human services, in consultation with the commissioner of environmental services, to carry out this policy in accordance with RSA 141-E:3, I and RSA 141-E:6-11, and in such a manner as to avoid direct conflict with other state and federal requirements.

V. Relative to management of asbestos disposal sites, as defined by RSA 141-E:2, III, it shall be the responsibility of the department of environmental services, in consultation with the department of health and human services, to carry out this policy in accordance with RSA 141-E:3, II and RSA 141-E:21-25, in lieu of RSA 149-M as previously carried out, and in such a manner as to avoid direct conflict with other state and federal requirements. Amend RSA 141-E:4, I(1) as inserted by section 1 of the bill by replacing it with the following:

(1) Procedures for exemption and waiver from the requirements of RSA 141-E:10 and RSA 141-E:11.

Amend RSA 141-E:5, I and II as inserted by section 1 of the bill by replacing it with the following:

I. The governor or the governor's designee;

II. The attorney general or the attorney general's designee;

Amend RSA 141-E:10, I as inserted by section 1 of the bill by replacing it with the following:

I. Any contractor, employer, or individual which engages in asbestos abatement activities or activities involving the disturbance of asbestos at asbestos disposal sites shall first obtain a license from the department, except for:

(a) Individuals exempt pursuant to paragraph II below;

(b) Individuals exempt by rules adopted by the commissioner of health and human services in accordance with RSA 141-E:4, I(l);

(c) Owners of single family owner occupied properties who personally perform asbestos abatement within the confines of their private properties; and

(d) Individuals who obtain a waiver from the licensing requirements of this section.

Amend RSA 141-E:10, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The license or a certified copy thereof shall be available at the worksite for inspection by representatives of the department, the commissioner of environmental services, or an authorized representative of the local government.

Amend RSA 141-E:11, I as inserted by section 1 of the bill by replacing it with the following:

I. Employees and other individuals who engage in asbestos abatement, school asbestos abatement planning, or disturbance of asbestos at any asbestos disposal site shall first obtain a certificate of training from the department, except for:

(a) Individuals exempt pursuant to rules adopted by the commissioner of health and human services in accordance with RSA 141-E:4, I(l);

(b) Owners of single family owner occupied properties who personally perform asbestos abatement within the confines of their private properties; and

(c) Individuals who obtain a waiver from the certification requirements of this section.

Amend RSA 141-E:11, III as inserted by section 1 of the bill by replacing it with the following:

III. The certificate or a certified copy thereof shall be readily available at the worksite for inspection by the representatives of the department, the commissioner of environmental services, or an authorized representative of the local government.
Amend RSA 141-E:13, II as inserted by section 1 of the bill by replacing it with the following:

II. If the property owner refuses to consent to the inspection, the commissioner of health and human services or the commissioner of environmental services may obtain an administrative inspection warrant under RSA 595-B.

III. Any information, other than asbestos contamination or exposure data, relating to secret processes or methods of manufacture or production obtained in the course of such inspection shall not be disclosed by any representative of the department of health and human services or commissioner of environmental services without permission of the person whose worksite is inspected.

Amend RSA 141-E:14, II as inserted by section 1 of the bill by replacing it with the following:

II. Whenever the commissioner of environmental services has reason to believe that any provision of RSA 141-E:9 or any rule adopted by the commissioner of environmental services under this chapter has been violated, the commissioner of environmental services shall issue a notice of violation and an order of abatement. The commissioner of environmental services may request the attorney general to bring a civil action in superior court for appropriate relief, including a temporary or permanent injunction or both, to enforce any provision of RSA 141-E:9 or any rule adopted by him or her under this chapter, or any order issued by him or her pursuant to this chapter.

Amend RSA 141-E:15, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding RSA 651:2, any person found guilty pursuant to paragraph I above may, in addition to any sentence of imprisonment, probation, or conditional discharge, be fined not more than \$25,000. Each day of violation shall constitute a separate offense.

Amend RSA 141-E:19 as inserted by section 1 of the bill by replacing it with the following:

141-E:19 Discharge of or Discrimination Against Employees. Pursuant to RSA 275-E, no employer shall discharge or cause to be discharged or otherwise discipline or in any manner discriminate against any employee, prospective employee, or employee representative because that person has filed any complaint or has instituted or caused to be instituted any proceeding related to the provisions of this chapter.

Amend RSA 141-E:21 as inserted by section 1 of the bill by replacing it with the following:

141-E:21 Release Prohibited; Asbestos Waste Sites.

I. No person shall cause or allow asbestos fibers to be released to the environment from an asbestos disposal site.

II. A site owner who has complied with the disclosure requirements in RSA 141-E:23 shall not be subject to penalties under this chapter due to a release caused by any person to whom disclosure was provided in accordance with RSA 141-E:23, III, provided that the owner takes steps to prevent further release of asbestos fibers.

III. A site owner who causes a release because the existence of asbestos on the property was unknown prior to causing the release, shall not be subject to penalties under this chapter, provided that the owner reports the situation to the department of environmental services upon discovery and takes steps to prevent further release of asbestos fibers.

AMENDED ANALYSIS

This bill clarifies the authority of the department of environmental services to regulate asbestos disposal sites in a manner consistent with federal law. This bill authorizes the department of health and human services to expand its asbestos licensing program to include persons who disturb asbestos waste at asbestos disposal sites. This bill authorizes the department of environmental services to consult with local officials to determine an effective means to implement best management practices for those properties where asbestos waste materials were disposed of in substantial quantity in the past. This bill also provides that a site owner who complies with disclosure requirements or who did not know of the existence

of asbestos on the property prior to release and subsequently reports the situation, and takes steps to prevent further release of asbestos, shall not be subject to penalties under RSA 141-E.

This bill is a request of the department of environmental services.

SB 226-FN, relative to the real estate practice act and the powers and duties of the real estate commission. **OUGHT TO PASS WITH AMENDMENT**

Rep. Alida I. Millham for Executive Departments and Administration: The New Hampshire Real Estate Practice Act regulates the practice of real estate brokers and salespersons. This bill makes revisions in the act that are mostly clarifying and editorial in nature. Also included is a process for appointing and swearing in alternate members to ensure a quorum for hearings; a requirement of 60 hours of approved study as a qualification for licensure; and revising the law regarding prohibited conduct about paying commissions to unlicensed persons. Vote 16-0.

Amendment (4235h)

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

3 Commission Members; Alternates. Amend RSA 331-A:5, VIII to read as follows:

VIII. The commission shall hold at least 4 regular meetings each year. A simple majority of the commission members currently serving shall constitute a quorum of the commission. ***Whenever a quorum of commission members is unable to hear a particular case, the commission may appoint one or more former commission members as alternates to hear that case, starting with the most recent member to leave the commission and proceeding in reverse chronological order of former members. Alternates shall be appointed and sworn in on a case-by-case basis only, and shall receive compensation as provided for members under RSA 331-A:5, VI.***

4 Qualifications for Licensure. Amend RSA 331-A:10 to read as follows:

331-A:10 Qualifications For Licensure. The executive director shall issue a license to any applicant who:

I. Has attained the age of ~~[majority]~~ **18, if a salesperson applicant.**

II. Has successfully completed an examination administered or approved by the commission which demonstrates satisfactory knowledge and understanding of the principles of real estate practice. The executive director shall only accept for registration to take the examination for a broker's license, an applicant who:

(a) Has been employed full time by an active broker for at least one year; or

(b) Has at least 2,000 part-time hours as a licensed salesperson in this state; or

(c) Proves to the commission that the applicant has experience equivalent to the experience required by subparagraph (a) or (b).

III. ***Shows proof of completion of 60 hours of approved study.***

IV. Demonstrates no record of unprofessional conduct.

~~IV.]~~ V. Furnishes any evidence required by the commission relative to good reputation for honesty, trustworthiness and integrity.

~~V.]~~ VI. For ~~[an individual]~~ **a broker** ~~[license including]~~ **acting as** a principal broker or a managing broker, but excluding **associate brokers or** a corporation, partnership, **limited liability company**, or association, files a surety bond with the commission which shall be held in accordance with RSA ~~[331-A:13]~~ **331-A:14.**

Amend the bill by replacing section 19 with the following:

19 Prohibited Conduct; Consideration Shared with Out-of-State Brokers. Amend RSA 331-A:26, XXIV to read as follows:

XXIV. Paying or offering to pay valuable consideration, as defined by the commission, to any person not licensed under this chapter ~~[or not a member of an exempted class under RSA 331-A]~~, except that valuable consideration may be shared with a licensed broker of another jurisdiction who is doing business regularly and legally within that broker's own jurisdiction. ***No licensee shall knowingly pay a commission or other***

valuable consideration to a licensed person knowing that the licensee will in turn pay a portion or all of that which is received to a person who does not hold a valid real estate license. A licensee who has allowed his or her license to expire or who has changed to inactive status or who has transferred to another responsible broker may receive compensation from the previous responsible broker for transactions in which the person participated during the time that the licensee was under the supervision of that responsible broker.

Amend the bill by deleting sections 5-6 and renumbering the original sections 7-24 to read as 5-22, respectively.

Amend the bill by replacing section 22 with the following:

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

SB 326, relative to the joint health council. OUGHT TO PASS WITH AMENDMENT
Rep. Alida I. Millham for Executive Departments and Administration: The amendment replaces the entire bill. It provides for the appointment to membership of the joint health council by staggering terms. This includes the appointment of two newly added council members. The committee agreed that without the amendment, too much institutional memory could be lost. Vote 15-0.

Amendment (4347h)

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

1 Joint Health Council; Terms. Upon the enactment of HB 1410 of the 2000 legislative session into law, members of the joint health council serving on the council as of the effective date of that act shall complete their existing terms of appointment. Upon expiration of those terms, members shall be appointed pursuant to RSA 326-B:10-a, I(a).

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

AMENDED ANALYSIS

This bill allows current members of the joint health council to serve out the duration of their terms of appointment, notwithstanding the passage of HB 1410 of the 2000 legislative session.

SB 328, making corrections to statutory references in certain fish and game laws and adding a rulemaking provision. OUGHT TO PASS WITH AMENDMENT

Rep. Robert S. Mercer for Executive Departments and Administration: This bill was referred to the Executive Departments and Administration Committee to review the rulemaking provisions. The committee amended the bill to change the procedure for adopting rules relating to the regulation of marine species. The amendment allows the executive director of the Fish and Game Department to promulgate rules with the approval of the Fish and Game Commission and upon the advice and cooperation of the advisory committee on shore fisheries. This continues the present practice and maintains the sportsmen's voice on these matters. Vote 15-0.

Amendment (4237h)

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

AN ACT making corrections to statutory references in certain fish and game laws.

Amend the bill by deleting section 5 and renumbering the original section 6 to read as 5.

AMENDED ANALYSIS

This bill corrects certain references to licensing provisions in the fish and game laws.

SB 446, relative to the integration of information technology at the state, county and municipal levels. OUGHT TO PASS WITH AMENDMENT

Rep. Sylvia A. Holley for Executive Departments and Administration: This bill clarifies the process for developing information technology plans and modifies the membership of the New Hampshire Council on Applied Technology and Innovation. The amendment defines the term "stakeholder". Vote 16-0.

Amendment (4209h)

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as section 7:

6 Definition of Stakeholder. Amend RSA 9:1 to read as follows:

9:1 Terms Used. In this chapter, the term "department" or "establishment" means any executive department, commission, board, institution, bureau, office, or other agency of the state government, by whatever name called, other than the legislature and the state judicial branch, that uses, expends or receives any state funds; the term "state funds" means any and all moneys appropriated by the legislature, or money collected by or for the state, or any agency thereof, pursuant to authority granted in any of its laws; the term "budget" means the budget document by this chapter required to be transmitted to the legislature[-]; ***the term "stakeholder" means a person and/or group which can affect or is affected by the development, design, an/or development of information technology systems.***

SB 461, establishing a committee to study the creation of a flag to honor all police departments in the state. INEXPEDIENT TO LEGISLATE

Rep. David G. Poulin for Executive Departments and Administration: The majority of the committee does not feel that a study committee is needed or appropriate to design a flag that honors police departments. The majority believes that the appropriate design for such a flag would best be created by the members of law enforcement agencies themselves. No need exists for legislature involvement in this matter except to approve the final design, which represents all police departments in the state. The majority is not opposed to creation of a flag but does not see the need for a study committee. Vote 15-0.

HB 1469, relative to the organization of the juvenile justice system in New Hampshire and making an appropriation therefor. OUGHT TO PASS WITH AMENDMENT

Rep. Marjorie K. Smith for Finance: The amendment to this bill is supported by both the Finance and Children and Family Law (CFL) committees. The chair and several CFL committee members participated in Division III's executive sessions concerning HB 1469, and other key House members particularly interested in the subject matter of the bill were consulted and agreed to the amendment. As amended, the bill accomplishes two important tasks. First, it creates an advisory board to review the activities of the Department of Youth Development Services and to make recommendations about program and other matters to the administration of DYDS as well as to the Governor, President of the Senate and Speaker of the House. It is the committee's hope that the work of the board will result in increased accountability, improved services for juveniles under the jurisdiction of DYDS, and better fiscal management. Secondly, the bill, as amended, changes the job title of those DHHS employees who work directly with Children in Need of Services (CHINS) and delinquents from "Juvenile Services Officers" to "Juvenile Probation and Parole Officers". The legislation makes clear that the change in title does not reflect any change in job responsibilities and will not result in eligibility for Group II retirement, the law enforcement salary schedule, or for certification and training at the Police Standards and Training Council, except as otherwise provided by statute. The name change is supported by the department and the JSOs, the latter having advocated for this change for many years. Vote 24-0.

Amendment (4482h)

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

AN ACT establishing a department of youth development services, advisory board, and relative to changing the name of juvenile services officers.

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

1 Statement of Purpose. The general court hereby states that the change from "juvenile services officer" to "juvenile probation and parole officer" in this act is intended simply to change the job title and does not reflect a change in job responsibilities. It is the specific intent of the general court that juvenile probation and parole officers shall not be eligible for

group II retirement benefits within the New Hampshire retirement system, for participation in the law enforcement salary schedule, or for certification or training from the police standards and training council, except as provided in RSA 188-F:32.

2 New Subdivision; Department of Youth Development Services; Advisory Board Established. Amend RSA 621-A by inserting after section 8 the following new subdivision: Advisory Board

621-A:9 Department of Youth Development Services Advisory Board Established; Membership.

I. There is hereby established a department of youth development services advisory board. The board shall act in an advisory capacity and make recommendations to the commissioner relative to programs and services provided to children referred to the department pursuant to RSA 169-B.

II. The board shall be composed of the following members:

(a) Two members from the house of representatives, one of whom shall be a member of the house finance committee, appointed by the speaker of the house.

(b) One member from the senate, appointed by the president of the senate.

(c) The commissioner of the department of youth development services or designee, who shall serve as an ex officio member.

(d) The commissioner of the department of health and human services or designee, who shall serve as an ex officio member.

(e) The commissioner of the department of education or designee, who shall serve as an ex officio member.

(f) One district or family court judge, appointed by the administrative justice of the district courts.

(g) Two human services administrators, one from an urban county and one from a rural county, appointed by the executive director or other appropriate appointing authority of the New Hampshire Association of Counties.

(h) Six members, appointed by the governor with the advice and consent of the council, which shall include 2 members representing the interests of business and industry, 2 parents of children who are receiving or have received services from the department, one member of state or local law enforcement, and one member from the general public.

III. Members of the advisory board shall serve without compensation provided that legislative members shall receive mileage at the legislative rate while attending to the duties of the board.

621-A:10 Terms of Office; Organization.

I. The legislative members and the members listed in RSA 621-A:9, II(c) – (f) shall serve terms which are coterminous with their terms in office. The members listed in RSA 621-A:12, II(g) shall serve for 3 years. Three of the members listed in RSA 621-A:9, II(h) shall serve for 4 years, and 3 members shall serve for 3 years.

II. Each appointed member of the advisory board shall hold office until a successor is appointed and qualified. The appointment of successors for the filling of vacancies for unexpired terms shall be by appointment in the same manner as the original appointment.

III. The advisory board shall elect its own chairperson and officers annually. The board shall meet monthly, or as deemed necessary, provided that the board shall meet at least once every 3 months.

621-A:11 Duties of the Advisory Board.

I. The advisory board shall act in an advisory capacity to assist the commissioner of the department of youth development services relative to programs and services provided to children who are referred to the department. The board may also provide advice and input on fiscal and budgetary matters within the department, the availability of state and federal grants, business partnerships, and other funding sources available to the department.

II. Beginning in December 2000, and annually thereafter, the board shall submit a written report to the speaker of the house, the president of the senate, and the governor

detailing the activities of the board and any recommendations made by the board to the department.

3 New Hampshire Retirement System; Definitions; Juvenile Probation, and Parole Officers Excluded from Group II Membership. Amend RSA 100-A:1, VII-a (b) to read as follows:

(b) Any bingo or lucky 7 inspector, security officer appointed pursuant to RSA 135:41, **any juvenile probation and parole officer**, or any person employed in the bureau of trails of the department of resources and economic development; or

4 Youth Development Center; Definitions; Juvenile Probation and Parole Officer Inserted. Amend RSA 621:3, VIII to read as follows:

VIII. "Parole" means a conditional release from the center which allows the child to serve the remainder of his or her commitment outside the center, supervised by a juvenile **probation and** parole officer, contingent upon satisfactory compliance with the terms and conditions set forth in the parole agreement.

5 Reference Changes. Amend the following RSA provisions by replacing "juvenile services officer" with "juvenile probation and parole officer": RSA 169-B:2, VIII(c); 169-B:9, I; 169-B:9-a; 169-B:10, II; 169-B:19, I(j) the unnumbered concluding paragraph of 169-B:24; 169-B:25; 169-B:30; 169-C:3, XXIV; 169-C:6, I-III; 169-C:34, IV; 169-D:8, II; 169-D:9, I; 169-D:9-a; and 170-G:1, VI.

6 Reference Changes. Amend the following RSA provisions by replacing "juvenile service officers" with "juvenile probation and parole officers": RSA 169-B:35, II; 169-D:2, VI(c); 169-D:25, II; 170-G:3, III; 170-G:4, II-a; 170-G:15; and 170-G:16.

7 Effective Date. This act shall take effect July 1, 2000.

AMENDED ANALYSIS

This bill establishes a department of youth development services advisory board for the purpose of making recommendations to the commissioner relative to programs and services provided to children referred to the department. The bill also changes the title of "juvenile services officer" to "juvenile probation and parole officer."

SB 136-FN, allowing certain state employees to take paid leave to participate in disaster relief service work. **OUGHT TO PASS WITH AMENDMENT**

Rep. Margaret A. Lynch for Finance: This bill allows the State of New Hampshire to join forty other states in promoting volunteerism among state employees. It allows a certified disaster relief services volunteer, employed by the state, to take up to fifteen working days a year of paid leave if requested for service by the American Red Cross. The leave must be approved by the employee's supervisor and would only be granted if there were no additional financial burdens caused by the employee's leave. There are currently only three state employees certified by the Red Cross as a "disaster relief volunteer." The amendment clarifies the intent of the sponsor of the bill and the ED&A Committee that the leave is intended to cover requests for assistance anywhere within the United States and not restricted to service only in New Hampshire.

Training and expenses for participating employees are provided by the American Red Cross. Vote 25-0.

Amendment (4264h)

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. Disaster leave for state employees will increase the number of local, trained, and experienced disaster workers. Training and expenses for participating employees are provided by the American Red Cross at no cost to the state or to the volunteers and leave days for employees are limited and require approval from their supervisor to assure orderly granting of requests based on competing demands. Experience on disaster assignments is an opportunity for state employees to learn new skills and gain supervisory experience that will benefit them personally, their agencies, and the citizens they serve. Their experience and training will make them ready to immediately serve when a disaster event occurs.

SB 318-FN, relative to proposed joint maintenance agreements. **OUGHT TO PASS**

Rep. Norman L. Major for Finance: This bill is the product of a study committee and enables school districts to utilize joint maintenance agreements and to issue bonds and be eligible for school building aid grants. It also amends existing legislation by repealing a specific existing joint maintenance agreement that was never consummated. This bill provides a process for school districts to combine for the purposes of building and maintaining a high school or other public school. The LBAO is unable to estimate the fiscal impact of this bill because the school districts that would enter into a joint maintenance agreement are unknown; the effect on local expenditures as a result of a joint maintenance agreement is not known; the cost of building and maintaining a school may be more or less costly than the existing tuition contracts; and the increase in the amount the state will pay for building aid as a result of joint maintenance agreements cannot be estimated. Despite this uncertainty it is believed the fiscal impact will not be significant. Vote 22-1.

SB 324, relative to personal care services and providers. **OUGHT TO PASS WITH AMENDMENT**

Rep. Francine Wendelboe for Finance: This bill allows certain individuals eligible under Medicaid to receive home care services the option of receiving personal care services, including consumer-directed services, from a home health agency or other qualified agency. This option would increase consumer choice, provide improved services and availability of caregivers and potentially reduce costs. There was strong policy support during the hearing. The Department of Health and Human Services gave strong assurances that this would neither expand eligibility nor increase costs. Finance amended the bill to include periodic fiscal and quality-based reports on the results of this option. The definition of eligible consumer was also clarified. Vote 24-0.

Amendment (4479h)

Amend RSA 161-I:2, IV as inserted by section 1 of the bill by replacing it with the following:

IV. "Eligible consumer" means a child with special health care needs eligible for in-home supports or a person eligible for the home and community-based care waiver for the elderly and chronically ill.

Amend RSA 161-I:4 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. Beginning September 2000, the department shall provide a quarterly report to the governor, the president of the senate, and the speaker of the house of representatives relative to the number of clients served and expenditures under the home and community-based care waiver for the elderly and chronically ill, and beginning in December 2000 an annual report on such qualitative measures on the care delivered as the department deems appropriate.

AMENDED ANALYSIS

This bill allows certain individuals and families of these individuals the option of receiving personal care services, including consumer-directed services, from a home health agency or other qualified agency. This bill gives the commissioner of health and human services rulemaking authority relative to requirements for the use of consumer-directed services for department programs and the provision of personal care services. This bill also requires the department of health and human services to provide a quarterly report relative to the number of clients served and expenditures under the home and community-based care waiver for the elderly and chronically ill, and an annual report on qualitative measures on the care delivered as the department deems appropriate.

SB 389-FN, relative to benefit options for surviving spouses and designated beneficiaries of deceased members of the retirement system. **OUGHT TO PASS**

Rep. Joseph E. Stone for Finance: This bill updates the year of eligibility of active and retired

group II members for the payment of medical benefits costs by the New Hampshire retirement system. The system indicates this bill extends group II medical benefits to policemen and firemen who became members of the retirement system prior to July 1, 1997 and group II employees who became members between July 1, 1997 and July 1, 2000, and subsequently become disabled at any time in the future. The current provisions under RSA 100-A:55 limit this benefit to only those who became members of the system before July 1, 1995. There will be no fiscal impact on state, county and local revenues or expenditures according to the New Hampshire retirement system. Vote 22-1.

SB 392-FN, relative to the use of nonlapsed funds by the regional community-technical colleges. OUGHT TO PASS

Rep. Linda T. Foster for Finance: This bill gives the community technical colleges needed flexibility to respond to emergency expenditures without resorting to raising tuition costs. Presently, the community technical colleges can use lapsed funds only for establishing or enhancing academic offerings. In other state agencies, lapses are deposited in a salary adjustment account. The technical colleges currently budget and pay for these adjustments from revenue. Under this bill they will continue that practice. Moreover, the case for determining an "emergency" would still be made before the commissioner, the board of trustees, the fiscal committee and the governor and council. Vote 25-0.

SB 399-FN-A, making an appropriation to the fish and game department for the purposes of the wildlife damage control program. REFER FOR INTERIM STUDY

Rep. Dennis F. Abbott for Finance: This bill, as passed by the Senate, appropriates the sum of one dollar for establishing a game damage fund. Obviously this amount will not accomplish the intended result. Also, the bill does not address the necessary details needed to establish such a program. For example, who will administer the program and funds, who will be eligible to participate, what crops will be considered in the program and how much funding would be required? But the most important question will be whether or not the legislature wishes to expend general funds for such purposes. Presently the Fish and Game Department is beginning a major fencing program required by the passage of HB 704 earlier this year and it would be prudent to monitor the results of that program as it relates to the crop damage issue. It would be in the best interest to at least establish a direction for further legislation if deemed appropriate by the legislature so it is recommended that this bill be referred to study. Vote 23-1.

SB 415-FN-L, relative to payment of group health insurance premiums for eligible retired members of the retirement system. OUGHT TO PASS WITH AMENDMENT

Rep. Margaret A. Lynch for Finance: This bill provides for the payment of the cost of group health insurance for eligible retired political subdivision employees. The cost of this benefit has no fiscal impact on the general fund. The bill is terminally funded from the special account. The cost figures have been adjusted to reflect the actual cost of the terminal funding and the amendment reflects the correct figures (\$36,384,000 from the group I employee special account and \$16,781,000 from the group I teacher special account). Vote 21-1.

Amendment (4270h)

Amend the bill by replacing section 8 with the following:

8 Funding.

I. The sum of \$36,384,000 is hereby transferred from the group I employee special account balance existing on June 30, 2000 for the purpose of funding RSA 100-A:52-a and RSA 100-A:53-c as inserted by this act.

II. The sum of \$16,781,000 is hereby transferred from the group I teacher special account balance existing on June 30, 2000 for the purpose of funding RSA 100-A:52-a as inserted by this act.

SB 422-FN, relative to the housing security guarantee loan program. OUGHT TO PASS WITH AMENDMENT

Rep. Marjorie K. Smith for Finance: This bill clarifies the process of securing funding for the Department of Health and Human Services housing security guarantee loan program and establishes reporting requirements. Vote 23-0.

Amendment (4352h)

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

2 Definitions; Guarantee Certificates. Amend RSA 126-A:52, II to read as follows:

II. "Guarantee certificate" means a document issued under this subdivision ~~that pledges the full faith and credit of the state of New Hampshire~~ for the payment of the security deposit it guarantees.

3 Allocation of the Housing Security Guarantee Program. Amend RSA 126-A:53, I to read as follows:

I. Upon application from a local housing security provider in such form as the department may require, the department may allocate and commit itself to issue, and the local housing security provider may be authorized to process applications and provide the ancillary services connected with the issuance of, guarantee certificates for the purposes of this subdivision. In no event shall the aggregate guarantee amounts allocated by the department to all local housing security providers exceed ~~[\$1,000,000]~~ **\$2,000,000**. The department shall allocate the aggregate guarantee certificate capacity authorized by this section in a manner which takes into account both housing needs and geographic diversity.

4 New Paragraph; Funding; Housing Security Guarantee Program. Amend RSA 126-A:53 by inserting after paragraph I the following new paragraph:

I-a. The department shall make payments either directly to the landlord or through the local housing security provider to the extent of the state's obligation under the terms of the guarantee certificates. The department shall be subrogated to the landlord's right title and interest in any amounts received pursuant to the lease or rental agreement. At the end of each fiscal year, the state treasurer shall reimburse the department for these amounts from funds not otherwise appropriated. The governor is hereby authorized to draw a warrant from funds not otherwise appropriated for the purposes of this subdivision.

5 New Paragraph; Reporting Requirements. Amend RSA 126-A:53 by inserting after paragraph II the following new paragraph:

III. The department shall make a report on or before December 1 of each year to the speaker of the house of representatives, the president of the senate, and the governor and council on the usage of the program and the success of its participants.

6 Periodic Payment Requirement. Amend RSA 126-A:56 to read as follows:

126-A:56 Periodic Payment Requirement. Beginning with the first month of tenancy and each month thereafter, a qualified tenant participating in this program shall make a monthly payment to the department of a fractional amount of the qualifying security deposit amount, which amount is determined by and adjustable with the approval of the local housing security provider. Notice of all adjustments to required payment amounts shall be forwarded to the department by the local housing security provider. The payments shall be made until the full amount of the security deposit guarantee has been received by the department. ~~[Amounts received by the department shall be held in a fund, known as the security deposit fund, established in RSA 126-A:62 for this purpose.]~~ In no event shall a qualified tenant's failure to make the periodic payments required by this section create a default under any lease or rental agreement for a subject housing unit. All amounts received by the department pursuant to RSA 126-A:56 shall not be a "security deposit" as defined by RSA 540-A:5, II.

7 Tenant's Right to Refund. Amend RSA 126-A:58 to read as follows:

126-A:58 Tenant's Right to Refund. In the event a tenancy is terminated before all periodic payments have been made to the department and no claim for redemption is brought

by the landlord within the period specified, a qualified tenant may claim a refund of all payments made by the tenant and a cancellation of the tenant's written agreement to make any additional payments. The claims shall be brought by tenants within one year from the date of the termination of the tenancy. ~~[All payment amounts unclaimed at the end of the one year period shall be held in a fund established in RSA 126-A:62 for the purpose of making payments upon redemption of guarantee certificates.]~~

8 Repeal. The following are repealed:

- I. RSA 6:12, I(ggg), relative to the nonlapsing security deposit fund.
- II. RSA 126-A:60, relative to guarantees of credit.
- III. RSA 126-A:62, relative to the establishment of the nonlapsing security deposit fund.

9 Effective Date. This act shall take effect July 1, 2000.

AMENDED ANALYSIS

This bill clarifies the process of securing funding for the department of health and human services' housing security guarantee loan program, and repeals certain references to the nonlapsing security deposit fund.

SB 428-FN-A, relative to the development of certain public health initiatives and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. William S. Belvin for Finance: This bill, as originally drafted and passed by the Senate, concerns the funding of the Health Care Fund used to financially support grants to local health agencies and organizations. These programs usually have been quite successful. However, by agreement with the Department of Health and Human Services and the Senate prime sponsor, the amendment removes sections 1 through 3 on purpose, a million dollar appropriation, and a reporting requirement. The remaining two sections in the original bill, continually appropriating Health Care Fund earnings to the fund, and maintaining the July 1, 2000 effective date, now constitute the entire bill. This approach accomplishes much of the original intent while recognizing the state's current fiscal circumstances. Vote 25-0.

Amendment (4271h)

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

AN ACT relative to the health care fund.

Amend the bill by deleting sections 1-3 and renumbering the original sections 4 and 5 to read as sections 1 and 2, respectively.

AMENDED ANALYSIS

This bill authorizes interest earnings from the health care fund to be continually appropriated to the department of health and human services.

SB 432-FN-A, relative to state assistance for teachers applying for national board certification. **INEXPEDIENT TO LEGISLATE**

Rep. Charles L. Vaughn for Finance: The chairman of the Education Committee and the bill's prime sponsor deemed the bill unnecessary. Although both wholeheartedly support teachers pursuing national professional teaching certification, thereby becoming master teachers, sufficient funding exists within the Department of Education for implementing the intent and purposes of the bill. Vote 20-4.

SB 448, establishing a guardians ad litem board. **OUGHT TO PASS WITH AMENDMENT**

Rep. Susan W. Almy for Finance: This bill came to Finance without funding or administrative attachment, but will have difficulty achieving its purpose without both. The Judicial Council agreed to give the new board a home and advocate for it, and we have transferred the never-used appropriation of \$10,000 per annum for guardian ad litem regulation from the Judicial Branch's budget to fund the start-up of this new board, which will fulfill the same functions as the original budget line. Vote 21-3.

Amendment (4304h)

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

AN ACT establishing a guardian ad litem board.

Amend RSA 463:33 as inserted by section 1 of the bill by replacing it with the following:

463:33 Board Established. There is hereby established a guardian ad litem board which shall be responsible for overseeing the credentialing, activities, and discipline for guardians ad litem appointed in New Hampshire.

Amend section 1 of the bill by inserting after RSA 463:37 the following new RSA section:

463:38 Administrative Attachment. The board shall be administratively attached to the judicial council.

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

2 Judicial Branch; Statewide Expenditures Adjusted. Amend 1999, 159:1.02, 01, 05 as follows:

	<u>FY 2000</u>	<u>FY 2001</u>
Strike out:		
96 GAL regulation & admin	10,000	10,000
Strike out:		
Total	9,174,592	9,216,808
Estimated source of funds for statewide expenditures		
General Fund	9,174,592	9,216,808
Total	9,174,592	9,216,808
Insert in place thereof:		
Total	9,164,592	9,206,808
Estimated source of funds for statewide expenditure		
General fund	9,164,592	9,206,808
Total	9,164,592	9,206,808

3 Judicial Council Guardian ad Litem Board Startup. Amend 1999, 159:1 by inserting the following new PAU:

02 Admin of Justice & Public Prin

18 Judicial Council

01 Judicial Council

96 Guardian ad litem board startup F* 10,000 10,000

* Expenditures may include, but are not limited to, equipment and part-time personnel services.

4 Judicial Council; Totals Adjusted. Amend 1999, 159:1.02, 18, 01 as follows:

	<u>FY 2000</u>	<u>FY 2001</u>
Strike out:		
Total	13,912,563	14,322,764
Estimated source of funds for judicial council		
09 Agency income	240,000	240,000
General fund	13,672,563	14,082,764
Total	13,912,563	14,322,764
Insert in place thereof:		
Total	13,922,563	14,332,764
Estimated source of funds for judicial council		
09 Agency income	240,000	240,000
General fund	13,682,563	14,092,764
Total	13,922,563	14,332,764

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

AMENDED ANALYSIS

This bill establishes a guardian ad litem board responsible for the training, licensing, discipline, and other activities of guardians ad litem in New Hampshire and also provides that the board shall be administratively attached to the judicial council. The bill also provides \$10,000 in startup costs to the board.

This bill is a request of the study committee established in 1999, 30 (SB 130).

**SB 450-FN, prohibiting the importation of tobacco products that violate federal law.
OUGHT TO PASS WITH AMENDMENT**

Rep. Charles L. Vaughn for Finance: This bill prohibits the importation of tobacco products that violate federal law. The legislation protects revenues to which the state is entitled under the Master Settlement Agreement, at the same time contributing to public health and safety. Amendments were added with the advice and consent of the attorney general's office refining legal definitions and terms in the original bill. The enforcement of the bill can be accomplished with existing resources in the Department of Revenue Administration. Vote 24-0.

Amendment (4476h)

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

1 New Subdivision; Importation of Certain Tobacco Products Prohibited. Amend RSA 78 by inserting after section 32 the following new subdivision:

Importation of Certain Tobacco Products Prohibited

78:33 Preservation of Revenues. The general court hereby finds, determines, and declares that this subdivision is necessary for the protection of revenues to which the state is entitled under the Master Settlement Agreement between the state and the tobacco industry. The general court also finds, determines, and declares that this subdivision is necessary for the preservation of the public health and safety.

78:34 Federal Requirements; Cigarettes and Other Tobacco Products; Placement of Labels; Penalty.

I. No person shall import into this state any package of tobacco products that does not comply with all federal requirements for the placement of labels, warnings and other information on a package of tobacco products manufactured, packaged, or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333.

II. No person shall knowingly sell or offer to sell a package of tobacco products or affix the stamp or imprint required by this title on a package of tobacco products unless that package of tobacco products complies with all federal tax laws, federal trademark and copyright laws, and federal laws regarding the placement of labels, warnings, or any other information upon a package of tobacco products.

III. No person shall knowingly sell or offer to sell a package of tobacco products or affix the stamp or imprint required by this title on a package of cigarettes if the package bears any mark indicating that the manufacturer did not intend the tobacco products to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only," "U.S. Tax-Exempt," "For Use Outside U.S.," or similar wording, or if any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the product or package was manufactured for use outside of the United States.

IV. No person shall knowingly sell or offer to sell a package of tobacco products or affix the stamp or imprint required by this title on a package of cigarettes if the tobacco products were imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or implementing federal regulations, or if the person knows or has reason to know that the manufacturer did not intend the tobacco product to be sold, distributed or used in the United States.

V. No person shall knowingly sell or offer to sell a package of cigarettes or affix the stamp or imprint required by this title on a package of cigarettes if there has not been

submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of ingredients added to tobacco in the manufacture of such cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a.

VI.(a) No person shall alter the package of any tobacco product prior to sale to the ultimate consumer, so as to remove, conceal or obscure the fact that the package was manufactured for use outside of the United States.

(b) No person shall knowingly sell or offer to sell a package of tobacco products that has been altered in violation of subparagraph (a).

VII. The penalty for violation of any provision of this section is loss of license for a period of 90 days for a first offense, loss of license for a period of one year for subsequent offenses, and a fine to be determined by the commissioner which shall not exceed \$10,000.

VIII.(a) Any tobacco product or package of tobacco products found for sale at retail or wholesale at any place in this state in violation of this section shall be subject to forfeiture pursuant to RSA 78:16. Nothing in this section shall be construed to require the commissioner to confiscate packages of tobacco products in quantities of one carton or less when the commissioner has reason to believe that the owner possesses the tobacco products for personal use.

(b) Any tobacco products seized by virtue of the provisions of subparagraph (a) shall be confiscated, and the department shall cause such confiscated goods to be destroyed.

IX. This subdivision shall not apply to:

(a) Tobacco products allowed to be imported or brought into the United States for personal use; and

(b) Tobacco products sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations, provided, however, that this act shall apply to any such tobacco products that are brought back into the customs territory for resale within the customs territory.

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

SB 453, relative to the expending of legacies or gifts and the transfer of funds by the regional community-technical colleges. **OUGHT TO PASS**

Rep. Norman L. Major for Finance: This bill allows the regional community-technical colleges to expend legacies and gifts without the approval of the governor and council and allows for the transfer of funds between line items within and among any budgetary unit in the regional community-technical colleges. This is largely a housekeeping bill that restores and clarifies flexibility within the community and technical colleges in two important areas. 1.) The first area is in the acceptance of legacies and gifts by the foundation. When the community and technical college system foundation was created in SB 503 (1999), the dollar limitation that could be accepted by the agency without governor and council approval was removed. When the dollar amount was removed, the language that allowed acceptance without governor and council approval was inadvertently dropped. This bill restores that language. 2.) The secondary area is in the ability to transfer funds between line items within and among any budgetary unit. As a revenue-generating agency, the community and technical colleges may move funds throughout the system as necessary. The agency has been exercising this ability for several years. Recently, administrative services noticed that the last sentence of section 188-F:14, section I, contradicts that flexibility. This bill removes the contradictory language. Vote 24-2.

SB 367, establishing a prescription drug access study committee. **OUGHT TO PASS**

Rep. Marion L. Copenhaver for Health, Human Services and Elderly Affairs: The committee strongly supported this prescription drug access study committee. The cost of prescription drugs is the "number one" issue facing the public today. Both the House and Senate are fully committed to doing a thorough study of this most important issue. Vote 18-0.

SCR 5, urging the New England states and New York to consider cooperative strategies to address the challenge of the high cost of prescription medicines. **OUGHT TO PASS**
Rep. Phyllis M. Katsakiores for Health, Human Services and Elderly Affairs: The committee voted Ought to Pass on this very important issue. The high price of prescription drugs in this country impacts most severely those most unable to pay, including many of our senior citizens. A recent study indicates that New Hampshire seniors pay a much greater amount for prescriptions than preferred customers, who obtain their prescription drugs through HMO's, hospitals, the federal government and other large insurers. It was agreed that an ongoing multi-state working group was needed to explore a range of options, including the feasibility of multi-state group purchasing agreements and the benefits of sharing best practices. Vote 17-0.

SB 335, allowing physicians to make a report when a person is unfit to drive a motor vehicle. **REFER FOR INTERIM STUDY**
Rep. Cynthia J. Dokmo for Judiciary: The intent of this legislation is to provide immunity to physicians who choose to notify the department of safety of the physician's concern that a person poses a risk to him/herself or to others by operating a motor vehicle. The committee wishes to study this matter to explore the concept of a medical review board and also to take into consideration a recent Supreme Court case regarding a physician's duty to warn. Vote 12-0.

SB 338, relative to trustee process. **OUGHT TO PASS WITH AMENDMENT**
Rep. James W. Craig for Judiciary: Trustee process is the term used to describe the legal means by which a person can tie up another person's assets which are held by a third party such as a bank. This bill changes many of the technical aspects of the existing statute and it is the result of input and compromise by the legal and banking communities. Vote 12-0.

Amendment (4447h)

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

1 Trustee Process; Writ; Trustee Disclosure Form. Amend RSA 512:3 to read as follows:

512:3 Writ. The trustee writ shall be an attachment and summons, and shall be served upon the defendant and trustee like a writ of summons, and the goods and estate of the defendant may be attached thereon. ***Concurrently therewith, the trustee shall be served with a trustee disclosure form in compliance with RSA 512:9-d. The first page of the attachment shall bear a notice in boldface, in at least 12-point type, advising the trustee to complete and file the enclosed disclosure of trustee form with the court, the plaintiff, and the defendant within 30 days of receipt or suffer the risk of default. Return of the trustee disclosure form shall operate as an answer and an appearance on behalf of the trustee. A corporation summoned as trustee may appear and answer through its cashier, treasurer, clerk, or such other officer or employee as it shall appoint.***

2 Trustee Process; Bank Accounts; Service. Amend RSA 512:9-b to read as follows:

512:9-b Bank Accounts. When a bank, trust company, building and loan association, or similar corporation is named as trustee, the trustee shall be summoned by service ~~[on an officer, person in charge, teller, or office employee of such bank, trust company, building and loan association, or similar corporation at its office if service is made during banking hours, and, if service is made at a time other than banking hours, by service on an officer of such bank, trust company, building and loan association, or similar corporation, and not otherwise. The trustee so served shall not be chargeable for any goods, rights, or credits of the defendant except as shall be in the hands of the trustee at the time of service]~~ ***only upon a bank officer, branch supervisor, or head teller of a branch only from 8:00 a.m. to 3:00 p.m., Monday through Friday except bank holidays. The trustee so served shall be chargeable only for any money, goods, chattels, rights, or credits of the defendant***

in the trustee's hands at the time of service, subject to any reductions due the trustee for account fees, amounts alleged or determined not to belong to the defendant or other priority claims to defendant's money, goods, chattels, rights, or credits. If summoned by service after 3:00 p.m., the trustee shall have until the beginning of the next business day to effect the attachment.

3 New Sections; Trustee Process; Duties of Trustee; Trustee Disclosure Form; Extension for Filing Disclosure Form. Amend RSA 512 by inserting after section 9-b the following new sections:

512:9-c Duties of Trustee. The trustee so served shall place a hold on money, goods, chattels, rights, or credits of the defendant that are in the trustee's hands at the time of service, but shall have no duty to collect money, goods, chattels, rights, or credits either belonging to the defendant or that may become due or owing the defendant after that time.

512:9-d Trustee Disclosure Form. The trustee disclosure form served upon the trustee in compliance with RSA 512:3 shall include only the following interrogatories and nothing more:

"I. On what date were the trustee writ (including attachment and summons) and trustee disclosure form served upon you?";

"II. What money, rights, goods, chattels, and/or credits belonging to or due defendant did you hold at the time of service?";

"III. Are any of the money, rights, goods, chattels, and/or credits disclosed by you in response to interrogatory II subject to reductions for account fees and/or amounts alleged or determined not to belong to the defendant? If so, please state the amount and the basis."; and

"IV. At this time, are you aware whether the money, rights, goods, chattels, and/or credits disclosed by you in response to interrogatory II are subject to priority claims of other people? If so, please state the amount, the basis for the priority claims, and the claimants."

4 Trustee Process; Default of Trustee. Amend RSA 512:10 to read as follows:

512:10 Default. No person summoned as trustee in an action shall be charged on default until [he] ***that person*** shall have neglected to ~~[answer in the action]~~ ***file a properly served trustee disclosure form in a timely manner***, after such notice as the court ~~[or justice, at the term when the action is entered or at some subsequent term,]~~ may order.

5 Trustee Process; Effect of Default. Amend RSA 512:11 to read as follows:

512:11 Effect. If the trustee ~~[makes default after the notice provided in RSA 512:10 he]~~ ***fails to file a trustee disclosure form with the court within 30 days of service of the trustee writ on the trustee, the trustee*** [shall] ***may*** be adjudged chargeable ~~[for the amount of the judgment which may be recovered by the plaintiff against the defendant]~~ ***for a sum up to the amount of the judgment which may be recovered by the plaintiff against the defendant.***

6 Trustee Process; Taking of Trustee's Deposition. Amend RSA 512:12 to read as follows:

512:12 Taking. ~~[Disclosure of trustees may be given or taken by any party to the action at any time after the service of the writ upon the trustee,]~~ ***Within 30 days of the filing of the trustee disclosure with the court, the plaintiff or defendant shall be entitled to take trustee's deposition on the issue of trustee's chargeability*** upon such notice to the ~~[adverse party]~~ ***trustee*** as is required in taking depositions ***under court rules*** and upon the payment ~~[or tender]~~ to the trustee of [his] fees for travel and attendance ~~[as in the case of witnesses]~~.

7 New Section; Trustee Process; Evidentiary Hearing. Amend RSA 512 by inserting after section 18 the following new section:

512:18-a Evidentiary Hearing. If the court receives no objection to a trustee disclosure within 30 days of the date of receipt of such disclosure, the disclosure shall determine the chargeability of the trustee. If the plaintiff or the defendant files a written objection to the trustee disclosure within 30 days of receipt of the trustee's disclosure, or if the trustee fails to

file a trustee disclosure form with the court within 30 days of service of the trustee writ on the trustee, the court shall schedule an evidentiary hearing on the extent of the trustee's chargeability.

8 Trustee Process; Charging Trustee. Amend RSA 512:20 to read as follows:

512:20 Charging Trustee. ~~[He]~~ Upon the **filing of trustee disclosure not objected to within 60 days of filing** ~~[depositions in the case], or, [if there is a trial by jury,] upon the [verdict of the jury]~~ **court's decision following an evidentiary hearing on the trustee's chargeability**, ~~[it appears that]~~ **the court shall charge** the trustee ~~[had in his possession at the time of the service of the writ upon him, or at any time after,]~~ **for** any money, goods, chattels, rights, or credits of the defendant **in the trustee's possession at the time of the service of the writ and** not exempted from trustee process, ~~[he]~~ **or subject to any reductions for account fees, amounts alleged or determined not to belong to the defendant [shall be adjudged chargeable therefor] or other priority claims to defendant's money, goods, chattels, rights, or credits.**

9 Trustee Process; Receiver for Property Disclosed; Refusal to Deliver. Amend RSA 512:32 to read as follows:

512:32 Refusal to Deliver. If the ~~[person summoned as]~~ trustee ~~[shall refuse]~~ **refuses** to deliver to ~~[the]~~ **a** receiver~~[-agreeably to the order of court,]~~ **appointed under RSA 512:29 or RSA 512:30** any note, security for money, evidence of debt, chose in action or other property, ~~[he shall be adjudged trustee for the value thereof]~~ **on the grounds that such property is not subject to trustee process, the court shall schedule an evidentiary hearing to determine the validity of such refusal. If, after the evidentiary hearing, the court determines that the property is subject to trustee process and orders the trustee to deliver the property, the trustee shall be adjudged chargeable for the value thereof.**

10 Trustee Process; Paying Into Court. Amend RSA 512:39 to read as follows:

512:39 Paying into Court. The defendant or trustee may discharge the liability of the trustee by paying into court the sum for which the trustee is charged. **Payment into court by the trustee shall discharge the trustee as a party to the underlying lawsuit.**

11 Trustee Process; Costs; Order of Court. Amend RSA 512:43 to read as follows:

512:43 Order of Court. The trustee shall recover ~~[his]~~ **the trustee's** costs in all cases **from the plaintiff** except as provided in this chapter, unless otherwise ordered by the court, and the court shall adjust all costs in matters relating to trustee process as between the plaintiff and trustee or any claimant of property in the hands of the trustee as shall seem equitable. **Such costs shall be retained by the trustee from the amount chargeable.**

12 Trustee Process; Application of Provisions. Amend RSA 512:48 to read as follows:

512:48 Application of Provisions. The provisions of this chapter, so far as they are applicable to actions in municipal **and district** courts, shall apply to actions and proceedings therein and to process issued therefrom~~[-but no party summoned as trustee shall have judgment entered against him until after notice has been given him to disclose, or after disclosure made].~~

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

AMENDED ANALYSIS

This bill:

I. Provides a process whereby filing with the court an inventory of assets held by a third-party trustee and due defendant shall constitute an appearance and no other formalities need be satisfied by the trustee, unless the inventory is challenged.

II. Provides that if a bank, trust company, or similar corporation is named as third-party trustee, and receives notice of attachment after 3:00 p.m. on a business day, such trustee shall have until the beginning of the next business day to effect the attachment.

III. Provides what constitutes default and the consequences of such default by a third-party trustee.

IV. Provides for an evidentiary hearing if the plaintiff or defendant disputes the extent of a third-party trustee's chargeability, or if the trustee denies property is subject to trustee process.

V. Provides a procedure whereby a trustee may pay assets into the court or turn assets over to a court-appointed receiver.

SB 464, relative to the use of municipal and school district facilities for stunt biking and relative to the sale of bicycles at public auction. **OUGHT TO PASS WITH AMENDMENT**
Rep. Loren J. Jean for Judiciary: This bill limits the liability of municipalities and school districts which allow stunt biking on public facilities by adding stunt biking to the statute which already limits liability for skateboarding. The amendment further amends RSA 471-C:13 to allow police departments to sell abandoned or lost bicycles regardless of their value (present statute sets a value of less than \$250) and the monies from the sale to be used for the support of local bicycle safety programs. Vote 12-0.

Amendment (4364h)

Amend the bill by replacing section 2 with the following:

2 Custody and Escheat; Bicycles Held by Police Departments. Amend RSA 471-C:13 to read as follows:

471-C:13 Property Held in Police Department Property Rooms. Notwithstanding any other provisions of law to the contrary, all noncontraband abandoned or lost personal property which has been held in a police department property room for a period of at least 180 days may be disposed of by the police department by returning it to the finder, if known, if the finder was other than a police officer who discovered the property during the course of the police officer's usual police duties. If the property cannot be returned to the finder, the property shall be sold at public auction with the proceeds to be turned over to the town or city treasurer. ***Except that any bicycle which has been held in a police department property room for a period of 180 days or more shall be sold at public auction with the proceeds to be used for the support of local bicycle safety programs, or, if no local bicycle safety programs are available, then with the consent of the local governing body, to be used for any other purpose.*** The police department shall be relieved of all liability for any claim thereafter arising or made with respect to property disposed of under this section.

AMENDED ANALYSIS

This bill limits the liability of municipalities and school districts which allow stunt biking in certain municipal or school district facilities and provides that bicycles held by police departments for 180 days or more shall be sold at public auction with the proceeds to be used for bicycle safety programs in the city or town.

SB 467, relative to the exemption from regulation of certain elevating devices. **OUGHT TO PASS**

Rep. Robert E. Clegg, Jr. for Labor, Industrial and Rehabilitative Services: This bill allows the Commissioner of Labor to exempt from certain elevator requirements, elevating devices used as "dumbwaiters" in restaurants. Vote 12-0.

SB 345, relative to real estate transfers. **INEXPEDIENT TO LEGISLATE**

Rep. Anthony F. Simon for Municipal and County Government: There was considerable testimony on this bill. While the sponsors' intent is laudable, the Committee is concerned about the negative unintended consequences. There was testimony that eliminating a filing requirement would make it more difficult to detect fraudulent, or less than full value, real estate transfers. Additionally, at least some municipal officers utilize the data contained in the filings involving small consideration transfers. The Committee also feels that municipal officials already have sufficient authority to properly administer the reconveyance of tax taken property. Vote 19-0.

SB 471, relative to authorizing the town of Seabrook to establish a reserve fund for tax stabilization related to the decommissioning of the Seabrook nuclear plant and ratifying articles 12 of the 1999 Seabrook annual town meeting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Betsey L. Patten for Municipal and County Government: This bill enables the town of Seabrook to create a tax stabilization fund to offset the potential tax rate increases due to future property devaluation caused by the decommissioning of Seabrook nuclear plant. The bill also ratifies the Newfields School District annual meeting and the Milan Annual Town Meeting, both held in March 2000. The Hampton Beach Village District needs to clarify their charter definition of “single family dwelling”. Since the charter was created by statute, the Municipal and County Government Committee voted to enable the district to hold a referendum vote. Vote 18-0.

Amendment (4430h)

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

AN ACT relative to authorizing the town of Seabrook to establish a reserve fund for tax stabilization related to the decommissioning of the Seabrook nuclear plant; relative to ratifying certain annual meetings in Newfields and Milan; and relative to amending the Hampton Beach village district charter.

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

1 Town of Seabrook; Nonlapsing Special Reserve Fund Authorized. Notwithstanding any provisions of law to the contrary, the town of Seabrook is hereby authorized to establish and maintain a nonlapsing special reserve fund for the purpose of tax stabilization to offset potential tax rate increases due to the decommissioning of the Seabrook nuclear power plant. Moneys appropriated or transferred to this fund shall be used as a revenue source to mitigate tax rate increases due to property valuation decreases at the time the Seabrook nuclear power plant is decommissioned.

2 Ratification of the March 6, 2000 Newfields School District Annual Meeting. All acts, votes, notices, and proceedings relating to article 1 of the Newfields school district annual meeting held on March 6, 2000, and the related public hearing, and notice thereof, held on January 29, 2000, are hereby legalized, ratified, and confirmed.

3 Ratification of the March 12, 2000 Milan Annual Town Meeting. All acts, votes, notices, and proceedings relating to article 2 of the Milan annual town meeting held on March 12, 2000 are hereby legalized, ratified, and confirmed.

4 Hampton Beach Village District; Charter Amendment; Tax Exemption Amended. Amend 1979, 414:6 to read as follows:

414:6 Hampton Beach Village District; Charter Amendment. The Hampton Beach village district is authorized to exempt owners of single family, ***owner-occupied*** residential dwellings in the Hampton Beach village district, ***which have not been rented at any time during the tax year***, from that portion of the village district property tax attributable to the promotion of Hampton Beach as a tourist attraction.

5 Hampton Beach Village District; Referendum; Ballot Question Language Amended. Amend 1979, 414:7 to read as follows:

414:7 Referendum. Section 6 of this act shall not take effect unless it is adopted by a majority vote of those present and voting at a special meeting of the Hampton Beach village district warned and held within 60 days of passage of this act for that purpose. The district commissioners shall include in the warrant for said special meeting the following article: “to see if the village district will vote to adopt the provisions of an act of the 1979 general court amending the Hampton Beach village district charter to provide that owners of single family, ***owner-occupied*** residential dwellings in the Hampton Beach village district, ***which have not been rented at any time during the tax year***, shall be exempt from that portion of the village district property tax attributable to the promotion of Hampton Beach as a tourist attraction.” No official ballot shall be used for the voting on said article. If a majority of

those present and voting on this question vote in the affirmative, section 6 of this act shall be declared to have been adopted. Within 10 days after said referendum the district clerk shall certify to the secretary of state the results of said vote.

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

AMENDED ANALYSIS

This bill:

I. Authorizes the town of Seabrook to establish a nonlapsing special reserve fund for tax stabilization related to the decommissioning of the Seabrook nuclear plant.

II. Ratifies the acts, votes, notices, and proceedings of an article of the Newfields school district meeting held March 6, 2000, and the Milan annual town meeting held March 12, 2000.

III. Makes a change to the Hampton Beach village district charter relative to a village district property tax exemption.

SB 72, exempting certain portions of Seabrook Beach Village District and certain portions of Hampton Beach from certain provisions of the excavating, filling, and construction permit laws. **INEXPEDIENT TO LEGISLATE**

Rep. Richard T. Cooney for Resources, Recreation and Development: This bill addresses problems obtaining building permits and their associated wetland permits for areas in the vicinity of Seabrook and Hampton Beaches. The Committee agrees that this is a significant issue which should be addressed. The Department of Environmental Services (DES) has assured the committee that rules will be in place in a reasonable time which will satisfy the intent of the bill. Therefore, this bill is not needed. Vote 15-0.

SB 406-FN-L, prohibiting the use of reformulated gasoline with watercraft on or in bodies of water that provide public water supplies. **INEXPEDIENT TO LEGISLATE**

Rep. David M. Lawton for Resources, Recreation and Development: HB 406 would prohibit the operation of gasoline-powered watercraft on all waters of the state which are sources of drinking water. Among the many lakes that would be closed would be the state's largest lake, Lake Winnepesaukee, as well as the Connecticut River, the Merrimack River and Lake Sunapee. Such a broad-reaching boating ban would devastate both recreational and tourist-related industries throughout the state. Further, this bill would be impossible and dangerous to enforce since both reformulated gas and normal (mbte-lite) gas are readily available and therefore would require open-water fuel sampling by Marine Patrol to determine which type of fuel was in the fuel tank. Phasing out reformulated gasoline across the fuel market place is the solution to this problem with mbte. Vote 15-0.

SB 460-FN, establishing a grant program to reimburse eligible districts served by municipal waste combustors. **REFER FOR INTERIM STUDY**

Rep. Harold V. Lynde for Science, Technology and Energy: The committee is supportive of the goal of the bill's sponsors in reducing mercury emissions at the Claremont municipal waste incinerator, but felt certain aspects of the bill required more study. The committee is also aware the subject matter of this bill has been added to HB 1349 by the Senate and will come before the House for action. Vote 17-0.

SCR 7, urging the federal government to consider the impacts on New Hampshire and the smaller states of interstate waste legislation. **REFER FOR INTERIM STUDY**

Rep. James J. Fenton for State-Federal Relations and Veterans Affairs: Public testimony left the committee with concerns relative to the solid waste disposal costs to our communities. Further investigation indicated two firms control waste management in New Hampshire. This coupled with the efforts to discourage the use of community incinerators may create a quasi-monopoly thus establishing "tipping" fees in a "hostage" environment. The community wishes to study this waste problem and voted to refer to interim study. Vote 14-0.

SJR 1, concerning the status of the White Mountain National Forest within the U.S. Forest Service's forest management plan. **OUGHT TO PASS**

Rep. Margaret E. Lynott for State-Federal Relations and Veterans Affairs: The White Mountain National Forest has successfully operated by the guidelines set in the 1911 Weeks Act for 90 years. Diversion from this approach will have an adverse affect on the ability to continue to meet the needs of the communities of the North Country and its 5,000,000 users per year. The traditional income generating uses of the forest that will provide a stable source of revenue to the forest, the state, and the towns should be continued and Congress should define ways to allow the revenues from these forest service related activities to remain with the White Mountain National Forest with a portion reimbursed to local communities. If the White Mountain National Forest is to continue under budgetary constraints and Congress does not fully fund its payments in lieu of taxes, the citizens of the North Country should be exempt from the Fee Pilot Program. Vote 14-0.

SB 337-FN, requiring any new resident applying for a permanent driver's license to be checked through the National Crime Information Center (NCIC) for outstanding warrants or court defaults, as a precondition to issuance, and authorizing interest penalties on unpaid violations. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Letourneau for Transportation: This bill would require any new resident applying for a permanent New Hampshire driver's license to be checked through the National Crime Information Center (NCIC) for outstanding warrants or court defaults as a precondition to issuance. This bill, while having a worthwhile intent, has many problems with its drafting. During the public hearing it was revealed that the Department of Safety did a pilot program in 1995. The department ran 16,000 checks yielding 1,600 possible hits which were then reviewed by civilian personal in the NHSP. All but 33 were then ruled out. These 33 were then turned over to SIU (State Police Intelligence Unit), of these 7 were correct. Of these 7, 3 should no longer be listed on the NCIC, leaving 4 names on the list. State Troopers were dispatched to the last known address of these individuals and none of the 4 could be located. This would be a labor-intensive program requiring at a minimum a labor grade 8 to 13 clerk in licensing, a second clerk in SIU, and a labor grade 17+ trooper to investigate possible hits. Each of these persons would require special NCIC system training. There would be the cost of additional troopers going into the field to check positive hits. The department estimates that the cost of this program would be a half a million dollars in the first half of 2001, with an annual cost of approximately \$350,000, if all license renewals were considered. This bill as amended by the Senate would only require those coming from out of state to be checked. Startup cost associated with this version would be approximately \$272,000, with an annual cost of approximately \$100,000 plus. However, this would cause the constitutionality of this measure to be suspect. To pass constitutional muster you must be able to show that out of state drivers are more likely to be criminals or have outstanding warrants or unpaid fines, thereby forcing the state to consider all license renewals. The committee also felt that this bill came with an incorrect fiscal note and was not able to properly consider the bill in the short time available to work on this proposed legislation. There were many doubts that this legislation would produce successful results. With the state in a fiscal deficit, the committee felt that the state resources could be better employed. Vote 15-0.

SUSPENSION OF RULES

Reps. Chandler and Burling moved that the Rules be so far suspended as to permit third reading and final passage at the present time of all Consent Calendar bills that had Committee reports of Ought to Pass or Ought to Pass with amendment. Adopted by the necessary two-thirds.

MOTION ON CONSENT CALENDAR BILLS

Rep. Chandler moved that all Consent Calendar bills that had Committee reports of Ought to Pass or Ought to Pass with amendment, be read a third time and passed.
Adopted.

LATE SESSION

Third reading and final passage

SB 310, relative to New Hampshire state-chartered banks and interstate banking.
SB 316, relative to “most favored nation” or “equally favored nation” provisions in insurance.
SB 332, relative to risk-based capital for health organizations.
SB 368, relative to insurance fraud.
SB 375, relative to motor vehicle dealerships.
SB 378, relative to Article 9 of the Uniform Commercial Code.
SB 383, requiring the department of health and human services and insurers to make prompt payments.
SB 302, relative to certain employment requirements for liquor licensees.
SB 413-FN, relative to confidentiality of addresses for victims of domestic violence, stalking, or sexual assault.
SB 470, relative to the administrative authority of the board of trustees for the regional community-technical colleges.
HB 1369-FN-L, clarifying authority to regulate asbestos.
SB 226-FN, relative to the real estate practice act and the powers and duties of the real estate commission.
SB 326, relative to the joint health council.
SB 328, making corrections to statutory references in certain fish and game laws and adding a rulemaking provision.
SB 446, relative to the integration of information technology at the state, county and municipal levels.
HB 1469, establishing a department of youth development services, advisory board, and relative to changing the name of juvenile services officers.
SB 136-FN, allowing certain state employees to take paid leave to participate in disaster relief service work.
SB 318-FN, relative to proposed joint maintenance agreements.
SB 324, relative to personal care services and providers.
SB 389-FN, relative to benefit options for surviving spouses and designated beneficiaries of deceased members of the retirement system.
SB 392-FN, relative to the use of nonlapsed funds by the regional community-technical colleges.
SB 415, relative to payment of group health insurance premiums for eligible retired members of the retirement system.
SB 422-FN, relative to the housing security guarantee loan program.
SB 428-FN-A, relative to the development of certain public health initiatives and making an appropriation therefor.
SB 448, establishing a guardians ad litem board.
SB 450-FN, prohibiting the importation of tobacco products that violate federal law.
SB 453, relative to the expending of legacies or gifts and the transfer of funds by the regional community-technical colleges.
SB 367, establishing a prescription drug access study committee.
SCR 5, a resolution urging the New England states and New York to consider cooperative strategies to address the challenge of the high cost of prescription medicines.
SB 338, relative to trustee process.
SB 464, relative to the use of municipal and school district facilities for stunt biking and relative to the sale of bicycles at public auction.
SB 467, relative to the exemption from regulation of certain elevating devices.

SB 471, relative to authorizing the town of Seabrook to establish a reserve fund for tax stabilization related to the decommissioning of the Seabrook nuclear plant and ratifying article 12 of the 1999 Seabrook annual town meeting.

SJR 1, a resolution concerning the status of the White Mountain National Forest within the U.S. Forest Service's forest management plan.

REGULAR CALENDAR

SB 231, relative to termination of water service from a water utility in the town of Pittsfield. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Richard T. Cooney for the Majority of Resources, Recreation and Development: This bill, as passed by the Senate, would prohibit anyone from disconnecting from the local public water utility and then secure water from an alternative source. The ban would last for 2 years, but the committee amendment reduced the interval to one year. This would allow the town of Pittsfield to take appropriate measures to insure the water safety of the community and to address the increasing financial burden on the customers of the water system. The majority of the committee felt this would be an appropriate response to this problem. Vote 9-8.

Rep. John T. Gallus for the Minority of Resources, Recreation and Development: This bill would prohibit the public from disconnecting from the privately owned water system in the town of Pittsfield, New Hampshire for a period of one year, as amended. Public safety issues are not addressed by this bill and the general public is protected by the New Hampshire Safe Drinking Water Act. The minority felt the town of Pittsfield, New Hampshire should address any problems with local ordinances and that this bill is unfair to local citizens and ratepayers. This bill is precedent setting and should be voted down as it was in its first committee vote of ITL of 9-5.

Amendment (4023h)

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect one year after the effective date of the remainder of this act.

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

AMENDED ANALYSIS

This bill provides that no customers of a water utility serving the town of Pittsfield shall have the right to terminate water service and secure water from an alternate source for a one-year period.

Adopted.

Rep. Gallus spoke against.

Rep. Cooney spoke in favor and yielded to questions.

The majority report failed.

Rep. Gallus moved Inexpedient to Legislate.

Adopted.

SB 472, relative to final authorization of electric rate reduction financing and commission action. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.

Rep. Jeb E. Bradley for the Majority of Science, Technology and Energy: This bill is the legislation necessary to implement the secure bonding provision (securitization) of the Settlement with PSNH. Work on this legislation began when HB 464 was enacted last July and in earnest in October when consultants were hired to advise the joint House and Senate Electric Utility Restructuring Oversight Committee. Members of the STE Committee have met numerous times with these consultants as well as senior staff of the PUC to review the Settlement, analyze other options, and draft this legislation. Per this amendment the

average rate reduction of all customers in the first year will be 16.3% and remain relatively stable. The consultant has built in price increases for the actual electricity (the competitive portion of a customer's bill) due to inflation and pressure on fossil fuel prices. Other analyses do not take these factors into account. It should be noted that residential customers will see about 3% greater immediate rate reduction than industrial customers. It is anticipated that this will be balanced by industrial customers' likely future ability to buy actual power at a slightly lower cost. The majority amendment clarifies that PSNH must write-off or otherwise reduce their stranded costs by \$474 million or securitization will not be available to PSNH. The majority amendment also insists upon other key conditions as a quid pro quo for securitization, including minimizing costs that could be deferred into the future, using realistic power prices in the first years of deregulation, barring PSNH from bidding to reacquire their generation assets, and establishing dates by which customer choice shall begin and the generation assets sold. Other key conditions include a five-year cap on the delivery charge if a merger occurs in order to capture savings from the merger, and a ban on recovery in delivery rates of any premium paid for PSNH in a merger. The amendment limits total securitization for PSNH itself to \$688 million, minus \$6 million per month of implementation delay, since customers are paying that \$6 million to PSNH every month in existing rates. The bill also allows for up to \$137 million of additional securitization financing to reduce the financing costs of the high price wood and trash plant contracts if agreements can be renegotiated with any of those plants. The majority believes that, although securitization creates a guaranteed recovery of the bonds from PSNH customers, it also provides considerable financing savings on these amounts that customers are already currently paying in their bills. The majority believes these conditions in the amendment, in particular the \$474 million reduction of stranded costs by PSNH, are critical. The conditions make the upfront securitization payment to PSNH balanced for both customers and PSNH, and produces net benefits for customers.

The committee and its consultants also carefully examined other alternatives to the Settlement, most notably a rate case. Some people believe that a rate case produces a better outcome than the Settlement when securitization is combined with a "Best Case" rate case outcome. The consultant's analysis has consistently concluded that though the amendment and the "Best Case" rate case have similar outcomes, the Settlement with the conditions imposed by amendment is about \$114 million better for customers over 13 years than the "Best Case" rate case. Competition is also implemented immediately. The downside risk of an outcome far worse for customers than a "Best Case" in a rate case is also eliminated. It should be noted that this legislation does not approve the entire Settlement, nor does it create any guaranteed obligations on the part of PSNH customers other than payment of the bonds, which are costs customers are already paying in existing rates. Finally, this Settlement with the conditions imposed on securitization will substantially reduce the rate gap between New Hampshire and other Northeastern states and will provide long term economic benefits to the state's economy. Vote 17-2.

Rep. Gary R. Gilmore for the Minority of Science, Technology and Energy: Despite the extremely diligent and meritorious work of the committee, the minority recommends this legislation be referred for interim study. Competition is not the panacea one might be expecting. The savings (if any) will come with serious risks incurred by the state in the form of securitization. While ratepayers will initially receive a significant decrease in rates, it is what happens over the next 3 to 8 years that most concerns the minority especially since PSNH ratepayers will almost certainly be paying the highest stranded cost charges in the nation.

Amendment (4471h)

Amend RSA 369-B:1 as inserted by section 2 of the bill by inserting after paragraph IX the following new paragraphs:

X. The differences among rate classes in the amount of the stranded cost recovery charge in the April 19 order are in the public interest. When these differences are combined

with the differences in the delivery service charge among rate classes (based on the cost of service), and with the differences in the likely market price of energy among rate classes, the overall total rate reduction is likely to be very close to an equal percentage for all rate classes, which is consistent with the benefits for all customers principle of RSA 374-F:3, VI. However, it is also in the public interest that any further adjustments to charges between the April 19 order and the final commission order approving the settlement be applied equally in cents per kilowatt-hour for all rate classes.

XI. The renegotiation of the wholesale power purchase agreements between PSNH and the 6 wood-to-energy facilities and the one trash-to-energy facility is in the public interest in order to reduce the total cost to ratepayers of these agreements, and the sharing of the benefits among all of the parties involved in the renegotiations is in the public interest.

XII. It is in the public interest in the event that the price of transition service prior to March 1, 2001, exceeds PSNH's actual, prudent and reasonable costs of providing such power so as to create a credit to customers that must be reconciled, that the distribution of this credit between reducing the amount of the stranded cost recovery charge and reducing the duration of the stranded cost recovery charge be made by the commission in a manner that it finds to be in the public interest.

XIII. Low income programs currently administered by Granite State Electric Company and by the New Hampshire electric cooperative appear to be achieving the goals of RSA 374-F. The commission should design low income program details so as to achieve similar low overhead and operating efficiency, and to maximize the fraction of the money spent that goes to the intended beneficiaries of the low income program.

Amend RSA 369-B:2-3 as inserted by section 2 of the bill replacing it with the following:

369-B:2 Definitions. In this chapter:

I. "April 19 order" means commission Order No. 23,443 in Docket DE 99-099 as it was issued on April 19, 2000, excluding any subsequent amendments.

II. "Commission" means the public utilities commission established in RSA 363, as it may be constituted from time to time, and any successor agency exercising functions similar in purpose to such commission.

III. "Competition day" means competition day as defined in the original proposed settlement.

IV. "Electric utility" means a public utility that provides retail electric service.

V. "End user" means any person or entity consuming electricity, including all retail customers.

VI. "Finance order" means an order of the commission adopted prior to or following the effective date of this chapter pursuant to 1999, 289:3, I, pursuant to this chapter, or pursuant to both 1999, 289:3, I and this chapter.

VII. "Financing entity" means any special purpose trust, limited liability company, non-profit corporation, or other entity that is authorized in accordance with the terms of a finance order to issue rate reduction bonds, acquire RRB property, or both on behalf of the electric utility, or any combination of such entities.

VIII. "Original proposed settlement" means the "Public Service Company of New Hampshire Restructuring Settlement Agreement" filed with the commission on August 2, 1999.

IX. "PSNH" means the Public Service Company of New Hampshire.

X. "Rate reduction bonds" ("RRB") means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, in accordance with this chapter, 1999, 289:3, I and II, and RSA 369-A, the proceeds of which are used, directly or indirectly, to provide, recover, finance, or refinance RRB costs, and which, directly or indirectly, are secured by, evidence ownership interests in, or are payable from, RRB property.

XI. "Retail customer" means any person or entity purchasing directly or otherwise obtaining or being supplied directly with retail electric service for end use consumption, including those served under special contracts.

XII. "Retail electric service" means the delivery of electric power through the provision of transmission and/or distribution service by an electric utility to a retail customer within its service territory or territories, regardless of such retail customer's source of electric power, and shall include any back-up, maintenance, emergency, and other delivery service provided to a retail customer by an electric utility.

XIII. "RRB charge" means those retail electric service rates and similar charges that are authorized by the commission in a finance order to recover those RRB costs that are eligible to be funded with the proceeds of rate reduction bonds pursuant to this chapter and the costs of providing, recovering, financing, or refinancing such RRB costs through a plan approved by the commission in the finance order, including the costs of issuing, servicing, and retiring rate reduction bonds. The RRB retail electric service rate or charge authorized by the commission may vary by cost of service, customer class, and between special contract customers. All RRB charges shall be assessed on a per kilowatt-hour basis.

XIV. "RRB costs" means expenditures which are incurred by an electric utility or which an electric utility is obligated to incur either prior to or subsequent to the effective date of this chapter, and costs approved by the commission to mitigate such expenditures, as shall be designated in a finance order approved by the commission and which may include but are not limited to:

(a) Expenditures incurred in respect of generation assets, entitlements, and acquisition premiums.

(b) Expenditures incurred in respect to the buyout, buydown, restructuring or renegotiation of wholesale purchase power contracts.

(c) Expenditures incurred in respect to regulatory assets.

(d) Expenditures incurred to refinance or retire existing debt or existing equity capital of the electric utility and any costs related thereto.

(e) Amounts necessary to recover federal or state taxes actually paid by an electric utility, which tax liability recovery is modified by the transactions approved in a finance order issued by the commission pursuant to this chapter.

(f) Reasonable costs, as approved by the commission, relating to the issue, servicing, or refinancing of rate reduction bonds under the provisions of this chapter, including, without limitation, principal and interest payments and accruals, sinking fund payments, debt service and other reserves, costs of credit enhancement, indemnities, if any, owed to the state or the trustee for the rate reduction bonds, issuance costs and redemption premiums, if any, and all other reasonable fees, costs, and charges in respect of rate reduction bonds.

XV. "RRB property" means the irrevocable vested property right created pursuant to this chapter and one or more finance orders, including, without limitation, the right, title, and interest of an electric utility or a financing entity in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the RRB charge authorized to be imposed and collected pursuant to such finance orders to recover RRB costs and the costs of paying, financing, reimbursing, or refinancing the RRB costs, including the reasonable costs of issuing, servicing, and retiring rate reduction bonds, and in and to all rights to obtain adjustments to such RRB charge pursuant to the terms of RSA 369-B:4, III and the finance order, all as determined by the commission in its approval of such finance orders. "RRB property" shall constitute a current and irrevocable vested property right, notwithstanding the fact that the value of such property right may depend upon electricity usage or the performance of certain services.

XVI. "Security interest" means a security interest as defined in RSA 382-A:1-201(37).

XVII. "Service territory" means, with respect to any electric utility, the geographic area established by the commission as the retail electric service territory of such electric utility, as such territory is depicted on the "Electric Utilities Franchise Areas" map issued by the commission, dated July 1, 1993, together with any other geographic area in which such electric utility actually provided retail electric service on such date.

369-B:3 Authority to Issue Finance Orders to Finance RRB Costs.

I. The commission is authorized, upon the petition of an electric utility and after a hearing, to issue one or more finance orders pursuant to which rate reduction bonds shall be issued, if the commission finds that the issuance of such finance order or finance orders is in the public interest as set forth in RSA 369-B:1, IX. Any finance order adopted pursuant to 1999, 289:3, I and II prior to the effective date of this chapter shall, following the effective date of this chapter, be deemed to be authorized by this chapter, provided the commission has made the required finding pursuant to RSA 369-B:3, IV(b).

II. Notwithstanding any law, rule, or regulation to the contrary, except as otherwise provided in RSA 369-B:4, III with respect to RRB property, the finance orders and the RRB charge authorized to be imposed and collected pursuant to such finance orders shall be irrevocable, and the commission shall not have authority either by rescinding, altering, or amending the finance order or otherwise, to directly or indirectly, revalue or revise for ratemaking purposes the RRB costs, or the costs of providing, recovering, financing, or refinancing the RRB costs, determine that such RRB charge is unjust or unreasonable, or in any way reduce or impair the value of RRB property either directly or indirectly by taking such RRB charge (other than any portion of such RRB charge constituting a servicing fee payable to the electric utility) into account when setting other rates for the electric utility; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination.

III. Notwithstanding any law, rule, or regulation to the contrary, any requirement under this chapter, under 1999, 289:3, I and II, under RSA 369-A, or under a finance order that the commission take action with respect to the subject matter of a finance order shall be binding upon the commission, and the commission shall have no authority to rescind, alter, or amend that requirement.

IV. The commission shall only issue finance orders that:

(a) Authorize the issuance of a total of no more than \$137,000,000 in rate reduction bonds to finance renegotiated agreements of the existing wholesale power purchase agreements between PSNH and the 6 wood-to-energy facilities and the one trash-to-energy facility; or

(b) Authorize the issuance of a total of no more than \$688,000,000, minus \$6,000,000 for each month from July 1, 2000 to competition day, in rate reduction bonds. This authorization is in addition to any amount authorized in subparagraph (a). This issuance must be part of a settlement approved by the commission under RSA 374-F to implement electric utility restructuring within the service territory of PSNH. Any finance order that is issued under this subparagraph (b) shall contain a finding by the commission that the rate reduction bonds authorized by the finance order are consistent with the April 19 order, plus any subsequent amendments, and that implementing the terms of the April 19 order, plus any subsequent amendments, shall result in the following:

(1)(A) Prior to March 1, 2001, PSNH shall supply transition service and default service in its retail electric service territory. Subsequent to February 28, 2001, any provider or providers of transition service shall have been chosen through a competitive bid process, administered by the commission, to provide such service. The commission may, if it finds it to be in the public interest, divide the competitive bid process into multiple categories or multiple competitive bids;

(B)(i) Transition service for residential customers and small commercial customers that do not have installed demand meters shall be available through February 28,

2003. Through February 28, 2001, the price of transition service for these customers shall be \$0.044 per kilowatt-hour. From March 1, 2001 to February 28, 2002, the price of transition service for these customers shall be \$0.044 per kilowatt-hour, or the competitively bid price for transition service, whichever is less. From March 1, 2002 to February 28, 2003, the price of transition service for these customers shall be \$0.046 per kilowatt-hour, or the competitively bid price for transition service for these customers, whichever is less. If the competitively bid price exceeds these fixed prices, the differences shall be reconciled for these customers in the manner prescribed in the original proposed settlement;

(ii) At the end of the transition service period, up to 25 percent of the residential customers and small commercial customers that do not have installed demand meters and who have not chosen a competitive supplier may be assigned randomly to registered competitive suppliers other than the transition service supplier or suppliers. The commission must find such random assignment to be in the public interest. The commission shall develop procedures and regulations for this assignment process. Any random assignment must be approved by an individual customer;

(C) Transition service for all other customers shall be available through February 28, 2002. Through February 28, 2001, the price of transition service for these customers shall be \$0.044 per kilowatt-hour. From March 1, 2001 to February 28, 2002, the price of transition service for these customers shall be the competitively bid price for transition service;

(D) Any difference between the price of transition service prior to March 1, 2001, and PSNH's actual, prudent and reasonable costs of providing such power shall first be separated between the 2 groups of customers described in subparagraphs (B) and (C), and then reconciled for that group of customers in the manner prescribed in the original proposed settlement, or, if the commission finds it to be in the public interest, a decrease in the stranded cost recovery charge;

(E) The commission shall retain the authority to reject any or all bids for transition service at its sole discretion if it finds such action to be in the public interest. Except as specifically provided in this section, the commission may not accept any bid or implement any pricing strategy for transition service that creates any deferrals;

(F) The selection of a provider or providers of default service prior to March 1, 2003 may be combined with the selection of a provider or providers of transition service to the extent that the commission finds it to be in the public interest;

(2) No amount shall be securitized which was not listed as part of the \$688,000,000 proposed for securitization in the April 19 order, as reduced by any subsequent amortization;

(3) Customer savings through reductions of stranded costs shall be not less than the total amount of \$474,200,000 contained in the April 19 order, including the \$367,000,000 contained in the original proposed settlement, the \$6,200,000 resulting from the settlement of issues pertaining to the New Hampshire electric cooperative, and all additional amounts contained in the April 19 order;

(4) In the event that PSNH or its parent company is acquired or otherwise sold or merged, such merger, acquisition, or sale shall be subject to the jurisdiction of the commission under RSA 369, RSA 374, RSA 378 or other relevant provisions of law, and the merger, acquisition, or sale shall be approved only if it is shown to be in the public interest;

(5)(A) The delivery service charge shall be fixed for a period of 30 months from competition day, except as provided herein, at \$0.027 per kilowatt-hour for the first year and \$0.028 per kilowatt-hour for months 13 through 30;

(B) In the event of a merger, acquisition or sale of PSNH or its parent company prior to 5 years after competition day:

(i) The delivery service charge shall be fixed, except as provided herein, at \$0.027 per kilowatt-hour from the effective date of the merger, acquisition or sale until 5 years after competition day;

(ii) At any time after such a merger, acquisition or sale, the commission has the authority to reduce the delivery service charge, upon petition by other parties or under its own authority, to reflect additional cost savings that result from the merger, acquisition or sale in excess of those assumed to create the rate savings in subparagraph (b)(5)(B)(i);

(iii) From 30 months after competition day until 60 months after competition day, the commission shall, upon petition and demonstration by PSNH that its achieved return on equity for the previous 12 months is less than 5 percent before taxes, increase this delivery service charge by an amount that will allow return on equity of 5 percent before taxes;

(iv) No acquisition premium paid by an acquiring company for the assets or securities of an acquired company, resulting from any such merger, acquisition or sale, may in any way increase rates at any time from what they would have been without the acquisition premium.

(6) If any rated rate reduction bonds, rated Triple-A by any major bond credit rating specialist, are issued prior to October 31, 2000, with an all-in cost greater than 7.25 percent, PSNH assumes all incremental costs of servicing the bonds resulting from exceeding the 7.25 percent rate;

(7) The total systems benefit charge shall be fixed at \$0.002 per kilowatt-hour for 36 months from the effective date of the commission-approved settlement, divided equally between low-income assistance and energy efficiency/conservation programs. In the event that money is collected but not spent during the initial 12-month period or any succeeding 12-month period, it shall be refunded to ratepayers;

(8) All currently existing opportunities shall be continued for retail customers to generate or acquire electricity for their own use, other than through retail electric service, without an exit fee;

(9) Non-discriminatory, open access to PSNH's transmission system shall be available to wholesale customers, electricity suppliers, marketers, aggregators, and municipal electric utilities, with charges based only on rates set by federal regulations, plus the actual cost of service for any services not subject to federal price regulation;

(10) The stranded cost recovery charge, averaged over all customers, shall not exceed \$0.0340 per kilowatt-hour, and its duration shall not exceed the estimated term as provided in the April 19 order, except in accordance with the provisions for adjustment contained in the April 19 order. Any changes in the delivery service charge, stranded cost recovery charge, transition service charge, systems benefit charge, or any other charge from those estimated in the April 19 order shall be applied as an equal change in the cost per kilowatt-hour for all customer classes;

(11) There shall be no changes to the April 19 order that have or may have, as determined by the commission in the finance order, an adverse financial impact on ratepayers, unless additional write-offs or other ratepayer benefits are provided, in addition to those provided by the conditions of this subparagraph (b) and by the April 19 order, to adequately compensate for such adverse financial impacts;

(12) The commission may not order changes in the total rates of customers taking service under special contracts approved pursuant to RSA 378:18 for the duration of those special contracts in effect as of May 1, 2000. The commission may require special contract customers to use reasonable diligence whenever they acquire electricity;

(13) During any sale of electricity generation assets required by this settlement, neither PSNH, nor any affiliate of PSNH, nor any company that would become an affiliate of PSNH if an announced merger, acquisition or sale were to be consummated, may bid for those assets;

(14) During any competitive bid process to determine a provider or providers of transition service or default service, neither PSNH, nor any affiliate of PSNH, nor any company that would become an affiliate of PSNH if an announced merger, acquisition or sale were to be consummated, may bid to provide such service;

(15) The commission shall administer the liquidation of any electricity generation assets required to be sold by the settlement. Any sale of assets located in the state of New Hampshire that are administered by the commission pursuant to this paragraph shall be conducted in this state. The commission shall hire an independent, qualified asset sale specialist to conduct the asset sale process. PSNH shall be allowed to comment prior to the selection of any such specialist;

(16) The commission shall administer any competitive bid process for transition service or default service required by the settlement;

(17) Competition day shall be not later than October 1, 2000, unless the commission finds due to circumstances beyond its control that further delay is in the public interest;

(18) The sale of fossil generation assets shall take place no later than July 1, 2001, unless the commission finds due to circumstances beyond its control that further delay is in the public interest;

(19) In the event that the commission does not approve a sale of Seabrook, the return on equity shall be increased from 7 percent to 150 basis points more than the average 10-year Treasury bond yield for the preceding 6 months, but not less than 7 percent nor more than 11 percent, from the time of the disapproved sale until Seabrook is sold. If this time period is more than 6 months, the return on equity shall be readjusted at the end of every 6 months; and

(20) No final finance order shall be effective until PSNH has withdrawn all pending litigation in Federal court.

Amend RSA 369-B:4, VII as inserted by section 2 of the bill by replacing it with the following:

VII. Notwithstanding any statutory or regulatory language to the contrary, end users who generate or acquire on-site electricity for their own use as permitted by existing law and regulation in effect as of January 1, 2000, shall not be subject to an exit fee in whole or in part. An exit fee is any rate or charge that is based in whole or in part on the amount of electric power and/or retail electric service a customer might have purchased from or through an electric utility but does not, for any reason. End users who generate electricity for their own use shall include joint users of electricity, including their on-site successors and assigns, who are using electricity generated primarily for their own use at a site owned by one or more of such users, and such users or their predecessors were sharing the provision of power as of January 1, 2000.

Amend RSA 369-B:5, I as inserted by section 2 of the bill by replacing it with the following:

I. An electric utility or financing entity may, from time to time, after approval by the commission in a finance order or orders, issue rate reduction bonds. The power and authority of such electric utility or financing entity to issue such bonds shall expire on December 31, 2002.

Amend RSA 369-B:5, VII(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, state banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries and electric utility consumers may properly and legally invest funds, including capital in their control or belonging to them; and Amend RSA 369-B:5, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. Rate reduction bonds shall mature at such time or times approved by the commission in the finance order, but not more than 14 years after competition day.

Amend RSA 369-B:6, III as inserted by section 2 of the bill by replacing it with the following:

III. An electric utility may sell and assign all or portions of its interest in RRB property to an affiliate to the extent approved in the pertinent finance orders. An electric utility or its affiliate may sell or assign its interests to one or more financing entities that make that property the basis for issuance of rate reduction bonds to the extent approved in the pertinent finance orders. An electric utility, its affiliate, or a financing entity may pledge RRB property as collateral, directly or indirectly, for rate reduction bonds to the extent approved in the pertinent finance orders providing for a security interest in the RRB property, in the manner set forth in RSA 369-B:7. In addition, RRB property may be sold or assigned by:

(a) The financing entity or a trustee for the holders of rate reduction bonds in connection with the exercise of remedies upon a default; or

(b) Any person acquiring the RRB property after a sale or assignment pursuant to this paragraph.

Amend the bill by replacing all after section 2 with the following:

3 Restructuring Policy Principles; Universal Service. Amend RSA 374-F:3, V(b) to read as follows:

(b) As competitive markets emerge, customers should have the option of stable and predictable ceiling electricity prices through a reasonable transition period, consistent with the near term rate relief principle of RSA 374-F:3, XI. Upon the implementation of retail choice, transition service should be available for at least ~~[2]~~ **one** but not more than 4 years after the start of competition, for customers who have not yet chosen a competitive electricity supplier. Transition service should be procured through competitive means and may be administered by independent third parties. The price of transition service should increase over time to encourage customers to choose a competitive electricity supplier during the transition period. Such transition service should be separate and distinct from default service.

4 New Subparagraph; System Benefits Charge; Limitations. Amend RSA 374-F:4, VIII by inserting after subparagraph (f) the following new subparagraph:

(g) The portion of the system benefits charge due to programs for low-income customers shall not exceed 1.0 mills per kilowatt-hour in any part of the state for a period of 3 years starting on competition day for PSNH as defined in RSA 369-B:2, III.

5 Option for Municipalities Purchasing Certain Electric Facilities. Municipalities which seek to purchase PSNH hydro-electric small-scale electric facilities, as defined in RSA 374-D:1, may with the consent of the governing body, prior to October 1, 2000, petition the commission pursuant to RSA 38:9, prior to holding the vote of qualified voters provided for in RSA 38:3, RSA 38:4, or RSA 38:5, for a determination of the fair market value of the facility in the event that the municipality and PSNH are unable to agree to a price to be paid for the facility. The cost of the determination shall be at the expense of the requesting municipality. The commission should hire an independent, qualified asset valuation specialist to conduct the asset valuation process. If this option is chosen, all votes required by RSA 38:3, RSA 38:4, or RSA 38:5 must be held prior to the expiration of the time limit required for the ratification vote under RSA 38:13.

6 Public Utilities Commission Action. If by August 1, 2000, the public utilities commission has not made an affirmative finding as part of a finance order under RSA 369-B:3, IV(b), relative to a settlement involving PSNH, or PSNH has not agreed to the conditions of the approved settlement for which the commission has made an affirmative finding under RSA 369-B:3, IV(b), then the commission shall:

I. Suspend the Public Service Company of New Hampshire (PSNH) Restructuring Settlement Docket No. 99-099 and resume, as allowed by law, all other dockets stayed by the commission as it addressed Docket No. 99-099.

II. Take such action as is in the public interest regarding temporary rates as authorized by RSA 378:27.

III. Proceed with litigation at the New Hampshire supreme court on whether the 1989 Rate Agreement is a contract and on whether PSNH and Northeast Utilities may have breached any such contract or, by their actions, allowed any such contract to be voided.

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

Adopted.

Reps. Phinizy and Gilmore spoke against and yielded to questions.

Reps. Rose, Dickinson and Donald White spoke against.

Rep. MacGillivray spoke in favor.

Reps. Guay, Naida Kaen, Norelli and Bradley spoke in favor and yielded to questions.

Rep. Bradley requested a roll call; sufficiently seconded.

The question being the adoption of the majority report.

YEAS 212 NAYS 125

YEAS 212

BELKNAP

Boriso, Thomas	Czech, Stanley	Holbrook, Robert	Millham, Alida
Pilliod, James	Rosen, Ralph	Russell, David	Thomas, John
Turner, Robert	Wood, Jane		

CARROLL

Babson, David Jr	Bradley, Jeb	Chandler, Gene	Howard, Godfrey
Lyman, L Randy	Mock, Henry	Patten, Betsey	Philbrick, Donald

CHESHIRE

Blaisdell, Michael	Burnham, Daniel	Hunt, John	Lerandeau, Alfred
Lynch, Margaret	Manning, Joseph	Robertson, Timothy	Royce, H Charles
Smith, Edwin	Zerba, Roger		

COOS

Davis, Perley	Gallus, John	Guay, Lawrence	Horton, Lynn
Mears, Edgar	Merrill, Gerald	Pratt, Leighton	Rodrigue, Robert
Tholl, John Jr			

GRAFTON

Almy, Susan	Cobb, John	Copenhaver, Marion	Densmore, Jessica
Guest, Robert	Ham, Bonnie	Marshall, Gene	Nordgren, Sharon
Scanlan, David	Ward, Brien		

HILLSBOROUGH

Ahern, Richard	Alukonis, David	Arnold, Thomas Jr	Arthur, Rose
Baroody, Benjamin	Batula, Peter	Belvin, William	Bergeron, Lucien
Brundige, Robert	Buckley, Raymond	Burkush, James	Calawa, Leon Jr
Carlson, Donald	Chabot, Robert	Clegg, Robert Jr	Clemons, Jane
Cote, David	Cote, Peter	Coughlin, Pamela	Craig, James
Curran, James	Daigle, Robert	Dalianis, Griffin	Dawe, Eileen
Desmarais, Vivian	Desrosiers, William	Dokmo, Cynthia	Drabinowicz, A
			Theresa
Durham, Susan	Dwyer, Paul Sr	Dyer, Merton	Fields, Dennis
Ford, Nancy	Foster, Linda	Franks, Suzan	Ginsburg, Ruth
Goley, Jeffrey	Haettenschwiller,	Jean, Claudette	Johnson, Lionel

Keye, Harvey	Alphonse	Kurk, Neal	L'Heureux, Robert
LaPorte, George	Konys, Christine	Lasky, Bette	Leonard, Peter
Lozeau, Donnalee	LaRose, Richard	MacGillivray, Jeffrey	Martel, Andre
McCarty, Winston	Lynde, Harold	McGough, Tim	McRae, Karen
Melcher, Harold	McDonald, James Sr	Messier, Irene	Milligan, Robert
Moriarty, Mary	Mercer, Robert	O'Connell, Timothy	O'Hearn, Jane
Pappas, Marc	Mosher, William	Peterson, Andrew	Reeves, Sandra
Reidy, Frank	Pepino, Leo	Sargent, Maxwell	Simon, Anthony
Thulander, O Alan	Sarette, John	White, John	Williams, Carol
	Vaillancourt, Steve		

MERRIMACK

Anderson, Eric	Asplund, Bronwyn	Bouchard, Candace	Brewster, Richard
Crosby, Toni	Daneault, Gabriel	Davis, Francis	Feuerstein, Martin
Hager, Elizabeth	Hess, David	Hoadley, Elizabeth	Leber, William
Lockwood, Priscilla	Marshall, Kenneth	Maxfield, Roy	Potter, Frances
Reardon, Tara	Rosenfield, Jay	Seldin, Gloria	Wallner, Mary Jane
Whalley, Michael	Whittemore, James	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Arndt, Janet	Belanger, Ronald	Bishop, Franklin
Blanchard, MaryAnn	Case, Margaret	Christie, Andrew Jr	Cooney, Richard
Cox, Russell	Dearborn, Bruce	DiFruscia, Anthony	Downing, Michael
Flanders, John Sr	Francoeur, Sheila	Gleason, John	Grant, Kenneth
Griffin, Mary	Hutchinson, Rebecca	Johnson, Robert	Kane, Cecelia
Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane	Kelley, William
Langley, Jane	Lovejoy, Marian	Major, Norman	McKinney, Betsy
Norelli, Terie	Noyes, Richard	O'Keefe, Patricia	Pantelakos, Laura
Pitts, Jacqueline	Priestley, Anne	Sabella, Norma	Schanda, Frank
Shelton, Richard	Shultis, Elizabeth	Stone, Joseph	Stritch, C Donald
Tufts, J Arthur	Varrell, Thomas	Weare, Everett	Weatherspoon, Jackie
Whittier, John	Zolla, William		

STRAFFORD

Berube, Roger	Brennan, William	Callaghan, Frank	Dunlap, Patricia
Kaen, Naida	Keans, Sandra	Knowles, William	Lent, Donald
Lundborn, Raymond	Musler, George	Rogers, Rose Marie	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Taylor, Kathleen	Twardus, Joseph
Vincent, Francis	Wall, Janet		

SULLIVAN

Burling, Peter	Cloutier, John
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NAYS 125

BELKNAP

Bartlett, Gordon	Boyce, Robert	Johnson, James	Wendelboe, Francine
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CARROLL

Dickinson, Howard	Kenney, Joseph	Sullivan, P Judith	Torressen, Gary
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CHESHIRE

Avery, Stephen
McGuirk, Paul
Pratt, John

Batchelder, Robert
Meador, David
Richardson, Barbara

DePecol, Benjamin
Mitchell, McKim
Roberts, William

Lynott, Margaret
Pratt, Irene
Rose, William

COOS

Landers, Dana

GRAFTON

Akins, Ralph
Gilman, G Michael
Johnson, Gary

Alger, John
Hall, David
Mirski, Paul

Brothers, Richard
Harmon, Hobart
Solow, Martha

Eaton, Stephanie
Hinman, Harry
Weber, Phil

HILLSBOROUGH

Andrews, Frederick
Christiansen, Lars
Garrish, Linda
Herman, Keith
Jean, Loren
Mendenhall, Leslie
Wall, Nancy

Beaupre, Roland
Daniels, Gary
Gorman, Mary
Herman, Richard
Lefebvre, Roland
Moran, Edward
White, Donald

Bergin, Peter
Fletcher, Richard
Goulet, Maurice
Holley, Sylvia
McCarthy, William
Murphy, Robert
Withee, Dennis

Bruno, Pierre
Flora, Kathleen
Hall, Betty
Hunter, Bruce
McColgan, Philip Jr
Rowe, Robert

MERRIMACK

Chase, George
Jacobson, Alf
Marple, Richard
Soltani, Tony

Fortnam, Janet
Kennedy, Richard
Owen, Derek
St Cyr, Gerard

Fraser, Marilyn
Larrabee, David Sr
Poulin, Dave
Virtue, Carolyn

French, Barbara
Lavoie, Gerard
Rodd, Beth

ROCKINGHAM

Beaulieu, Jon
Gibbons, Paul
Letourneau, Robert
Nowe, Mary Lou
Putnam, Ed II
Rubin, George
Vaughn, Charles

Clark, Vivian
Hamel, Albert
Mikowski, Walter
Nowe, Ronald
Quandt, Marshall
Sapareto, Frank
Weyler, Kenneth

Fesh, Robert
Henderson, Warren
Moore, Benjamin
O'Neil, Michael
Raynowska, Bernard
Splaine, James

Flanagan, Natalie
Kobel, Rudolph
Morse, Charles
Packard, Sherman
Reardon, Neil
Stickney, Nancy

STRAFFORD

Bickford, David
Domingo, Baldwin
Pelletier, Arthur
Vachon, Dennis

Brown, George
Gilmore, Gary
Pelletier, Marsha
Woods, Phyllis

Cossette, Larry
Johnson, Nancy
Spang, Judith

DeChane, Marlene
McKinley, Robert
Torr, Franklin

SULLIVAN

Allison, David
Kibbey, David
Wiggins, Celestine

Donovan, Thomas Jr
Leone, Richard
Young, David

Flint, Gordon Sr
Phinizy, James

Jones, Constance
Tuthill, John

and the majority report was adopted.
Ordered to third reading.

DEBATE ON SENATE BILL 472

Rep. Burling moved that the debate be printed in the Journal.

Adopted.

Rep. Phinizy: Thank you very much, Madam Speaker. Before I start, I would like to thank the honorable colleague and representative from Wolfeboro, the Chairman of the Science and Technology Committee and his entire committee. Throughout this entire debate and discussion our honorable colleague has been very open, evenhanded and very fair in his handling of this matter and I would like this body to commend him for that. That being said, I rise in opposition to Senate Bill 472, as amended, and would ask this body to overturn the committee report and consider the minority position of Interim Study. While it may be represented that this legislation is the definitive approach to a settlement, deregulation and, therefore, competition, it really represents nothing more than a corporate entitlement and does not achieve the desired end, true laissez-faire competition. We are told that securitization is considered the linchpin to reach a settlement, attain competition and justifiable compensation to Public Service of New Hampshire for stranded costs. But, what are stranded costs? They are nothing more than unrecoverable costs which the utility could not pass on to its customers in a fair and competitive market. They are, among other things, the purchase premium Northeast made for Public Service over the budget costs of Seabrook and premium costs of the power producers. They are costs as a result of erroneous projections in the past and poor management. Securitization is nothing more or less than a cash settlement on the utility and an advance for these costs. The customer, however, is going to be obligated for 12 years to pay over \$825 million regardless, and I say regardless, of whether or not rates rise and regardless of whether or not Public Service or, if the merger goes through, Consolidated Edison is even financially solvent in six or seven years. Now, one criteria for securitization is the sale of Public Service's fossil and hydro-generation plants. A requirement of the sale is that these plants may not be bought or bid by Public Service, Northeast Utilities or its potential acquisition partner, Consolidated Edison. Competition, accordingly, would be assured and deregulation incontrovertible if this were to occur. But will it occur? Actually, acquisition of these assets by Consolidated Edison is absolutely unnecessary for it already has generation capacity rendering moot the criteria for divestiture or rendering moot the argument that they should or shouldn't be able to pick-up these generation assets. In reality, competition will not be any more immediate as a result of this. Deregulation and competitive choice will not be advanced any sooner. Are we not exchanging a smaller fish for a larger one in the financial food chain? Securitization will merely transfer the burden, which is a result of previous market mistakes, from the utility to you all and your constituents, the ratepayers. It has been represented that securitization, issuing rate reduction bonds, is much like refinancing high credit card debt with lower interest home equity loans. Were this the case, there truly would be more of an incentive for the ratepayer as there would be a tangible asset upon repayment. But, there isn't. In the case of securitization, it is more like a collateral note where not only does the ratepayer actually be the co-signer for another's debt and not only does the ratepayer pay down the principal and interest as well, but there is only a hint of a benefit and nothing more tangible possibly than three, four or five years of reduced rates. Let's look at some of the aspects of the amended version of Senate Bill 472 and I would refer you to your Calendar if you would like to look at it; specifically, on page 1287 and I believe it is RSA 369-B:3 IV, section (5) (B) (iii) "From 30 months after competition day until 60 months after competition day, the commission shall, upon petition and demonstration by PSNH that its achieved return on equity for the previous 12 months is less than five percent before taxes, increase this delivery service charge by an amount that will allow return on equity of 5 percent before taxes." Think about that. Is this conducive to competition? Is this a level playing field? It looks suspiciously like a glass floor through which rates will not go should the utility suffer at the hands of competition or bad management. Let's go to another page, on page 1288, RSA 369-B:4, VII "Notwithstanding any statutory or regulatory language to the contrary, end users who generate or acquire on-site electricity for their own use as permitted by existing law and regulation in effect as of January 1, 2000, shall not be subject to an exit fee in whole or in part. An exit fee is any rate

or charge that is based in whole or in part on the amount of electric power and/or retail electric service a customer might have purchased from or through an electric utility but does not, for any reason. End users who generate electricity for their own use shall include joint users of electricity, including their on-site successors and assigns, who are using electricity generated primarily for their own use at a site owned by one or more of such users, and such users or their predecessors were sharing the provision of power as of January 1, 2000.” Now, is this laissez-faire competition or, in reality captured market? By requiring customers, we, as I said before, the end users, are to pay securitization charges regardless of choice. It is an attempt to lose load-loss. Load-loss is basically the concern which will be explained and load-loss has to deal with growth in electric usage or consumption. It is definitely to insulate the utility from competitive market forces. I refer to the transcript of the Joint Electric Oversight Restructuring Committee on Monday, May 1st and I’d like you to read some selections because if you don’t mind and you’ll indulge me, I think there is a bit of confusion in here and I think this is why we need to go to the interim study. The honorable member from Loudon asked one of technicians or one of the experts a very interesting question and his question was: “In your formula here, where are the assumptions? Are they just in energy costs? Why should we at this point agree that those are probably accurate over the next 12 years?” Now, bear in mind that 12 years is basically the life of the note or the life of rate-recovery bonds. He also asked: “Wouldn’t we be better off not signing on to something that is going to bind us for 12 years?” The expert replied: “I mean it is an excellent question. We did make assumptions in 1989 or whoever was involved with -- and I’m going to have to edit here by saying with the settlement at that time -- made assumptions that didn’t pan out. There are some protections in the settlement agreement and modifications to the eventuality occurring here as well. The primary assumptions built into this are energy cost forecasts. They have two effects on the analysis. One effect is critical to your support.” Now, let’s go on. He sums it up by saying: “So, for example, if energy prices” – and this is interesting about the stranded costs, – “if energy prices go way up, alright, then what ends up happening is that in the future, not in an unpredictable manner, then we would have paid over this period, or we will end up paying over this period, too much for stranded costs. The reason for that is because we will have effectively sold off all our generating assets for too little money.” He continues to go on and he says, “We can’t forecast energy prices perfectly.” And, he sums up the thought by saying: “That’s the bed we are making, in many respects as a result of the entire process.” I then continued on and I was reading this transcript. I attended the hearing, and I was reading this transcript and the honorable member from Dover who will address you a little bit later on, asked a very interesting question regarding securitization and regarding load-loss: “But, would you also say that there are some other assumptions you have accepted and that is that there wouldn’t be significant load-loss?” The response was: “Well, there is in all of this analysis not only is there not load-loss, there is an average two percent a year load-growth.” This is a key issue. At this point the honorable representative from Dover responded by saying: “I mean certainly if we look at a paper mill, such as one up in Groveton going off line, we are looking at a fairly significant load-loss initially. I just want to get on the record that this could be an underpinning that could actually collapse and we could be looking at another huge dilemma six or seven years from now.” I could go on and I could read to you aspects about this and you will see within this transcript there are contradictions. At one point, you have the experts and the committee discussing whether or not utilities will grow; whether or not there will be a growth and load factor and just exactly what is going to happen and what is the justification. One of the summations I thought was utterly phenomenal that justified this two percent growth and, therefore, why we should have securitization was: “There is a very close correlation between income and electricity consumption and we find that this phenomenon, when you decrease rates by 16 or 18 percent, you allow the consumer surplus to stay in the hands of the ratepayers and they will spend some of the money on more electricity.” Now, is that a scientific analysis – and they will spend some of the money on more electricity? It’s automatic They’ll buy an appliance

that consumes more electricity or they will buy an additional appliance. Now, is that what we call logical analysis of the situation as to why we are expecting about a 35 percent growth and I'm doing a simple compound over the next few years? I don't think so. At any rate, what is evident is that securitization is somewhat based upon the growth in load or as we want to call it colloquially, the demand for electricity. Growth in this formula is absolutely necessary. Where have we seen this before? Should projected growth not occur and load or demand taper off, then the obligation to the ratepayer will be extended for two additional years to a total of 14 years. So in actuality this is a note that could go two years beyond the original projection day. Regardless of competition and regardless of whether one self-generates and regardless of whether the utility is even around by year 14, this is a problem and should load growth significantly grow, then we will have paid way too much. I consider this a lose-lose situation. Yet, load growth is based upon uncertainties and faulty assumptions. Remember what was in the transcript quotes and the principle is we can't forecast energy crises perfectly or, "there is a very close correlation between income and electricity consumption." When you decrease rates by 16 to 18 percent, you allow consumer surplus to stay in the hands of ratepayers. Now, we are making some assumptions based on the very simple fact that this whole growth pattern is going to continue for another 10 to 12 years and we are already into about 10 years of what I consider a very strong growth cycle. I consider the projections to be somewhat faulty. At any rate, this presumes that we will have continued economic growth for the next 12 years and we will continue to use wasteful gadgets and that we will not strive towards advances in alternative generation. There are contradictions that are well, well established in a lot of these assumptions. I stand in opposition to securitization as it does not offer a level playing field where companies can compete in a heads-up manner and I want to read one last thing and I thank you for your indulgence. This comes from a fellow who has been the Attorney General for the state of Michigan since the mid 60s and he stated in his opposition to securitization, I think this is a very important point: "A competitive market exists when there are few, if any, barriers to entry such that many buyers and many sellers can come together to allow competition to drive down the price of electricity. Real and meaningful competition in an open market also must include a level playing field for all competitors, not just the current local monopoly utilities. No participant in the electric marketplace should have artificial advantage derived as a result of the previous regulatory scheme." Now, think about that. The single greatest failing of the securitization concept is that it does not allow, and in fact impedes, competition. It creates barriers to entry and a playing field skewed in favor of the incumbent providers and thus the price of electricity will not be driven down. It does not benefit, therefore, the ratepayer, the customer or the end user. It does not benefit the utility but it does benefit the utility and stockholder as evidenced by ConEdison's rather precipitous quick acquisition offer. I wonder if it were a true quid pro quo, meaning to say, that if there really were a true equation to this, that if it were a true quid pro quo and an equitable trade, would Consolidated Edison have been so quick off the mark with an offer to purchase Northeast Utilities? I'd like you think about that. Now, as an investment advisor looking at the protections and the cash asset position due to securitization as a result of the stranded costs, I definitely would recommend acquisition of the utility by another utility. However, as an advisor to my constituents I cannot recommend securitization. Thank you, Madam Speaker and thank you all very much for your indulgence.

Speaker: Would the member yield to questions? Rep. Cloutier, you may inquire.

Rep. Cloutier: Rep. Phinizy, I'm going to ask you the opposite sort of question I asked the Chairman of the Science, Technology and Energy Committee this morning. Can you tell me why should I vote against this agreement because frankly I'm one of the representatives and there are some out there who live in communities where we are not serviced by PSNH and if I vote for or against it, it is really not going to affect my constituents that much in my opinion. So I'm wondering why I should vote against this since the overwhelming majority of the Science, Technology and Energy Committee has approved this bill.

Rep. Phinizy: Thank you very much for your question. I could indulge this body with another speech for about 20 minutes, but I don't think they would appreciate that. Why you would want to vote against this is, very simply, it is not good enough of a financial arrangement. If we look at New Hampshire as a corporation and we consider our bond rating as far superior to the bond rating of Northeast Utilities, I feel that what we should be getting out of securitization is a much bigger bang for our buck. I've filed legislation to that effect requesting, effectively, an annual premium and little bit of an action or play with any profits that may be derived from the sale or the merger of the utility. So, if you subscribe to securitization and you like the idea of the indebtedness, the only thing that would justify it would be us receiving more of a kickback. Does that answer your question? So, therefore, I wouldn't vote for it for that reason.

Rep. Guay: Thank you, Madam Chairman. Before I start, on the table in the back there are some charts that have been prepared by the consultants as well as the Science and Technology Committee so if you want more information on charts that is going to be discussed later by Reps. Bradley, MacGillivray and Norelli. I'd like to say that this is not a new item. On Science and Technology, we have been at this for at least four or five years. The first thing that happened were the roundtable discussions that took place at the PUC. From there, I believe that the Attorney General at that time was Jeff Howard or Steve Merrill, so we go back a little ways on this. It is not something new that just came out that was presented this year that we are going to be acting upon. To this date, we have heard a lot of scenarios. We've seen at least, I would say, about 12 feet of documents that were presented between the PUC, the electric industry and some of the members that were involved in the restructuring. Jeff MacGillivray, the MIT professor that we utilize in writing a lot of our material on the Science and Technology and we pay the huge sum of \$100 a year, tells me that it is more like 20 feet rather than 12 feet so I take his word for it because he read much more than I did. I'd like to say this afternoon you are going to be hearing a lot of people that will come in before you, probably, saying this is not a good bill, that we should be doing something else. Just think for a minute, I had the idea, let's buy them out. Many of them thought the same way. How many years in court would we be? We checked with our consultants that we have hired. We could be forever in court in trying to acquire by eminent domain. So the committee, in looking in all the aspects of it, is more or less ruling that out. There are a lot of good things that could happen but what we are presenting to you here this afternoon is factual, what did happen, and just a start. When we started on this particular restructuring we had the principles that we had a bill on 1492, I believe it was that time or 1392, and we established the criteria of how we were going to move and do something. To bring you up to date and furthermore before we go any further, the Science and Technology Committee has asked the leadership of the House not to whip this bill. It should stand on its own merits and we have done a lot of work on it and I think we understand it much better than those probably that would be doing the whipping. We asked that this bill would not be whipped. Hopefully, we can convince you this afternoon to pass this bill because it is very crucial that we move ahead. If we don't do that, we will have business as usual and we will still be the highest in the state, just remember that. That could do it without us and still be much higher. Securitization, if they want it let them pay for it. I can tell you right now that Public Service Company is not happy about the Science and Technology Committee. They have never been happy. I don't think they are going to be any happier if we pass this bill this afternoon. Just this last year, on June 14, 1999, a memorandum of understanding was filed with the PUC by the settling parties who included the Governor and the Energy Office, the AG, certain staff of the PUC, Public Service Company and Northeast Utilities. It provided a basic outline for settlement of restructuring Public Service Company with the signatory agreement to work towards the development of a formal settlement document. At the end of the session of the legislature, House Bill 464 that we passed established the criteria for the Public Utilities Commission to use when judging the anticipated Public Service Company settlement proposal and it should include securitization. Though the bill did not contain

securitization at that time on House Bill 464, it provided a means for Public Service Company for the PUC's deliberation on the anticipated settlement. To compare the settlement to the alternative scenarios just as completing the existing Public Service rate case and you are going to be hearing about the rate case which we evaluated completely with our consultants. That bill also authorized the legislature to hire a consultant to assist reviewing and anticipating settlements of other electric restructuring matters. At the end of July, the Electric Utility Oversight Committee issued a request for proposals to hire a consultant for the General Court and established a select subcommittee to review the submissions and to make recommendations to the full committee on the oversight. The selections subcommittee reviewed 11 proposals submitted in response to the RFPs and held interviews with five of the responders in August. On September 8th, the Oversight Committee agreed that the team of Dr. Richard Silkman and Attorney Anthony Buxton should be hired as the General Court consultants to recommend by selection of the subcommittee. The Oversight Committee has held 12 meetings with the consultants. The meetings have been dedicated to reviewing the Public Service settlement proposals. The Oversight Committee has taken the following action: On January 14th, they adopted the preliminary position on needed changes on the Public Service Company settlement which subsequently filed with the PUC by Representative Bradley. Those long English words, you know, are sometimes a little hard to say. They are better off in French. I can write them but the tongue is in French. On February 23rd, they adopted a position of General Court of Representative Bradley's final brief to the Public Service settlement docket. We had discussed this on the Oversight Committee. We agreed on it. Jeb Bradley filed it on benefit of the Committee and we reviewed possible securitization legislation. The consultants have prepared the following document for the committee. We didn't come into this House and just write the bill ourselves, the consultant that we hired, which is the best in the country and they are out of Portland, Maine, they always fought for the consumers. I made sure when I was on the Review Committee that it was not somebody involved with public utilities, that we could be getting some wrong signals. So, they never, according to them, they always represented the majority of the consumers and the customers. A preliminary settlement comparing the proposed settlement with the likely range of the outcome should the traditional rate case be pursued, with or without securitization. That was done by our consultant. So we are not coming in today blind and say that we should have a rate case. We have done it, we've been through it, we've examined it and we feel this is the best way that we are presenting it to you the way the bill is today. The preliminary legal analysis concluded that the 1989 rate agreement between the state and the Northeast Utility is not a contract and even if it is, Northeast Utilities has breached it by failing to fulfill its commitment under the energy-sharing agreement as referred to in the 1989 rate agreement and that was prepared by our attorney, Buxton. The preliminary proposed change in the Public Service settlement based on the preliminary position documented and adopted by the committee on January 14th, the PUC action on August 2nd, the settling party filed with the PUC the proposed Public Service settlement. In mid-August, the PUC opened the docket on the proposed Public Service settlement and used other Public Service Company of New Hampshire proceedings, such as the rate case pending the outcome of the settlement review. The settlement proceedings were broken in two phases. The first phase in mid-August to mid-November, the PUC heard testimony from settling parties who were questioned by non-settling parties on the merits of the settlement and decided that the settlement was worth further consideration and proceeding to Phase II. In Phase II in November through the present, the PUC heard testimony from non-settling parties who were questioned by the settling parties and have taken final briefs from all including one filed by Representatives Bradley and Gilmore. The PUC issued an order on April 19 approving the settlement with certain conditions. Public Service of New Hampshire accepted most of the conditions but requested and was granted re-hearing at the PUC concerning IRS restrictions on \$78.6 million and certain additional stranded cost reductions. Now we are in the year 2000 of the

legislation. Sen. Below, who was a good member of the House at one time, with numerous House and Senate co-sponsors, introduced Senate Bill 472 the day after the PUC order was issued, but we had been working on that bill for several weeks prior to that as a whole committee between the Senate and the House. It authorized securitization for Public Service of New Hampshire should certain conditions be met similar to those contained in the PUC order. Senate Bill 472 passed the Senate with the amendment on May 3rd and the bill is here to be voted on today. I would ask you, I think this is the time that we have been waiting for. I would hope that you vote for this particular bill. I have been here for 22 years. I've seen what happened to the others and it is nothing compared to what happened in 1989. We never spent that much time in the House but we did this time and I think we did a tremendous job. I praise the Science and Technology Committee and praise the people on that Science and Technology Committee, the engineers, a graduate of Dartmouth, of Tufts University, ATT and Bell Atlantic and all the good people that we know and they know what the utilities are. When you deal with utilities and you have utility people on the other side that really understand the questions that they want heard have to come out one way or the other. I would ask you today to be very cautious in hearing from the other side, because, actually we wished that the other side would have sat with us for the last six years. The questions they bring out to you are legitimate. There is no question about that. I had the question that we wanted 6.5 cents a kilowatt hour and that is it, but to be factual it may happen in five years, it may happen in six years, but to tell you actually what we did in the restructuring of utilities as far as the telephone company you are just starting to see something happening, where they call you up and they say five cents a minute, six cents a minute. Before it was a monopoly just like the utility. The market took place and the market is going to take place on this one here. I just hope that those who have been coming up to me many times and saying: "Let's buy them out, let's do this, let's do that," were the same people who at one time were involved in the other Granite State Electric to a certain extent. I don't want the United Kingdom to come out and buy everything here. I think we threw the kings and the queens away a long time ago and they are not about to come in and control this part of the country and I hope that ConEd, when they merge with NU, hopefully that this is it. So, I would ask you today to be very careful in listening and especially listen to Rep. Bradley who has certain things to be talked about, Rep. Norelli that has something else on the technical part as well as Rep. Bradley and possibly Rep. MacGillivray, which I don't know what happened but somebody shut his transformer off. He can't talk. He's got laryngitis, but he may be able to say a few words. So bear with us and hopefully before the day is over, that we need to pass this so we can have a committee of conference and I don't anticipate much changes in the committee of conference but it will come back to this House. So please, help us out. Let's conclude. Let's do it and I hope you vote for it.

Speaker Sytek: Would the member yield to a question? Rep. Dickinson, you may inquire.

Rep. Dickinson: Thank you, Madam Speaker. Rep. Guay I take it then that you are very pleased and proud of the deal you put together.

Rep. Guay: I've been looking at utilities since 1970. I've never been proud of any deal that they make with us. Actually, I'm proud of what the Committee is doing, but I would be more proud if we could cut it in half, but it's not going to happen. You have to be factual. You have to be realistic and you have to move ahead. And if we don't then I'd hate to see the future.

Rep. Dickinson: Are you aware of the fact that Wall Street has a lot of confidence in what you've done because the price of the Northeast Utilities stock hit a four-year high last week?

Rep. Guay: I didn't know that because I don't buy the stock. I don't buy stock. But I can tell you when we first started in here in New Hampshire, we were one of the first ones that started the deregulation and this is across the country and the natural gas has got a lot to do with that. Actually, we are going to become one of the last ones to pass it. So, we have been cautious. We've been careful. We refined and refined all these documents until today. Does that answer all your questions?

Speaker Sytek: Does the member yield? Rep. Marple, you may inquire.

Rep. Marple: Thank you, Madam Speaker. The concern that I have is on this securitization here. This is what was put out by Reps. Bradley and Norelli and MacGillivray on May 11th. My concern is over this part here: the securitization is a process that creates a bond of \$688 million for PSNH in stranded costs. Now, PSNH receives cash of \$688 million and the bonds are guaranteed for repayment by customers per this legislation. My question is: is this constitutional? Can this legislature encumber everyone of the people that are purchasing this electricity in the future? Do we have a contract here? How can we contract the people that are purchasing this from a private corporation?

Rep. Guay: To answer your question, I believe that our attorney, which is one of the best and they have 65 members in their law firm, I think if we get into that problem, they would have told us. My understanding is that it is constitutional. But as far as it goes on this, on the technical questions of the merits, I would leave to Reps. Bradley, Norelli and MacGillivray which we assigned for that for today's purpose so that we don't answer twice. We want to give the right answer.

Rep. Rose: Thank you, Madam Speaker and members of the House. I am against the majority Ought to Pass motion but I agree with the minority report for Interim Study. I feel that there are too many unanswered questions with this, even though we have a lot of information. We almost have too much information and it makes it as if you are looking into a fog when you look at the PUC booklet especially. As many people say, the settlement or the agreement or contract or whatever it is or will be, because it hasn't come to the point where there is a contract or an agreement yet. This is just a preliminary until the PUC and the legislature can reconcile some of the differences and there are some differences in one and the other. This \$688 million plus \$137 million to buy down the wood-to-power generating plants is actually only part of the stranded costs. There are many millions more involved and we will be paying the stranded costs for a long, long time; probably until 2026 or even until 2030. Who knows? Nobody knows. The PUC does say, in its docket and you have a copy of it, 99099, that quote, this is a quote from the PUC booklet: "Ratepayers will shoulder approximately \$1.9 billion to \$2.3 billion of claimed stranded costs." By the way, we have never really had substantiation of what these claimed stranded costs are. They just give us a total. That's not much. This is a quote: "Despite the benefits of the settlement, rates will remain high, above the regional average for a significant period." This is the PUC talking: "...and the commission finds, that the settlement as filed, is not in the public interest." Changes, orders or recommendations are in docket 99099 if you want to look it. They did say that stranded costs must be reduced by \$78.6 million and this is why today they are having that hearing down at the PUC because PS -- I call them PS because I don't like to put the NH on there, it is not a naughty thing, just I like to call them PS -- PS doesn't agree with that, that's why they are going for a consultation I guess you'd call it, and a consultant, that Larry Guay was talking about, the consultant to the joint committee said: "NUPS may have overstated its stranded costs." May have overstated it. Many people think it is way out of line. They may have overstated it by about \$400 million. That is quite a lot. Since they are writing off the same amount, they are actually recovering most of their stranded costs, basic stranded costs. What they are giving to ratepayers is two or three years of a nice little carrot in the first two or three years but then they are going to tuck it to us, I'm pretty sure. Can we really trust NUPS management? I use that word management because it is probably only two or three people, because of the merger, two or three people are running this whole thing, I believe. Can we trust them to abide by any new agreement or contract if you want to call it that? By the way, we should figure out and the PUC should figure out is this what the contract is going to be or is this just an agreement? Perhaps we do need a contract. Last time, we had an agreement and they called it a contract. Now, we should call it a contract. They will probably call it an agreement. Who knows? They violated the 1989 agreement in 1997 and I think it was last year. I think it was last year, wasn't it, that they were fined \$10 million by the federal government for violating safety regulations at their nuclear plants in

Connecticut, Millstone I, II or III, I forget. I can't remember a lot of things about deregulation and utility industry competition. Are we going to have competition? It doesn't look like it from this angle. Where is the competition coming from? I don't think there is going to be any. Now, if Con Edison merges with NUPS, I believe that competition will be largely a myth and will evaporate over time. Now, here is my effort at a little comedy here. The electric cow in the electric pasture could evolve into an electric bull elephant and who can compete with a bull elephant if their names are Ed, NU and PS, I mean ConEd, NU and PS? Finally -how do you like that word "finally" – new babies born this year, new babies born this year in the hospitals in New Hampshire and maybe others that will move here when they grow up and get married, have a house or an apartment and living in bliss, they will look at their electric bill, and guess what? They will be paying stranded costs of the Seabrook nuclear plant until at least 2026. Do we want to leave this kind of legacy to our children and grandchildren? I don't think so. A long time ago, Nelson Rockefeller was running for President and he said that we should pay as you go. Is this pay as you go or is this pay and pay and pay and make our grandchildren pay? Thank you very much.

Rep. Naida Kaen: Thank you, Madam Speaker. Members of the House, I don't think it would be very productive to go through every detail. I was elected to this House in 1995 and have been on the Science, Technology and Energy Committee since then. Soon after my election, since we were in the throes of drafting the legislation presumably for competition, I was honored along with the members then of Science, Technology and Energy who stood before this House and were applauded because we were the first state to vote in a bill to presumably move us forward into competition. Now, competition in the electric industry is possible only in terms of the purchase of your energy. We will still have a monopoly when all is said and done in terms of the delivery of that energy to our homes. Keep that in mind. We'll be left with a utility that will continue to be a monopoly but we'd like to move away from that because monopolies aren't very efficient. They aren't forced to be cost effective. In place of the market controlling them, we have a Public Utilities Commission who attempts to screen and scrutinize the costs that they incur. That is the situation we've had for all these years now in terms of this natural monopoly. We now have an opportunity to spring free of a piece of that. Only a few months ago, I stood in front of you and argued that we ought to tread softly. I spoke against securitization at that point in time. I'm not speaking against securitization now because I think it is the best course of action that stands before us. We need to forget the past. This state and this state's government participated in the 1989 rate agreement. We bear some responsibility for that and so do the shareholders of Public Service Company of New Hampshire and their successors. However, what we do now today must be what is in the best economic interests of the state of New Hampshire. We have to look ahead and decide what are our choices. We can continue to hold firm and refuse to offer this legislation as security for the bonds that are going to be issued and we can continue to pay stranded costs until litigation, years and years of it; continue and in the meantime we continue to pay stranded costs. We have no way of knowing how long that will take until we reach resolution. I have been on the fence on this issue for a long time. I'm concerned about the irrevocable nature of what we will do here today if we vote this in. However, in contrast to that we are approached by businesses who are concerned about being able to budget for the future, being able to make decisions for 10 or 12 years into the future about just what will happen. In my private life, I have recently taken up real estate. What I have discovered is that when there is a good deal of uncertainty with regard to a property, people assign an enormous discount. If you can make that property look very nice, as though there is nothing wrong with it at all before you sell it, people will often offer the asking price. But, if there is some question about the septic system or about the roof, they are going to assign the highest possible cost in their own minds to protect themselves. Well, businesses will do the same as far as the state of New Hampshire and expansion and location here are concerned. They will hesitate because we have not achieved resolution and they will assign a very big discount to the probability of things going even more awry in the future and that, basically, is why I

have decided to come down in favor of this legislation and no longer to sign on with the skunk button bearers that you see among you today. I think we need to come to closure and we have before us and heard before us from the consultants who are very creditable experts in the field, their assessment that this is probably the best deal that we can cut, that this is probably as far as we can go without being accused of taking a public utilities property. In that interest, I stand here before you and ask you to vote for the legislation that is in front of you and hope that, and I assure you I will be watching as well as every member of my Committee, that what comes out of a committee of conference will, in fact, result in an outcome that will give us a competitive market in one aspect, the energy section. Maybe someday we will be free of the rest of the monopoly as well. This is the best we can do for today. Thank you, Madam Speaker.

Speaker Sytek: Would the member yield to a question? Rep. Alger, you may inquire.

Rep. Alger: Thank you, Madam Speaker and thank you, Representative, for taking my question. I commend you for the thought of competition, I agree with that. But, I understand there are four states in New England that are trying to do the same but they haven't gotten to it yet because of competition not coming to the prices. Now, I understand from my co-op which is now in competition, pure and simple, that is what we went to, that we are going to have a price of about five cents over the next year, so why in this deal don't we just go to competition and face into the five cents rather than having what looks like to me ...(tape change)... deferred because of the fact it is 4.2/4.4 why didn't we go directly to competition? Thank you.

Rep. Naida Kaen: I think there was some concern we've already shortened that transition period. There was some concern that there are among us individual consumers who would be shocked by having and perhaps completely confused by having to deal with the same thing we are currently dealing with as far as telephone choices and this constitutes really a compromise. I took your position, too, Representative, to some extent, but I was persuaded by the argument that we need a transition period. I think a two-year period will allow that market to develop.

Rep. Alger: In the Wall Street Journal on May 11th, there was an article about the problem of generation. We are not seeing gas-fired generation being built so I am very skeptical to your point that we will see that and these New England states are already hung-up. Isn't it possible that we'll just get hung up on transition pricing and never be willing to face the market and be back in some form of regulated utility again?

Rep. Naida Kaen: I'm sure anything is possible but I certainly don't envision that. I do hope that when the two years are over with, we've had enough attraction to the market and a critical mass among other the states in the area so that this will develop as it did in the telephone industry. I'm sorry, I don't have perfect foresight either.

Rep. Dickinson: Thank you, Madam Speaker and fellow members. I rise in opposition to the majority report and I'd like to put this in some historical perspective. I've been here for 26 years. I was here when the Clamshell Alliance was holding up Seabrook down at the shore and that is the reason we are here today with these problems. They completely shutdown Seabrook and cost PSNH an incredible amount of money. That was followed up by a restriction against being able to charge construction works in progress. The telephone company can charge this and does it all the time, but PSNH couldn't. We now realize that was a tremendous mistake and that was made in the late 70s. Now, we have about every 10 or 11 years this kind of thing happens. So, of course the thing that happened was, of course, PSNH went flat broke and bankrupt and in 1989 we were persuaded to make a deal which was absolutely terrible and we are all paying for it now. Now, I understand that the Science, Technology and Energy Committee is very pleased and proud with all the effort they put into this proposal that you have before you. I would be, too. It has taken a tremendous effort on their part and they really have done the best they could do given the circumstances. The only problem is we are not good at making these deals. The private sector, ConEd, Northeast Utilities, pay hundreds of thousands of dollars to individuals to figure out a deal which

makes sense to them. I'm not saying we shouldn't be able to compete, but somehow we, the state, never seem to get a good deal and I am very nervous about the current proposal. I'm ashamed to say I voted for the deal in 1989 and I'm not going to do it again and I ask all of you to please vote down the committee report and let's see what happens. There are those who say the consumer will make out much better if we go to a rate case and I'm inclined to agree with them. The stockholders of Northeast Utilities will not make out better and I'm not worried about them because what I'm worried about and concerned about are the people who pay for electricity in this state of New Hampshire. Thank you very much, Madam Speaker.

Rep. MacGillivray: Madam Speaker and ladies and gentlemen, I rise in support. My voice won't hold out long so you won't get a very long speech today. That should please some of you. First, I would like to draw your attention to the chart that has been shown to many of you that says business as usual is worth about \$200 million dollars more than Senate Bill 472. Ladies and gentlemen, we've been asking our financial consultants since day one to please give us apples-to-apples comparisons to make sure we have similar assumptions in every case so that we don't have problems like that. Unfortunately, that chart is not apples-to-apples. I can add and subtract and it is just not there. If you use different energy prices and make a few other different assumptions, you'll get a funny comparison. You need to look beyond the first eight years because after the first eight years all sorts of good things happen under Senate Bill 472 that don't happen under business as usual. One of the things that SB 472 does is it takes a large block of costs which we would be paying for Seabrook between now and 2026, it gets them all out of the way by 2012, so you have savings in those future years and they are worth something. The PUC stopped its chart after eight years, so the person doing the comparison stopped his chart after eight years. But in the ninth year, as you can see from other charts we did, there is a huge saving for Senate Bill 472 because at that point the stranded costs charge goes down because at that point a whole bunch of stranded costs have been either paid or won't ever be paid and PSNH will have to eat them. I'd like to comment further on an assumption that is built into the business-as-usual scenario. To make it look good, they ask you to assume that you can securitize, that is refinance, a whole bunch of money while you are litigating whether you have to pay it or not. Ladies and gentlemen, one of the fundamental principles of securitization refinancing is that you don't refinance an amount and agree to pay it until you are done arguing over whether you are going to pay. So, we would wind up waiting a few extra years for the litigation to be completed before we could do that. What securitization is doing – we talk about this guarantee that ratepayers will have to pay this, but ladies and gentlemen, the ratepayers are paying these costs now, and under business-as-usual they are going to keep paying these costs, and the way they stop paying these costs is if they go off the system and if they go off the system under business-as-usual or Senate Bill 472 they stop paying these costs so that doesn't change. All of the red herrings regarding what if people leave the system, are just that, red herrings, because they come into play in both scenarios. The only difference is that people are less likely to walk off the system if the prices are lower. The lower the prices the less attractive generating your own electricity is. Securitization simply takes costs ratepayers are paying now and would have continued paying anyway and refinances them at a lower interest rate. It is sort of like taking credit card debt at 12 or 13 or some other percent and refinancing it. Once you've figured out that you are going to pay it, why not bring the interest rate down to seven-and-a-quarter percent? You'll save a bunch of money that way. If the ratepayers are going to have to pay the costs anyway, why not reduce the carrying costs? Delay in securitization costs customers money. About three years ago, the PUC had a chance to approve some deals between PSNH and six of the wood-fired power plants. These deals would have produced \$150 million of customer savings by, in effect, refinancing some and not running the plants quite as much and the PUC decided there weren't enough dollars there for us. So what has happened, if we went back and tried to recreate those deals today we might get \$80 or \$100 million instead of \$150 million. During

the past few years, we have paid those stranded costs and the potential savings as a result of the delay have quite literally gone up in smoke. If a rate case were conducted, suppose we were extremely fortunate, suppose we get an outcome better than what the PUC thinks is reasonable best case, an outcome better than what our consultant thinks is a reasonable best case. Suppose we get the \$200 million extra but given that PSNH has taken us to court over everything else, they'll probably litigate this one as well and after a few years, we may find that even if litigation goes as well as we have any reason to hope, the extra delay in securitization winds up costing us back all the dollars we got from a better settlement in litigation. Now, as you know, our track record on litigation has not been actually stellar. We haven't won too many an, quite frankly, what we may be doing is comparing what we might get with what we can get and it may turn out that what we might get, the extra \$200 million, is not only a low probability occurrence but it is one that is accompanied by enough extra costs that we don't really win. Of course, if we lose the litigation, then we will be even worse off because we won't get the \$474 million in write-offs. We won't get the \$300 million in securitization savings because time has gone by. We'll get a smaller number. So, to come out ahead with a rate case we'd need an extremely good result from litigation, inconsistent with our track record, and we'd have to get it fast enough that delays in securitization savings didn't offset that almost-entire gain. Me - based on what I've been told by our consultant who told us from the start, the settlement, as proposed, isn't good enough just like the PUC said, but who also said put another \$100 million into this and it is a better deal for ratepayers which, incidentally, is what the PUC also said with \$101 million extra this is in the public interest - I'd rather take a bird in the hand than the promise of three-quarters of a bird in the bush. How soon will we see real competition? We are setting our energy price higher than most other places that have tried to set a ceiling on prices. People said they don't see the gas plants being built. Well, we've got our gas plants permitted in New Hampshire, we're just waiting for the folks in the power grid to hook them up and give them permission to connect. What we are seeing are some other plants are under construction and should be up and running within a few months, not necessarily in time for the tight market this summer when we will be very close to capacity. But, between these immediate plants coming on this fall and a bunch more coming on in the next year, we will have a more competitive market with some reserve capacity in place for the future. Ladies and gentlemen, this issue is too important for politics. We're paying all of these costs now. We're overwhelmingly likely to be required to keep paying them in the future. Senate Bill 472 gives us \$474 million in PSNH write-offs, \$101 million more than the original settlement, and sets us up for over \$300 million of refinancing savings now. That is a lot of savings and we've looked at a lot of alternatives and none of them look like if you put a reasonable expectation on how things will come out in the long run and put in reasonable probabilities of different things happening, all of the alternatives look 100 million or more worse. Ladies and gentlemen, we've been digging into this issue for six years. We've had our consultants working for six months. We are ready to say this is about the best we are going to do. I hope we can convince you to vote with us in favor of the committee recommendation of Ought to Pass with Amendment. Thank you.

Rep. Donald White: Thank you, Madam Speaker. I rise before the body today to speak against this bill. With reference to one of the prior speakers, I'm glad that he brought it up because I am an engineer. The way I look at things is in the way in which I was educated to examine each component and if I ever designed a machine the way this situation has evolved into this rather sad component we call legislation, I would have been drummed out of the industry years ago. With respect to my friend from the North country, I have been at this for six years myself, I've read every document. I'm a pretty good reader, I understand very well what I read and I can interpret it very well. That gentleman was in the unfortunate position of having to translate into French, which is not so easy. But this bill is called the final bill, perhaps. But it might be the final blow to ratepayers because if you notice that every single item that PSNH might think might be used to their advantage, they have pushed and shoved

and whined and resisted right to the end, back to before the PUC again. They found another technicality and I imagine that they will do that as long as they are in existence. But that is not the real question. We are looking at and you have heard considerable about securitization so I'm not going to explain it, but to put it to you on the basis that unless you guarantee them this special treatment, and that is all it is, I don't know that the state has ever given this to anyone else for any reason, it is a bribe and unless they get it there is no deal. I think that is a wonderful situation for a committee to face. Give us the money or there is no deal. They have a certain amount, I don't know what it will eventually come down to if it is passed on to the end user. But the amount of money they will be able to use freely will help them let you pay over the next ten years about \$90 million a year in excess stranded costs that we should not be paying for in return for a savings if we securitize about \$22 to \$23 million that they are going to give us. If you play that to each year, you'll see it as a considerable difference. That is really not something I would understand is really logical, it would be to big business. The blurb also mentioned the fact that if they did not securitize immediately or take advantage of it, we would be paying about \$6 million a month that they would have to deduct. Now, we have been told: "Let's not look back", but I think maybe you should consider a couple of things. If you take \$6 million a month and you apply it over the past 132 months they've handled over or approximately \$800 million. These are not exact figures because the months may be a little bit off. During that period of time they transferred NU from themselves and from Seabrook in excess of \$400 million. I didn't see that anywhere in anything that they wrote down prior to this point, and yet we are told we should forget the past. It is an interesting situation to me. We were also told that the rate case had been calculated. It certainly has not. That again offends me as an engineer. If it had been done on parallel lines and they could prove conclusively that one was better than the other, I would stand here and tell you that it was, because an engineer must when he sees the figures. What it is, is speculation on what might happen best or worse case without the real foundation that you need to have. I respect the intelligence, the expertise of these people but as an individual who represents other people who trust me, I must know that this is an accurate projection and I don't know that and I'm very concerned about that. Then I have in front of me a lawyer's letter, seven pages, and I believe everyone on the committee and the other people have had it, and this letter states emphatically that there is no rate agreement. There is no rate agreement and why it has not been taken to court before this I can't explain to you. Why the PUC in its order I can't explain to you. I think this is a travesty. The letter goes on to say that if indeed there were that the companies have already abrogated that agreement by failing to do certain things that they were supposed to do under that set agreement and I have all the data and that disturbs me too because no one looked at that. So, I think you are being rushed to judgment. Now, I was also on the floor when the banner of HB 1392 was unfurled before this body. It was an outline of just and idealistic principles that I felt would direct this state towards something equitable for the people who have paid the bill for so long and I'm talking about the average individual, I'm not talking about business. They have succeeded and they have, in spite of the problems and in spite of the individuals who think that this might inhibit them in the future, kept coming into the state and have made this a better place. They will also by this agreement prosper in the next few years much more so than the average individual so that there should be no fear of any economic development interference whatsoever, regardless of what you do today. Our job is to see what we can do for the many. But, what I see you being asked to do is have that flag struck, folded and then placed away into a storage area for legislative dunnage to be looked on by historians in the future and wonder why these people did this and they saw no result. So, I will repeat that business has always had the courage to move ahead but they usually moved ahead on the basis of technology. If you look at the bill and examine it you will see there is a great possibility that the use of technology by individuals or groups to manufacture their own electricity at a lesser rate could be prohibited because PSNH feels that if this were the case, if this were allowed, they would not get the triple A bond that they desire so that

they can get the money they want us to pay on an irrevocable basis. This is a very strange situation to me. It is something that I have been wrestling with for months. Should I free people from this discourse, from this irritation that is constant, or should we decide to be a little bolder, maybe a little braver and say the heck with it, we are going to dig in our heels and we are going to take these people to court and we are going to beat them and I think we can? But, if we don't do that and we inhibit technology every other state in this country will adopt that technology. Then, if you are worried about the economic future of this state, then you have a real concern. You can't ignore that advance. You can't inhibit that advance and you have to, where it is useful to the individuals of this state, you must adopt that advance. But for me it goes even further than that, and I'll digress a little bit from statistics or opinion or speculation because a lot of it is. I'm a member of a school board. The past week has been one of the most stressful weeks I have had in my entire life. I sat in judgment in committee, in judgment on children who made bomb threats. This is a very hard thing to imagine. I had never run into it before where you are looking at these young people and understand how serious what occurred and the effect it had on the other children, the parents, the town and in the case of individual concern as well as economy. But I learned something else and as old as I am I guess you can continue to learn and to feel. When I looked at some of the parents, most of them are average people, many of them I think had troubles. One way or the other, the children were doing quite well but they had some aberrations that I guess helped cause what they did. It was a very touching thing to see, but what impressed me were these people of average income, of average intelligence, were decent people. They were very interested in justice. They admitted the crime. They said; "There has to be a penalty. What can we do?" Looking at these for the first time I think I saw the people I have been talking about for six years. Those are of real concern to me. Are we doing them the type of justice that I would expect. Are they gaining from this what I would like them to have? I just don't think so and I am very concerned about that. I don't like to lay that burden upon you but we all represent people like that, that don't know us. They are the unknown faces but yet they trust us and they expect us to do as well as we can for them. I think that is what I am asking today, that when you vote, you think of those people and what you may be able to do for them, if not now maybe at some other time. I think that is why we are here. I would hope that you support me but I will understand if you do not and I thank you for your kind attention.

Rep. Norelli: Thank you, Madam Speaker and thank you, colleagues. I know it has been a long afternoon. You've had an awful lot of information thrown at you. Keep in mind that the Science, Technology and Energy Committee has been working on this legislation for quite some time now. We have, indeed, spent a lot of time looking at all the nitty,-gritty details and trying to make sure that we have crafted the best deal for the ratepayers of PSNH that we could craft. So, I want to make sure that we know exactly what those details are. As Representative Kaen told you before, the only part of the electric utility industry that will be undergoing restructuring or competition is generation. In a traditional market, we had a regulated monopoly utility. They had an obligation to serve everybody in their franchise territory and in return for that they were insured that if they invested prudent costs that they would recover those costs at a fixed rate of return. In fact, that is why utility stocks are considered very low risk stocks because they are going to recover their costs. When the legislature passed RSA 374:F, we made the determination that moving to competition was in the public interest. I happen to agree that that is still the case. In a restructured market, we'll still, as Rep. Kaen mentioned, we'll still have a regulated monopoly utility whose only job will be to distribute, transmit and distribute that power. The generation of power will actually be open to competition. This is similar to what happened with the breakup of AT&T. You still continue to have a "Baby Bell" that provided your local service while at the same time you were free to shop about for the best deal that you could get on your long distance service. Competition, we believe, will do several things. It will continue to drive the costs of energy down. It will provide customer choice. It will provide new services and products. Who would have thought 10 years ago that we would be debating here on the

floor whether or not to ban the use of cell phones in automobiles? Who knows what new products and services will become about from electric utility restructuring. These changes occurred with the telephone industry not overnight, but they have occurred. But I think the biggest impact of competition is one that was addressed by Rep. Phinizey and that is the issue of the economic and operational risk of generation assets and under a regulated market we, as customers, bear that risk. We make the utility and the regulators or whoever else makes mistakes away along the way, prudent mistakes but mistakes nevertheless. They make mistakes and the customers bear the risk of that. In a deregulated market the utility owners, the investors, I mean the generation supply owners, the investors in that company, are the ones that bear the risk. Unfortunately, we have been, unable to achieve restructuring. We've been tied up in federal court in litigation. We haven't been doing too well there. Therefore, we believe that the settlement agreement in Senate Bill 472 which provides significant benefits for customers is definitely a preferable way to get to competition as opposed to a prolonged contentious court battle where we have no idea of what the outcome will be. The debate that we have been having mostly is about what are the stranded costs of PSNH, how much are they and who should be paying them. In a competitive market, if a company makes investments, as I said, the investors take on all the risk. If they spend \$60,000 and they are only able to recover \$40,000, the investors lose \$20,000. In a regulated market, if \$60,000 is prudently invested, that company will recover \$60,000. If a company begins, as PSNH did, in a regulated market but we moved, transitioned to a competitive market, and they invested \$60,000 under regulation when they were required to serve everybody and were assured that they would recover their costs, they invested \$60,000 in that environment. We are changing the rules. Now, in a competitive market if that same investment is only worth \$40,000, that difference of \$20,000 is what we are referring to when we are talking about stranded costs. It is very important to note that while a company is in the regulated market and that includes PSNH, myself as a PSNH customer and everyone else in here who is a PSNH customer, each and every one of us is paying stranded costs today. We are paying them imbedded in our rates, and we will continue, after competition, to pay some portion of those stranded costs except it will be a separate charge, broken out as a separate charge called the stranded-cost-recovery charge on your bill. The first question is: what did we do with Senate Bill 472 to insure that customers were treated fairly with respect to the amount of stranded costs that we had to assume? PSNH claims a total of \$2.3 billion in stranded costs after asset sales. Roughly speaking, about \$1 billion of those are Seabrook-related costs and another \$1 billion of those are costs related to, as it has been described to us, iron-clad agreements that have been made with the independent power producers, the wood-to-energy and the trash-to-energy plants. In other words, we will be paying back those costs. The settlement agreement required that PSNH would write off \$367 million of that \$2.3 billion in stranded costs. The Public Utilities Commission, as did the Electric Utility Restructuring Oversight Committee, did not believe that that was a sufficient exchange for the use of securitization. Our committee recommended additional write-offs and, in fact, the final order of the Public Utilities Commission required an additional \$100 million in write-offs. Senate Bill 472, as amended by the House, actually locks in the bottom line. Without \$474.2 million of write-offs by PSNH, they cannot use securitization. In addition, PSNH must sell their generation assets. This could, perhaps, lower stranded costs even further. The proceeds of all fossil and hydro generation plants above book value will go to reducing stranded costs. In the agreement, Seabrook is valued at \$100 million. If it sold for anything less than \$100 million, the \$100 million still comes off stranded costs; but if it sells for anything over \$100 million, they have to write-off the entire amount. So, we are insured at least \$100 million against stranded costs for Seabrook. One of the other issues that has to do with stranded costs and the risk that customers versus investors make, one of the things we've put in here, is risk-sharing by PSNH. As part of the settlement agreement, a portion of the stranded costs actually, it was calculated how much would have to be paid over the next roughly seven years if there was two percent load growth in electricity. So, what

happens, as Rep. Phinizzy suggested, if there is less than a two percent load growth? And if I'm incorrect on that number, I'm sure Rep. Bradley will correct me when he comes up. But suppose that there is an economic downturn. Suppose that technology advances change much more rapidly than we expect and the load growth is less than two percent. What happens? Well, then what happens is when we reach that recovery end date about seven years down the road, whatever PSNH hasn't recovered, they have to write it off. So, unlike the 1989 agreement, this agreement includes risk sharing by the investors of PSNH. Remember, the stranded costs for the company that is moving from a regulated to a competitive market. If the Public Utilities Commission determined that \$18,000 of those stranded costs were, in effect, prudently incurred under regulated market, then over time customers would continue to pay back that \$18,000 in the separate line item that's called stranded-cost-recovery charge on your bill. Suppose company C doesn't have a very good credit rating, and, in fact, PSNH does not. Securitization is a financing mechanism that would allow them to restructure their debt at a much lower interest rate. Because of the guarantee involved this requires legislation. Senate Bill 472 provides that authorization for securitization. It guarantees that the ratepayers of PSNH will continue to pay that amount over the next 12 years through a charge on their bill. This company then uses this guaranteed stream of revenue as security to go out and issue bonds and because of this security they will get a much better bond rating. They will get much lower interest costs and they will be able to restructure their company. The company gets the \$18,000 in cash up front. This is a big deal. Don't let anybody think that this is not a big deal. They get it up front. But what do customers get? Customers get, first of all, lower rates, because the company is paying lower interest rates and with Senate Bill 472 we have assured that we are also getting things like additional write-offs. The settlement agreement allows the company, PSNH/NU, to securitize up to \$725 million of their stranded costs -- stranded costs, remember, that we will be repaying as customers, competition or no competition. The Public Utilities Commission, in their final order, determined that the benefits to PSNH of the settlement and in particular of securitization were, and I believe that their exact words were: "significant and immediate." They have an end to litigation. They haven't been doing very well on Wall Street. This helps them out. They are able to replace regulatory uncertainty with a guaranteed recovery of some portion of their stranded costs and they get that up-front cash payment of a portion of their stranded costs. In fact, these benefits were so good that now ConEdison is interested in acquiring them. The Public Utilities Commission, in their final order, also determined that benefits accrued to customers, but unlike the immediate benefits to PSNH, benefits to customers accrue over time. We believe, that is the majority of the Science, Technology and Energy Committee, that it is fair that ratepayers receive a quid pro quo in exchange for these significant benefits to PSNH, that is they are guaranteed repayment and up-front cash. The final order required an additional write-off in addition to the \$367 million in the settlement agreement of over \$100 million. PSNH is actually contesting a portion of that additional write-off. But Senate Bill 472 requires that the bottom line benefit to customers will be \$474.2 million a write-off of stranded costs. Remember, again, I can't say this enough, we are paying those stranded costs now and we continue to pay them every time we pay our electric bill. In fact, the Public Utilities Commission, recognized that and the assumed-competition day in the settlement agreement, it's anticipated that we won't get to competition by that day and the commission's estimate was for July 1st and so what they said was that every month customers are paying \$6 million of those stranded costs that are proposed to be securitized and so they reduced the amount of securitization that would be allowed to PSNH by \$37 million to \$688 million. They also allowed that difference of \$37 million to be securitized but that money can only be used if they successfully renegotiate the contracts, the long-term, ironclad contracts that I mentioned before, through which we are paying extremely high rates for electric energy. Senate Bill 472 requires that the \$688 million continues to be reduced by \$60 million a month for every month after July 1st until we reach the actual competition day. We have

increased the amount of securitization that the company can use though, only to renegotiate, if they successfully renegotiate the independent power producer contract. There are two things that I want to clear up. Lots of people have been coming up during the day and asking questions. They heard this here or heard that there and there are two questions that I have been asked a few times and I just want to make sure that they get answered in case there are other people out there with these questions. The first was that they were under the impression that if the nuclear decommissioning was over-funded that the company that purchases Seabrook would get to keep those costs. That is incorrect. In fact, the settlement agreement did have that in it, the Public Utilities Commission, in its final order, said no, that's not a good idea. Maybe you think that's a good idea but it is not legal. They have to be returned; after funding must be returned to customers. The second, and perhaps someone will hit this again, is the chart that is going around that shows that our consultants' rate path is higher than the rate path assumed by the Public Utilities Commission. One of the significant differences between those two rate paths is the amount of money that they have assumed for the cost of energy. But, the cost of energy will be what the cost is. In the settlement agreement, they have assumed an energy cost of 3.7 cents. The Public Utilities Commission said 4.0 cents. Our consultant says, you know it's really 4.5 cents, so in Senate Bill 472 we call for 4.4 cents and then 4.6 cents for energy costs. Now, if you take the chart that is floating around and you adjust the Senate Bill 472 graph so that you account for an assumption, and that is all it is an assumption, that the energy costs will be less, than you'll get a graph that falls below the Public Utilities Commission's best scenario. For anybody that hasn't seen it, I think there are some more of those charts out on the table in the back that explain the differences between that graph and the graph that the Science, Technology and Energy Committee was using. I understand that this is a lot to take in. We've tried to give you as much information in the last hour or so as we've taken in the last year. But the Science, Technology and Energy Committee vote of 17-2 is a statement that we believe that this legislation achieves appropriate and sufficient ratepayer benefits in exchange for PSNH's right to securitize a portion of their stranded costs. I would ask you to support the committee position of Ought to Pass. Thank you.

Speaker Sytek: Would the member yield to questions? Rep. Thomas, you may inquire.

Rep. Thomas: Thank you, Madam Speaker and thank you, Rep. Norelli and I hate to belabor a point but a lot of people have talked to me about why not let this go to a rate case. You've done a commendable job of explaining that we shouldn't, but would you suggest with our history, with PSNH's history of taking us to court over rate cases that in a less than friendly out-of-state federal court that we would make out any better?

Rep. Norelli: Rep. Thomas, I think that one of the reasons we are all so frustrated is because PSNH and NU have been as successful as they have been in court in Rhode Island. They went to court in February of 1997, believe it or not, and we still have not resolved that.

Going back to court, our record has been poor. It will be prolonged. It will be contentious and in the interim, as I've said before, we will continue to pay those stranded costs without the benefits of competition.

Speaker Sytek: Would the member yield to another question. Rep. Jacobson you may inquire.

Rep. Jacobson: Thank you, Madam Speaker. Representative, I was here in 1989 and the big argument then was that we cannot let Public Service Company go broke and so, though I opposed the legislation then, it was voted in. But, today you said something that I have never heard before and I would like to know the authority for that and it is this: that unlike private corporations, regulated corporations cannot go broke because the ratepayers are bound to pay off the debt. Now, I never heard that before. Could you explain that a little further and give us the legislative authority for it?

Rep. Norelli: Thank you, Rep. Jacobson. Actually I don't believe that I said that they couldn't go bankrupt. What I did say was that in a regulated market when utilities make prudent investments that they are assured that they will have a fixed rate of return for

recovery of those prudent investments with a fixed rate of return and I will admit to you that I don't know what that fixed rate of return is today but I'm sure that Rep. Bradley could let you know.

Rep. Jacobson: Now, you didn't use the word prudent on the first round and what I'd like to understand is who determines what is prudent or not?

Rep. Norelli: In a regulated market, it is the job of the regulators of that industry, in the case of New Hampshire the Public Utilities Commission, to make those determinations. That is part of the process that they go through when they are setting rates in a traditional rate case to determine what investments are prudent, what they should recover and then what the rate should be the per kilowatt hour charge should be, for the electricity in order for them to recover those prudent investments at that fixed rate of return.

Rep. Jacobson: Did the Public Utilities Commission approve the investment costs that were made that have now become the stranded costs as prudent investments?

Rep. Norelli: Rep. Jacobson, unlike you, unfortunately, I was not here in 1989 so I would like to defer that question to Rep. Bradley who has a little bit better handle on the history of what happened in the past than I do.

Speaker Sytek: Will the member yield to other questions? Rep. Chase, you may inquire.

Rep. Chase: Thank you, Madam Speaker. I think many of us are having considerable difficulty in deciding which way to vote on this. It is not an easy question. You and I are both former mathematics teachers. Twice today you have used the phrase, "much lower finance charge," that is interest rates. Would you quantify that, "much lower?"

Rep. Norelli: Thank you for your question. Actually, according to the settlement agreement, Public Service Company, when the bonds are triple-A rated, then they get a lower interest rate than Public Service Company of New Hampshire could get now with the rating that they have. In the settlement agreement, Public Service Company of New Hampshire has guaranteed that as long as the rate, whatever the rate, is below 7.25 percent that is what we would get. If the rate were to go above 7.25 percent they would guarantee the 7.25 percent rate through July 1 and in Senate Bill 472 as amended by the House, we actually extended that date to October 31st.

Speaker Sytek: Will the member yield to another question? Rep. Marple, you may inquire.

Rep. Marple: Thank you, Madam Speaker and Rep. Norelli. I'm going to confine my question to the information that you co-authored here and it also involves mathematics. Previously, I did some quick mathematics and according to what is revealed here, \$688 million, which at a simple 6 percent interest per annum yields a little in excess of \$41 million a year and for 12 years the multiplication comes out to be about a half a billion dollars in interest that would be compelled performance on the part of the ratepayers in addition to the principle on those bonds and I really am questioning the mathematics here. The Public Service Company is going to get \$688 million up front and what are they going to do with that? Are they going to reduce? How does the ratepayer benefit with the mathematics that we have in front of us here?

Rep. Norelli: Well, as I said before, these stranded costs that Public Service would securitize our costs that we are currently paying back with a rate of return. Again, I'll defer to Rep. Bradley to tell you exactly what that rate of return is, but it is higher than 7.25 percent, so we are paying them back now and we are paying them back at a higher rate than we would pay them back with securitization which would get a lower rate.

Rep. Marple: The fact still remains though that we have got, as I said, over a half a billion, that is spelled with a B, billion dollars, in addition to fronting the money for the bonds and that is in the next 12 to 14 years. If it goes 14, it is going to be more than a half a billion in interest. I'm wondering, can you tell me how the ratepayer is going to benefit? We have no numbers here to show, yes the ratepayer is going to benefit or no over here. I don't see these numbers. This is my question.

Rep. Norelli: Well, I would say that the first thing is to take a look at the graph as prepared by the legislature's consultant, Dr. Silkman, which shows that we benefit over time through

slightly lower rates than we could get with the best case scenario from a rate case and whatever additional benefits could be derived from actual competition. I think that the answer to your question is that in fact we would be paying back all those same costs to which you refer even without securitization. But, we would be paying them back with higher interest over time through that fixed rate of return then we will pay back through the 7.25 percent or less that they can get from securitization.

Rep. Martel: You mentioned quid pro quo. Does not the benefit that the customer, the consumer, the ratepayer, receive here is nothing more than really paying for these so-called stranded costs? Now, each one of the ratepayers is paying, right now as we speak, \$8.40 a month over and above the cost of generating and delivering that power. That is a fixed cost of \$8.40. You can take the mathematics and figure out for a hundred thousand how much that company is getting per month in addition, over and above the cost of generating and delivering the power that they deliver. Multiply that by 12 and then multiply that by another 12 for the next 12 to 14 years that these rate payers are going to be paying that fixed charge of whatever they come up with, I've seen it gradually go up every month for the last 20 years. It goes up every month. It is \$8.40. Why is that not factored in because we are talking some big bucks?

Rep. Norelli: Actually, I think that it is factored in. What you are saying is that we are paying a lot more now than the actual costs of generating and operating the generation supply assets and in fact that is true. Much of the stranded costs come from the capital investments in those generation assets and by restructuring the company, by requiring that they write off \$474 million of those stranded costs to which you refer, and by securitizing another \$700 million of those at a lower interest rate than what we are paying now. That is where the savings will come from.

Rep. Marple: Thank you, Madam Speaker. I am still confused. Thank you, Rep. Norelli.

Rep. Gilmore: Madam Speaker, I rise in opposition to this legislation for two reasons. It is not fair to rate payers, consumers. There are alternatives available. I stole that line from the 1989 rate agreement, the debate of which I read this morning, so it wasn't right on the tip of my tongue. A number of other things we spoke of in 1989 and for the proponents who were pushing it, all proponents of the 1989 agreement said the same thing, "We've got to do this because we can't risk going to court." The bad judge in 1989 was Judge Yacos. The bad judge today is Judge Lagueux. We spoke in 1989. Again, it was not a perfect agreement but the best we could do. We spoke that this would resolve, finally resolve the problem. We thanked our experts for their great advice and how they had guided us to this conclusion. I don't want to forget 1989 because there is too much there we must remember before we repeat it again. If history has taught us anything, it is that it can repeat itself. If history has taught us anything, it is that dramatic changes will occur, that things will not proceed in a normal, steady fashion as we project it to. It doesn't happen that way. I don't even know if we want it to happen that way, really, but it certainly doesn't happen that way. If you look back to the last 10 years, 10 years ago when I was in this body in the Science, Technology and Energy Committee we had all these divisive debates about cable. Well, right now you have an alternative to cable. You have direct TV. We've seen cell phones explode, so you have an alternative to AT&T. There are alternatives today available. The technology has changed so dramatically and nobody predicted it. I would hate to look into that crystal ball and tell you that things are not going to change because the certainty is we don't know and the certainty is that it is almost certain to change and certain to change in dramatic ways. There are alternatives. What we know from the PUC rate order through their benchmarking is that we can ask, immediately, for an 8 to 10 percent reduction, immediately. We know we can adjudicate a rate case. We know we can adjudicate stranded costs. Now, I've got to talk about stranded costs because a number of erroneous things were stated. We state that we are paying them all off. Well, that's not exactly true. We're not. Now, in this settlement, PSNH says they have \$2.3 billion worth of stranded costs - \$2.3 billion. Do we know that's true? They said it but we don't know it is true because the next step has been stopped. It

has not gone to the PUC. The PUC has not adjudicated if those stranded costs are real. Now, we know in Connecticut, when NU went through the same procedure, that a large, a significant amount, largely, several hundred million, I believe three or four hundred million dollars that they claimed as stranded costs, their PUC kicked out. They said they aren't real. There is some testimony from the PUC's own staff that the stranded cost numbers should be significantly lower. I also haven't adjudicated whether the stranded costs, so called stranded costs, are prudent and the collection of some of those stranded costs has been deferred. We aren't collecting them. The PUC has ordered that we don't collect them. It is not happening. We are collecting a significant amount of stranded costs without question. But some of those stranded costs, like the wood burners that we've heard of for quite awhile now, will go away entirely in the year 2027 if we don't agree to this today. It won't go away so quickly if we don't because we will be paying them over 12 years. Our experts said there has been a breach in the rate agreement. Now, again in the 1989 proceedings in this House, one of the cornerstones of the rate agreement was that NU would supply us with power. Our experts have said they've breached that and that's worth hundreds of millions of dollars if we litigate. If we go forward today, we lose that opportunity. We will not recover that value. We will not recover it. Finally, if we vote "no" today, it's not over. We are not asking you to kill this legislation. We're asking for interim study and I believe that if NU, if ConEd want their agreement they'll be back and they'll be back bearing gifts, a better deal, a better deal that is in their best interests and in our best interests. Securitization of \$800 million, which we will be paying, which PSNH will be receiving, \$700, \$800 million up front, is roughly what they earn in the course of the year. That is an awful lot of largesse to give to that company. It is also very concerning when you look at what they are writing off with it. And, principally, what they are writing off is the Seabrook power contract. Now, the Seabrook power contract postulates that we will continue paying for nuclear power for 39 years. Now, I don't know about you, but I'm not willing to make that risk. No plant has lasted that long and what I think every expert in the field says is that if we build the gas plants they won't be able to compete. Nuclear plants are expensive to run, expensive to maintain. They just won't be able to compete. Now, the opposite side of that is if we don't build the gas plants, then with the rising costs of the electricity those so called stranded costs are not going to be stranded. They'll be valuable. They are only stranded if they are not something we can use and then we can use them. If we don't build the gas plants, the face of competition in this state will likely be very dire. Now, in the amendment they have before you, when you look at the transition price, you know, we tag it at 4.4 and 4.6 cents. Now, right now, the real world price for power as determined by the most recent bid that was received which was the co-op which was earlier this year, is roughly 5 cents, 5.1, 5.2 cents. Now, in a competitive environment, that translates to 5.5 to 5.6 cents. Nobody has done a rate path using real-world numbers. If we believe in competition so much, if we really believe in it, then why aren't we saying that the transition price will be what the price is in the real world? Well, we're not going to say that, folks, because we can't give you savings. And, we can't sell this plan unless we give you savings. If competition results in prices of this nature or higher and prices have been rising fairly dramatically -- it is not a good deal. The other issue about competition, energy prices are extraordinarily volatile. You have incredible peaks and then you have a fairly consistent level. Those peaks would make our concerns about the fuel oil minor in comparison. If your constituents ever have to face the wrath of having to pay those peaks, I think you'll be paying for your constituents wrath. The market hasn't evolved. It isn't working. We have competition in four other states but nobody is doing it. Nobody is competing. The PUC forum we had here a couple of years ago, not here but up the street, energy suppliers came in and they said New Hampshire is just too small. We won't have anything to do with you unless your neighboring states are competing. Well, our neighboring states can compete. Nobody is competing, New Hampshire's ability to collect the benefits, the so called benefits of competition, are extremely remote at the present time and my fear is if we go forward we'll look fairly foolish in a couple of years when the whole impact of this

will come due. And, again in 1989, we sort of went forward but we didn't really see it for what it was until two to three years. Similarly, there is no way you will understand this settlement again for a couple of years and then it is just too late. We are locking ourselves in. We are locking ourselves in to 12 years. Final point: we speak of competition and that there will be no more Seabrooks. Well, again in the real world, nobody is building Seabrooks. In the real world, actually, independent power producers are building the power plants that are powering the nation and they are doing it whether there is competition or there is no competition and I assume they are doing it for a couple of reasons -- that they can do it cheaper and that they are not regulated; they can make a better profit. That's what will occur whether we do competition or not. That is what will occur as it has been. I would urge this body -- and you have been wonderfully attentive through this whole debate -- I would strongly urge this body not to lock us in to a rate path that will leave us inflexible to change, inflexible to respond to the changing market. I would urge this body to, at this time, vote this legislation down. Thank you.

Speaker Sytek: Would the member yield to questions. Rep. Burling, you may inquire.

Rep. Burling: Thank you, Madam Speaker. Representative, I particularly liked the Representative from New London taking us back 11 years. Eleven years ago you were in I-28 and I was in I-29 and both of us voted against the worst energy deal we'd ever seen, and yet today we take different perspectives. I wanted to ask you about two specific assumptions that you make. The first is that there is an alternative to this proposal and that is further litigation. My question on that issue is: Am I irrational in believing that given the fact the Providence court has declared the 1989 agreement to be a contract binding on the state and given the fact that Judge Lagueux has determined that he has continuing jurisdiction over any and all orders of our Public Utilities Commission, would I be irrational to believe that if we do something against the interests of PSNH we're likely to pay for it in the Providence court?

Rep. Gilmore: Actually, Peter, I sat in Division 1, seat 31. Well, it's sort of like the question. The litigation I'm talking about is one that the state would be the aggressor. It is one in which the state would be going forward. If the rate agreement is determined to be a contract, that litigation would be even more in our favor than less in our favor because they have breached that contract. What a certain judge would or would not do or whether it would even be before that judge because it is a totally separate matter, is rather foolish of me to even speculate, especially given what our expert legal counsel has said. I mean, he thinks it is an extremely strong case. I'm sorry, I would certainly be the last one to doubt his word.

Rep. Burling: Thank you. The second part of my question is: Would I be irrational, coming from a town which is served by five utilities, to think that if competition were made available, particularly to those of us in the western part of the state, that we might quickly move to buy the cheapest possible power since all of it is available? I can get it from the Co-op, from Granite State, from PSNH, the town or city of Claremont has four utilities which provide power, why would I be irrational to try to get that competitive power, that access to a competitive market?

Rep. Gilmore: Actually, Peter, your neighbors who are not served by PSNH, who are served by Granite State electricity, who are served by the Co-op, anyway, those have access to competitive power today but I suspect if you ask any of your neighbors who have them as their supplier that they are not using competition because competition is not working, not only in New Hampshire where we have it in many utilities, but also everywhere in New England where it is available and it is available in New England in all but Vermont and PSNH and Seabrook territory in New Hampshire, I think Unital territory, excuse me. But, it is available and nobody is using it. So, I guess you should ask your neighbors.

Speaker Sytek: Would the member yield to another question? Rep. French, you may inquire.

Rep. French: Thank you, Madam Speaker. Thank you, Rep. Gilmore. I have a concern about another issue that we haven't talked about today and that is about a recent study that was done by the Harvard School of Public Health which documents that asthma attacks,

emergency room visits and premature deaths occur in the area around older power plants, coal and oil burning. Now, since New Hampshire has three of these and we have this potential for the increased associated health risks, I'd like to know if there is any provision made for doing something about these older power plants.

Rep. Gilmore: Thank you, representative. This is actually one of the things that severely upsets me about this settlement and that is that we are doing nothing about cleaning up the New Hampshire plants. Indeed, what we are doing is perpetuating them. And that Harvard Medical Health study, which I got this morning, actually speaks of 160 people who died prematurely, 300,000 people who are daily incidents. And they look at two plants, Salem and Brighton Point, and those plants usually have been linked with the Bow plant in terms of their undue environmental effect. Now, this was a major issue for the Conservation Law Foundation. They stressed it in the proceedings and they also stressed it in their brief. It is also a major issue for other environmental groups, that instead of doing something to clean it up what we're doing is something that will certainly perpetuate the problem and result in bad health for our New Hampshire residents.

Speaker Sytek: Will the member yield to another question? Rep. Brown, you may inquire.

Rep. George Brown: Would you believe that as a customer of PSNH for a number years, that I feel like that with this bill I am losing for the fourth time with this settlement with PSNH? Number one: PSNH promised me, after they got the Seabrook plant built that that would go online that I would be getting cheap electricity. It never happened. Number two: My broker of many years ago said that PSNH was a good stock to buy so I bought some at 19 and 5/8 and later on I sold at 43 cents a piece. Number three: PSNH, last settlement, I paid five percent for seven years to create the highest rate in the country. That is a total of 35 percent increase. Number four: This time, their settlement promises an 18 percent decrease for the first year, but there are clauses for increases for the next 12 years. What am I getting in for now?

Rep. Gilmore: I agree, Representative, that you have every reason to be concerned, especially given the history that you have, as many of us have also endured.

Speaker Sytek: Would the member yield to another question? Rep. White, you may inquire.

Rep. White: Thank you, Representative. Thank you, Madam Speaker. With respect to an earlier question, would you agree with me that we received on February 3rd a document from a law firm in Maine which specifically tells us that the rate agreement is not a contract and that there should be no fear of litigation?

Rep. Gilmore: I would agree.

Speaker Sytek: Would the member yield to another question? Rep. Kennedy, you may inquire.

Rep. Kennedy: Thank you, Madam Speaker. Representative, I understand where you are coming from, but being an old capitalist at heart, I figure if I make a deal and blow it, it is my problem, not my customers'. But, putting that aside, sir, it is my understanding that you wish to go Interim Study whereas I would personally like to kill this thing. But if you are correct, and on rare occasions I actually do agree with you, would your motion which you wish to make if we get to it, to Interim Study, keep this alive so we can still possibly negotiate and perhaps find a better way?

Rep. Gilmore: Thank you, Representative. Again, that is the intent of this, to keep it alive so that we can do a better deal if it presents itself.

Speaker Sytek: Would the member yield to another question? Rep. Tuthill, you may inquire.

Rep. Tuthill: Thank you, Madam Speaker. Representative, it is my understanding that the settlement agreement before us today is predicated on load growth. In other words, increased consumption of electricity in the state of New Hampshire, and that many of the cost projections and the sharing of the risks and the benefits would anticipate that there would be, I believe, a roughly two percent growth in consumption per year through the terms of the settlement. Does it strike you that this will provide an economic disincentive to increased investment and energy efficiency in this state?

Rep. Gilmore: One of the frightening similarities, and there are many -- in fact they are very numerous -- to the 1989 rate agreement is that like this one, it projected a two percent load growth. In the 1989 agreement, when it did not occur that way -- in fact it was load loss for most of those years -- what we saw was rapidly escalating rates in comparison to the rest of the nation where rates went down. To make such a projection, well, you know, my faith in projections is so limited as to be fairly nonexistent, but I would certainly agree that this legislation could hinder energy efficiency under some scenarios and yet in other scenarios, given that we are putting some money aside for energy efficiency, it could help. But I don't think there is any certainty in that regard.

Rep. Bradley: Thank you very much, Madam Speaker. Friends and colleagues, there are times in our lives when we are asked to get behind this microphone or that microphone or, if you are fortunate enough to be the Speaker, behind those two microphones, and there are times in our lives that it is indeed lonely to be in front of one of these microphones and I can attest to the fact that today, for me, personally, it is indeed lonely to be at this microphone and ask you to do what I know is very difficult to do, given the history with regard to PSNH in the state of New Hampshire. I know all about fear, uncertainty and doubt. We face it every day in every decision that we will ever make in our lives. And this decision, ladies and gentlemen, however you vote, is no different. Madam Speaker, indulge me for a moment if I depart from what I usually do, which is speak with my head, and speak with my heart, but, if I ask you folks to vote with your heads. Indulge me for a moment, Madam Speaker, if I feel a bit like Winston Churchill when he said: "Democracy is the worst form of government, except for all the others." Because, quite frankly, that is a bit like how I feel today. I know there are skeptics. There are lots of skeptics. It is good to have skeptics. It has forced the Science, Technology and Energy Committee to have kicked the tires to see if we, indeed, have what we believe is a good deal. There are those who believe that we could get a better outcome and, quite frankly, if PSNH rejects this deal, they will get their wish. Read section 6 of the bill which says go to a rate case and litigate the contracts issues if they reject, if PSNH rejects this deal. You've all heard, I've certainly heard it and I'm sick of hearing it, how PSNH is "supporting our life in every moment." I would say to you that if you vote no today, indeed, you'll be giving them more money in all likelihood and you will be supporting their life in every moment. I hope we've had enough of that, and I hope we change that today. I'd like to first thank everybody for having voted for the amendment. Now, we're on the bill and I would also like to thank Representative Gilmore, in committee, for having voted for the amendment because he recognized that the amendment is a better result than what came to us from the Senate. If I can, Madam Speaker, knowing that the hour is getting late and that people are getting tired, just briefly touch upon what I believe we've attempted to accomplish in that amendment. Appropriate burden sharing, quid pro quos, concessions on stranded costs, write-offs by PSNH - something they have done too precious little of since 1989. We have insisted upon, and in fact drawn a line in the sand, that Public Service of New Hampshire, should they choose to meet us half way in this deal, will have to absorb, write-off, whatever you want to call it, \$474.2 million dollars of their stranded costs if they are to receive this benefit of securitization. For some of you, I know, that is not enough. Just listen to what I'll say later on. I would maintain that that's a little bit less than 80 percent recovery of their stranded costs. Could we do better? Perhaps. I'm not going to tell you this deal is perfect. It's not. And I'm not going to guarantee for you the outcomes are going to be rosy because I can't. I can only tell you that I believe and I believe that the majority, the 17-to-2 majority, of the Science, Technology and Energy Committee believes, indeed, that this is likely to be the best that we'll do, \$472 million write-off, line in the sand for stranded costs. Next issue of improvement, the merger, certainly got the hair up on everybody's back. I think I told you two or three weeks ago it certainly has raised the hairs on my back. It's made them gray, perhaps not as gray as my friend from New London, but I'm fortunate I still have some, but maybe after today it will fall out. We've insisted as a quid pro quo in this amendment that they have to share any savings that come when you combine and

consolidate two companies. Are they happy about that? Absolutely not and I can tell you they are not happy about the \$474 million either. They have not agreed to it publicly. They have not agreed to it privately. And there is some risk, even from our point of view, the advocates of this bill, if we reject it, that they walk away, but that's where we are. Let's turn to the competitive aspect of this. There has been an awful lot of talk about that and since Rep. MacGillivray had to croak his way like a frog through his speech, I'm left to talk about this one-page graph which you all have. I will tell you that the author of that has taken the Public Utility Commission numbers, which low-ball the actual real market price of power, used that assumption and taken Dr. Silkman's, our consultant's, numbers, which are accurate real-world market prices, and compared the two. It is not apples-to-apples. I'm sorry, it just isn't. And, if you have had the opportunity to have looked through these charts, compare on page 5 the top line with the bottom line and you will find that when you subtract for the lowball market prices in that analysis, that Dr. Silkman's estimates are, indeed, better. I'm not going to tell you that in a best-case rate case outcome we'd do terrifically better. I'm not going to sugarcoat this for you. You can look at the graph on the first page and see that. But, that is a best case, rate-case outcome. Rhode Island, a great state. I love Block Island. Everybody is talking about Rhode Island today. It gets PSNH to do something, as I said before, they've done precious too little of which is to write-off their stranded costs. Yes, it is a tremendous benefit to them. It's the end of uncertainty, the end of litigation, improves their bond rating. They get cash, improved risk profile, better customer relations. They get to upstream money to the parent company and, yes, it helps them in their merger prospect. That's the carrot that gets what we need in this deal. Remember, in life you can't always get what you want. Hopefully, with this deal we've gotten what we need which is a large write-off, lower returns and the returns today are in the 11 percent range. And if it is a return on equity, which is dollars that they have on their balance sheet, you have to account for taxes in that. It is really an 18 percent return. Those returns go down for their stranded costs to eight percent. The merger dollars are in this amendment. We have lower rates, a 16 percent rate reduction, which for residential customers, per the Commission's order, is 18 percent and for the large industrial customers that are going to do better in a competitive world, it's 13 percent and we finally move to competition and we end the litigation. Competition is not a panacea. It's not going to solve every problem overnight. Our consultants have told us, though, that by not low balling the actual price of power, that for the larger customers, initially, there will be competition in New Hampshire. It is not going to happen overnight for the residential customers. That is why there is transition service. That is why there is assignment of those customers after transition service, should they not choose a competitive supplier. But just as with the breakup of AT&T, it took time for there to be 50 percent subscription for people choosing MCI or Sprint or what have you. It will take some time, but residential customers will benefit also. Let's lastly talk about better outcomes because here is where fear, uncertainty and doubt come into play. I can't guarantee you any of this. I can only speak from my heart having looked at this issue for six years with my head and tell you that I believe that this is not only a good outcome, but one that we are likely to achieve and better than all the others and here is why. People have said, "Let's do a rate case." That's fine if PSNH rejects this deal, that's what will happen. If we are to do better in a rate case, we have to achieve the best-case rate case outcome. It will be litigated. It is not, as some would claim, without negligible risk that we'll lose that. I'm sorry, that's not the case. PSNH had the rate case enjoined in Rhode Island in the federal district court until there was an agreement to allow it to proceed, so don't think for one moment that there is negligible litigation risk in a rate case because I'll tell you I don't believe that's the case. We have to achieve the best-case rate case outcome, number one, battle number one, has got to be won and got to be won decisively. Battle number two, the opponents of this bill have been talking about using a rate case outcome and then using securitization. Imagine how, if you feel uncertainty and doubt today, how you're going to feel about securitization in the context of a rate case. And if you didn't like the Commission's

stranded costs order, if it wasn't aggressive to you, remember their rate case order may also not be aggressive enough for you because they are constitutionally obligated to balance the interests of customers and utilities. But even if we succeed in a rate case and then we securitize, we have a problem because people want to litigate the contracts issue, they do not want to pay PSNH those stranded costs. Fine. Neither do I. But, you cannot securitize when you have not settled upon how many dollars a utility should get. So, I would tell you, in all likelihood, securitization in that case, a rate case, is not going to happen. It is not impossible, it is just impractical and it is very, very unlikely to happen. Our consultant has told us many times, and we have had him analyze this six ways to Sunday, that even if we win those first two battles, we achieve the best case outcome in a rate case and we achieve securitization in the context of a rate case. If you folks all vote for that, we're still behind. We're still behind by almost \$115 million over the 12-or-13 year period the net total savings that Senate Bill 472 seeks to achieve. That's what he has told us. Those are the facts as we know them per our consultant's analysis. So, we achieve the best-case outcome in a rate case and somehow we manage to securitize. I don't know how that is possible but let's assume that we can. In order to do better, this is what has to happen next. We have to win on the contracts issue. Now, it is easy to claim that the rate agreement is not a contract. I believe that. I absolutely do believe it and I think that to a person on the Science, Technology and Energy Committee we all believe that it is not a contract and I believe that the people who negotiated the settlement will agree with that. We have to win it, we'll probably have to win it at the United States Supreme Court. If we win it, then we have to convince that court that we should be able to disallow PSNH more costs than the \$474 million that's on the table. So we have to win on the contracts issue and win on a larger disallowance. And thirdly we have to do it in a rather quick time frame so that you get the benefits of the refinancing done in a timely fashion because, quite frankly, we're paying those stranded costs every day and that brings me to my conclusion. When the settlement was filed, those of you who remember, the securitization number was \$725 million. Today, it's \$688 million and here is why. The \$725 million was modeled on a start date of competition of January 1, in the year 2000. The PUC's order models that on July 1, 2000 and so the number has been reduced by the Commission from \$725 million to \$688 million. What happened to that \$37 million? Poof! – Did it disappear? Did PSNH write it off? No. Every time a customer of PSNH pays his or her light bill, and thankfully these lights are not PSNH lights, but every time you folks who are PSNH customers paid that light bill, you paid those \$37 million and you're paying that \$6 million a month for just that portion of stranded costs. Let's talk about the IPPs for a moment. Rep. MacGillivray mentioned that but because he was croaking I'm sort of going to go through that again. We had deals on the table that unfortunately the Commission rejected, five out of six, that would have lowered stranded costs for customers over the course of that by \$150 million. The one deal that the Commission approved was worth \$50 million. There was a bill that passed the House. It was a forerunner of this bill and it was killed in the Senate, ironically enough. And there is irony in life sometimes, by the same folks that are today arguing that we should use securitization in the context of a rate case. Well, that bill was killed in the Senate by the same folks. And guess what? Those deals, if they were brought back today as Rep. MacGillivray said, would be worth \$80 million, maybe \$100 million, if we could get them to closure and if we could finance them. So, yes, the people you represent, their money has been burned. It has gone up in smoke. I would maintain there are not better outcomes that are likely to be achieved. That's why a number of organizations have come out in support of this bill. You know what? It's not just the BIA. Yes, they supported the 1989 rate agreement. A lot of people have held that against them ever since. We have individual businesses supporting it. We have chambers of commerce supporting it. We have the Consumer Advocate, one of the biggest proponents of a rate case, turning in a card at the Senate in support of this bill. Lastly, and perhaps most importantly, one of PSNH's most implacable foes over the years, Cabletron, is supportive of this bill. I believe it is because no one else has shown a clear path to a better, more achievable outcome. If that

clear path to a better, more achievable outcome had been anywhere in the state of New Hampshire, I think the members of the Science, Technology and Energy Committee would have overturned that rock, found that better outcome and would have brought it to you today. We, like you, are tired of the highest rates in the nation. And we, like you, are tired of what's gone on. But I would say that we believe this is the best outcome that we are likely to get. And if we choose to reject it, we best be prepared for an outcome that is significantly worse. Thank you.

Speaker Sytek: Would the member yield to a question? Rep. Grant, you may inquire.

Rep. Grant: Thank you, Madam Speaker. Representative Bradley, I am fortunate that a substantial portion of my district is not serviced by Public Service of New Hampshire and, therefore, a substantial portion of my constituents have been blessed with low utility rates so I always come to the overreaching question any legislation should have an advantage to the people of New Hampshire, should serve the public interest and offer those advantages and opportunities. What are those advantages and opportunities?

Rep. Bradley: You are fortunate, indeed, Rep. Grant to be served by Unitil as people are fortunate to be served by Granite State Electric, some of the lowest rates in New England. I would say to you, Rep. Grant, and as a member of the committee who voted for this bill, that the benefits for your part of the state are the overall economic benefits that the state will enjoy from significantly lower electric rates, a better economy and the end of litigation and with regard to that last subject, your constituents are paying whatever fraction of the costs that are being paid to litigate this issue. So I contend that your folks would benefit a bit from that, too.

REGULAR CALENDAR (CONT'D.)

SB 393, relative to single producer licensing. OUGHT TO PASS WITH AMENDMENT

Rep. Tim S. McGough for Commerce: This legislation is a request of the New Hampshire Department of Insurance and has been worked and reworked over the course of the last year to resemble a model act put forth by the National Association of Insurance Commissioners. When passed it will streamline the licensing process for insurance agents and simplify the requirements to keep a license current. No persons appeared in opposition to the bill and the fee structure was agreed to by all involved. The industry professionals request support of this revised process to facilitate ease of licensing and consolidation of fees. The amendment makes minor technical changes recommended by the Commissioner after the bill passed the Senate. Vote 14-0.

Amendment (4435h)

Amend RSA 402-J:2, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

Amend RSA 402-J:5 as inserted by section 1 of the bill by replacing it with the following:

402-J:5 Application for Examination. Except for limited line credit insurance producers, a resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to RSA 402-J:9. The examination shall test the knowledge of the individual concerning the class or classes of insurance for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. The commissioner may make arrangements for administering examinations. Examinations required by this section shall be developed and conducted under title XXXVII and rules adopted by the commissioner.

Amend the introductory paragraph of RSA 402-J:6, I as inserted by section 1 of the bill by replacing it with the following:

I. A person applying for a resident insurance producer license shall make application to the commissioner on a uniform application and declare under penalty of refusal,

suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

Amend RSA 402-J:9, I and II as inserted by section 1 of the bill by replacing it with the following:

I. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any pre-license education or examination. This exemption is only available if the person is currently licensed in said state, or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state for the lines of authority requested.

II. A person licensed as an insurance producer in another state who moves to this state shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to RSA 402-J:6, except that no pre-license education or examination shall be required of that person to obtain any line of authority previously held in the prior state.

Amend RSA 402-J:12, I as inserted by section 1 of the bill by deleting subparagraph (m).

Amend RSA 402-J:12, IV as inserted by section 1 of the bill by replacing it with the following:

IV. In addition to or in lieu of any applicable denial, suspension, or revocation of a license, a person violating this chapter may, after hearing, be subject to an administrative fine pursuant to RSA 400-A:15, III.

Amend RSA 402-J:14, II as inserted by section 1 of the bill by replacing it with the following:

II. To appoint a producer as its agent, the appointing insurer shall verify the eligibility of the applicant and file, in a form and format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

Amend RSA 400-A:29, X as inserted by section 4 of the bill by replacing it with the following:

X. ~~[Brokers]~~ **Producers**

- | | |
|--|--------------------------------|
| (a) Application ~~[examination]~~ fee | ~~[\$15]~~ \$ 60 |
| (b) Original license | ~~[\$30]~~ \$150 |
| (c) Biennial renewal | ~~[\$30]~~ \$150 |
| (d) Amendment to license | \$ 50 |

Adopted.

Rep. Hunt offered a floor amendment.

Floor Amendment (4566h)

Amend RSA 400-A:29, X as inserted by section 4 of the bill by replacing it with the following:

X. ~~[Brokers]~~ **Producers**

- | | |
|--|--------------------------------|
| (a) Application ~~[examination]~~ fee | ~~[\$15]~~ \$ 60 |
| (b) Original license | ~~[\$30]~~ \$160 |
| (c) Biennial renewal | ~~[\$30]~~ \$160 |
| (d) Amendment to license | \$ 50 |

Rep. Hunt spoke in favor.

Adopted.

Report adopted and ordered to third reading.

MOTION TO SPECIAL ORDER

Rep. Hunt moved that **SB 459**, relative to underinsured motorists, be made a special order for Thursday, May 18, 2000 in the Regular Calendar order.

Adopted.

REGULAR CALENDAR (CONT'D.)

SB 436-FN, relative to permanent revocation of drivers' licenses for causing a fatality or serious bodily injury while driving intoxicated. **OUGHT TO PASS WITH AMENDMENT**
Rep. Andrew Christie, Jr. for Criminal Justice and Public Safety: The committee amended the bill to provide that an indefinite license revocation may be ordered by the sentencing judge in those cases where a person has been convicted of manslaughter or DWI negligent homicide resulting from the driving of a motor vehicle. A further amendment just clarifies that certified habitual offenders with a prior DWI, felony or misdemeanor offenses, who drive under license suspension are guilty of a felony. Those certified habitual offenders who without a prior DWI, felony or misdemeanor traffic offense, drive under license suspension are guilty of a Class A misdemeanor. Additionally, the committee has added the House passed version of HB 1621 which allows the court to order certain misdemeanor habitual offenders, those in county jails, to be sentenced to home confinement. Vote 15-0.

Amendment (4361h)

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

AN ACT relative to revocation of drivers' licenses for causing a fatality and allowing administrative home confinement for habitual offenders.

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

1 Habitual Offenders; Felony Penalties; Home Confinement. Amend RSA 262:23, I to read as follows:

I. It shall be unlawful for any person to drive any motor vehicle on the ways of this state while an order of the director or the court prohibiting such driving remains in effect. If any person found to be an habitual offender under the provisions of this chapter is convicted of driving a motor vehicle on the ways of this state while an order of the director or the court prohibiting such operation is in effect, he ***or she shall be guilty of a felony and*** shall be sentenced, notwithstanding the provisions of RSA title LXII, to imprisonment for not less than one year nor more than 5 years. No portion of the minimum mandatory sentence shall be suspended, and no case brought to enforce this chapter shall be continued for sentencing; provided, however, that any sentence or part thereof imposed pursuant to this section may be suspended in cases in which the driving of a motor vehicle was necessitated by situations of apparent extreme emergency which required such operation to save life or limb. Any sentence of one year or less imposed pursuant to this paragraph shall be served in a county correctional facility ***and the court may order that any such offender may serve his or her sentence under home confinement pursuant to RSA 651:19 on such terms and conditions as the court may order, for the minimum mandatory term or any portion thereof.*** Any sentence of more than one year imposed pursuant to this paragraph shall be served in the state prison.

2 Habitual Offender; Misdemeanor Penalties. 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 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 ***shall be guilty of a class A misdemeanor and*** 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 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.

3 New Paragraph; Manslaughter; License Revocation in Certain Cases. Amend RSA 630:2 by inserting after paragraph II the following new paragraph:

III. In addition to any other penalty imposed, if the death of another person resulted from the driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person indefinitely.

4 Negligent Homicide; License Revocation Period. Amend RSA 630:3, III to read as follows:

III. In addition to any other penalty imposed, if the death of another person resulted from the negligent driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person for up to 7 years. ***In cases where the person is convicted under paragraph II, the court may revoke the license or driving privilege of the convicted person indefinitely and the person shall not petition for eligibility to reapply for a driver's license for at least 7 years.***

5 Discretionary Sentences; Release for Purpose of Gainful Employment or Rehabilitation; Home Confinement. Amend RSA 651:19 to read as follows:

651:19 Release for Purpose of Gainful Employment ~~[or]~~, Rehabilitation ***or Home Confinement***. Any person who has been committed to a penal institution other than state prison under a criminal sentence may be released therefrom by the sentencing court at the time of sentence or at any time during the term of sentence, for the purpose of obtaining and working at gainful employment, for the performance of uncompensated public service as provided in RSA 651:68-70, ***or to serve the sentence under home confinement***, or for such other purpose as the court may deem conducive to his ***or her*** rehabilitation, for such times or intervals of time and under such terms and conditions as the court may order. Any part of a day spent in the free community, ***or in home confinement***, under such a release order shall be counted as a full day toward the serving of the sentence unless otherwise provided by the court. If a person violates the terms and conditions laid down for his ***or her*** conduct, custody and employment, he ***or she*** shall be returned to the sentencing court. The court may then require that the balance of the person's sentence be spent in actual confinement and may cancel any earned reduction of his ***or her*** term.

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

AMENDED ANALYSIS

This bill establishes provisions for the revocation of driver's license privileges for certain manslaughter and negligent homicide convictions.

This bill also provides for home confinement as a means to serve habitual offender sentences and certain discretionary sentences.

Adopted.

Rep. Christie offered a floor amendment.

Floor Amendment (4535h)

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

AN ACT relative to revocation of drivers' licenses for causing a fatality, allowing administrative home confinement for habitual offenders, and authorizing certain impaired driver intervention programs for restoration of driving privileges.

Amend the bill by replacing section 6 with the following:

6 New Paragraph; Impaired Driver Intervention Programs; Authorized Programs for Restoration of Privileges. Amend RSA 172-B:2-a by inserting after paragraph I the following new paragraph:

I-a. Notwithstanding any other law to the contrary, the impaired driver intervention programs operated by the department of corrections shall be deemed approved programs for purposes of the attendance required at such programs for restoration of driver's licenses or driving privileges under RSA 263:65-a.

7 New Subparagraph; Authorized Impaired Driver Intervention Programs.

Amend RSA 263:65-a, I by inserting after subparagraph (b) the following new subparagraph:

(c) Operated by the department of corrections and approved pursuant to RSA 172-B:2-a, I-a.

8 Department of Corrections' Impaired Driver Intervention Programs. Amend RSA 263:65-a, III to read as follows:

III. Successful completion shall also include payment of all assessed I.D.I.P., M.O.P., and equivalent program fees, ***except in the case of attendance at programs operated by***

the department of corrections. 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.

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

AMENDED ANALYSIS

This bill provides for revocation of drivers' licenses for causing a fatality, allows administrative home confinement for habitual offenders, and authorizes certain impaired driver intervention programs for restoration of driving privileges.

Rep. Christie spoke in favor.

Adopted.

Report adopted and ordered to third reading.

SB 439-FN, relative to motor vehicle offenses resulting in serious bodily injury. OUGHT TO PASS WITH AMENDMENT

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill creates a misdemeanor to the motor vehicle code to fill the gap between a violation of the rules of the road and negligent homicide. The language mirrors the changes made to RSA 263:64, driving after revocation. It provides for an increased penalty for violating rules of the road when death or serious bodily injury results. Vote 14-2.

Amendment (4354h)

Amend the bill by replacing section 1 with the following:

1 New Section; Vehicular Assault. Amend RSA 265 by inserting after section 79 the following new section:

265:79-a Vehicular Assault. Any person who, without intent, causes death or serious bodily injury as defined in RSA 625:11, VI to another while using a propelled vehicle or vessel as defined in RSA 637:9, III shall be guilty of a class A misdemeanor, where such person's unlawful operation of the propelled vehicle or vessel causes or materially contributes 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.

AMENDED ANALYSIS

This bill creates a motor vehicle classification for vehicular assault.

Adopted.

Rep. Packard offered a floor amendment.

Floor Amendment (4528h)

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

AN ACT relative to motor vehicle offenses resulting in serious bodily injury, and relative to driver record information.

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

2 Review of Motor Vehicle Record Requests. Amend RSA 260:14, III to read as follows:

III. Motor vehicle records ~~shall~~ **may** be made available in response to a request from a state, a political subdivision of a state, pursuant to a court order, the federal government, or a law enforcement agency for use in official business. ***The request shall be on a case-by-case basis. Any records received pursuant to this section shall not be further transferred or otherwise made available to any other person or listed entity not authorized under this paragraph.***

3 Use of Personal Information Records. Amend RSA 260:14, IV to read as follows:

IV.**(a)** Except for a person's photograph, computerized image and social security number, motor vehicle records shall be made available, upon proof of the identity of the person requesting the records and representation by such person on a form satisfactory to the department that the ~~[use of the]~~ records will be strictly limited to one of the following described uses:

~~[a]~~**(1)** Motor vehicle manufacturers, or their authorized agents, for use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor

vehicles and dealers by motor vehicle manufacturers; and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

[b](2) Insurance companies authorized to write automobile insurance policies in this state, or by self-insured entities, or their authorized agents, for use in connection with claims investigation activities, anti-fraud activities, rating or underwriting.

(b) No motor vehicle records made available under this section shall be sold, rented, transferred or otherwise made available in whole or in part, in any form or format, directly or indirectly, to another person, except that an authorized agent may make such records available to any principal on whose behalf the records were sought if the name of that principal was provided to the department at the time the records were sought.

4 Restriction on Uses of Motor Vehicle Records. Amend the introductory paragraph of RSA 260:14, V(a) to read as follows:

V.(a) Except for a person's photograph, computerized image and social security number, motor vehicle records may be made available upon proof of the identity of the person requesting the records and representation by such person on a form satisfactory to the department that the use of the records will be strictly limited to one or more of the following described uses, ~~[each such use to be separately described]~~ **which use shall be specified in the request:**

5 Access to Motor Vehicle Records by Banking Institutions. RSA 260:14, V(a)(3) is repealed and reenacted to read as follows:

(3) For use with respect to a request for a named person's motor vehicle records by a banking or similar institution, in the normal course of business, but only to verify the accuracy of personal information submitted by the individual to the bank and if such information is incorrect, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

6 Access to Motor Vehicle Records for the Purpose of Bulk Distribution for Surveys, Marketing or Solicitation. Amend RSA 260:14, V(a)(8) and (9) to read as follows:

(8) For bulk distribution for surveys, marketing or solicitations ~~[if the department has implemented methods and procedures to ensure that~~

(i) ~~Persons are provided an opportunity, in a clear, simple and conspicuous manner, to prohibit such uses by means of an option to opt out.~~

(ii) ~~The information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those persons who have requested in a timely fashion that they not be directed at them. Such opportunity shall be provided at any time on request. In addition, the department shall provide posted conspicuous notices of the opportunities to make the selection at each of its offices at which it requests personal information. The department shall also request that the same be done by municipal agents of the department appointed pursuant to RSA 261:74-a],~~ **provided that the express consent of each person to whom such motor vehicle records pertain has been obtained. Such consent may be withdrawn at any time.**

(9) For use with respect to a request for a named person's motor vehicle records by a public utility, as defined in RSA 362:2 and over which the public utilities commission exercised jurisdiction on July 1, 1996, to perform its public service obligations, **provided that the named person's express consent has been obtained. Such consent may be withdrawn at any time.**

7 Restrictions on Motor Vehicle Record Availability. RSA 260:14, V(b) is repealed and reenacted to read as follows:

(b)(1) A person may elect at any time not to have any personal information pertaining to such person made available as provided in subparagraphs V(a)(1), (2), (4), (5), (6) and (7). A person who so elects shall inform the department in writing, and the department shall not thereafter make the personal information available, nor shall the department make available a list of the persons who have so elected. Any elections previously made under this section shall continue in effect. A person may elect at any time not to have any personal information pertaining to such person made available as provided in subparagraphs V(a)(1), (2), (3), (4), (5), (6) and (7). A person who so elects shall inform the department in writing, and the department shall not thereafter make the personal information available, nor shall the department make available a list of the persons who have so elected. Any elections previously made under this section shall continue in effect.

(2) The department shall inform members of the public in a clear, simple and conspicuous manner of their right to make the election permitted by this subparagraph at each of its offices at which it requests personal information. The department shall also request that the same be done by municipal agents of the department appointed pursuant to RSA 261:74-a.

8 New Subparagraph; Parameters of Consent. Amend RSA 260:14, V by inserting after subparagraph (b) the following new subparagraph:

(c)(1) No person shall be required to provide his or her express consent to the release of personal information as a condition of doing business with any other person.

(2) For purposes of this section, "express consent" means upon knowledge and affirmative agreement of the person to whom the personal information pertains in a written statement dated and executed by that person that is separate and distinct from any other document and that contains at least the following:

(A) A specific description of the personal information to be disclosed.

(B) The name of the entity that is authorized to make the disclosure.

(C) Identification of the entity or entities authorized to receive the disclosure and a specific description of the purpose for which such disclosure will be made.

(D) The expiration date of the authorization, which shall be no more than 2 years from the date of its execution.

(E) A clear, simple, and conspicuous statement that providing express consent to the release of personal information is not required in order to do business with the entity that is authorized to make the disclosure.

(F) An acknowledgment by the person executing the statement that he or she has the right to revoke the authorization at any time.

9 Sale or Transfer of Motor Vehicle Records. RSA 260:14, VI is repealed and reenacted to read as follows:

VI.(a) Except as provided in subparagraph (b), an authorized recipient of personal information for a particular use under the provisions of subparagraph V(a) may not use the information, sell, rent, transfer, or make the information available to another person for the same or for any other use.

(b) An authorized recipient of personal information for a particular use under subparagraphs V(a)(4), (8), and (9) may sell, rent, transfer or make the information available to another person for the same use only, subject to the limitations in the particular subparagraph.

(c) An authorized recipient of personal information for a particular use under the provisions of subparagraph VI(b) who sells, rents, transfers or uses the information, or makes the information available to another person, for the same use shall be required by the department to (1) maintain for a period of not less than 5 years records identifying each person who receives the information and the permitted purpose for which the information will be used; and (2) make such records available to the department on request.

10 Penalties for Unlawful Use of Motor Vehicle Records. Amend RSA 260:14, IX to read as follows:

IX.(a) A person is guilty of a ~~[class B]~~ misdemeanor if such person knowingly discloses information from a department record to a person known by such person to be an unauthorized person; knowingly makes a false representation to obtain information from a department record; or knowingly uses such information for any use other than the use authorized by the department. In addition, any professional or business license issued by this state and held by such person may, upon conviction and at the discretion of the court, be revoked permanently or suspended. Each such unauthorized disclosure, unauthorized use or false representation shall be considered a separate offense.

(b) A person is guilty of a class B felony if, in the course of business, such person knowingly sells, rents, offers, or exposes for sale motor vehicle records to another person in violation of this section.

11 New Paragraphs; Fees for Release of Motor Vehicle Records. Amend RSA 260:14 by inserting after paragraph XII the following new paragraphs:

XIII. Notwithstanding the provisions of RSA 91-A, the department may charge reasonable fees for the release of information under this section. In determining a reasonable fee, the department shall consider factors such as labor and production costs, as well as the market value of the information.

XIV. Any person determined by the commissioner, after hearing, to have violated any provisions of this section may be barred from receiving motor vehicle records for a period not to exceed 5 years.

XV.(a) Motor vehicle records obtained from the department under the provisions of subparagraph V(a)(4) and (8) shall be obtained separately for each use specified under subparagraph V(a)(4) and (8), one use to a request, provided that the commissioner may grant a request from a legitimate business for multiple uses if:

(1) The commissioner determines the legitimate business has responsible business practices including, but not limited to, data privacy and security policies.

(2) The legitimate business provides the commissioner with a list of all users of the information, including the name and address of the business, provided, however, that such list shall not be a public record available for public inspection pursuant to RSA 91-A.

(3) The subsequent users are required by the legitimate business to certify compliance with RSA 260:14 and shall be conspicuously informed that they are prohibited from reselling, transferring, or assigning any motor vehicle record information, including personal information.

(4) The legitimate business certifies its compliance with RSA 260:14 on a form prescribed by the department, including posting a bond if required by the commissioner.

(b) All legitimate businesses approved under this paragraph shall be charged a reasonable fee as determined by the commissioner that reflects the number of multiple uses authorized, the volume of the legitimate business' resale business, and the market value of the information.

XVI. The commissioner may limit the information contained in motor vehicle records released to any person under this section if it is determined by the commissioner that the release of certain personal information is unnecessary.

XVII. The provisions of this section shall be severable if any phrase, clause, sentence or provision is declared contrary to the constitution of this state or the United States.

12 Effective Date.

I. Section 1 of this act shall take effect January 1, 2001.

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

AMENDED ANALYSIS

This bill creates a new criminal classification for aggravated vehicular assault. The bill also further defines the various circumstances under which a person's motor vehicle record may be released, and provides added measures of security to those persons wishing to restrict its use.

Adopted.

Report adopted and ordered to third reading.

SB 457, relative to ownership of certified public accounting firms. **OUGHT TO PASS**

Rep. Carolyn A. Virtue for Executive Departments and Administration: SB 457 changes the ownership requirements for firms of certified public accountants and public accountants from 66 2/3 percent to 51 percent. The bill maintains majority ownership be held by a licensee, but allows more flexibility for firms wishing to retain non-CPA employees. All actions of the firms will still be subject to the laws and rules of the board of accountancy. Vote 13-1.

Reps. Rosenfield and Goulet spoke against.

The report failed.

Rep. Goulet moved Refer for Interim Study.

Adopted.

SB 424, relative to controlled substances used for pain management. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert H. Rowe for Judiciary: This bill clarifies the professional use of controlled substances for pain management and encourages physicians in the proper application of pain medication. Physicians testified that appropriate pain management greatly aids patients with acute or chronic pain. This bill enhances the quality of life for those who are terminally ill. SB 424 does not provide immunity from liability when drugs are used in an improper manner or for the illegal purpose of causing death. Vote 13-0.

Amendment (4156h)

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Professional Use of Controlled Substances. Amend RSA 318-B:10 by inserting after paragraph VIII the following new paragraph:

IX. If, in the judgment of a physician licensed under RSA 329, appropriate pain management warrants a high dosage of controlled drugs and the benefit of the relief expected outweighs the risk of the high dosage, the licensed physician may administer or cause to be administered such a dosage, even if its use may increase the risk of death, so long as it is not furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it falls within rules of the board of medicine.

Amend RSA 329:9, XV-a as inserted by section 3 of this act by replacing it with the following:

XV-a. Procedures for appropriate pain management pursuant to RSA 318-B:10, IX.

Adopted.

Rep. Lozeau spoke in favor and yielded to questions.

Adopted and ordered to third reading.

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, May 18, 2000 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 472, relative to final authorization of electric rate reduction financing and commission action.

SB 393, relative to single producer licensing.

SB 436, relative to permanent revocation of drivers' licenses for causing a fatality or serious

bodily injury while driving intoxicated.

SB 439-FN, relative to motor vehicle offenses resulting in serious bodily injury.

SB 424, relative to controlled substances used for pain management.

RECESS MOTION

Rep. Chandler moved that the House stand in recess for the purpose of receiving Senate messages, forming committees of conference, enrolled bill amendments and enrolled bill reports only.

Adopted.

The House recessed at 4:55 p.m.

RECESS

(Speaker Sytek in the Chair)

Rep. John Flanders moved that the House adjourn.

Adopted.