

HOUSE RECORD

**First Year of the 157th Session of the General
Court**

Calendar and Journal of the 2001 Session

Vol. 23

Concord N.H.

Thursday, April 26, 2001

No. 43

HOUSE JOURNAL No. 14(cont.)

Wednesday, April 25, 2001

Rep. Scanlan moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 15

Thursday, April 26, 2001

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

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

God our heavenly parent, You see Your children growing up in an unsteady and confusing world. Show them that Your ways give more life than the ways of the world, and that following You is better than chasing after selfish goals. Help them to take failure, not as a measure of worth, but as a chance for a new start. Give them strength to hold their faith in You and to keep alive their joy in Your creation. Amen.

Rep. Leighton Pratt led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Barker, Cardin, DePecol, Mikowski, Irene Pratt, Saia and Tate, the day, illness.

Reps. Albert, Bragdon, Bridle, Case, Cooney, David Cote, Crosby, Edwards, Flora, Jeff Gilbert, Introne, Naida Kaen, Leishman, Martel, Morse, O'Keefe, Peterson, Tara Reardon, Edwin Smith, Torressen and John White, the day, important business.

Reps. DeChane and Solow, the day, illness in the family.

INTRODUCTION OF GUESTS

Rebecca Alter, daughter of Rep. Rush. Mary-Ella and Tyler Keith, daughter and grandson of Rep. Bowles. Linda and B.J. Poulin, guests of Rep. Tholl. John Pelletier, son of Reps. Marsha and Arthur Pelletier. Members of New Hampshire Association of Volunteer Administrators, guests of Rep. Gargas. Commission McConnell and Cathy Thurston, guests of the Sullivan County Delegation.

SPECIAL GUESTS

In recognition of County Government Week, The Honorable Donald Fontaine, former County Commissioner in Sullivan County and The Honorable Steve Panagopoulos, Grafton County Commissioner and President of the New Hampshire Association of Counties were guests of the House.

special orders regular calendar part ii

HB 364, eliminating straight ticket voting. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Robert E. Clegg, Jr. for the Majority of Election Law: The majority of the committee felt the disenfranchisement of voters is the last thing we need to do. Every session someone files a bill to change the way we vote and/or change the way names are placed on the ballot. More confusion is not what the voters need. Straight ticket voting has existed for years and has caused no harm to any candidate. Last week the committee voted 19-0 Ought to Pass on HB 226 which clarified the instructions for straight ticket voting. Straight ticket voting is a choice. If you do not want to vote straight ticket, you do not have to. Some wish to limit your choice as a voter. The majority of the committee believes the choice is essential to the process. Straight ticket voting is nothing more than allowing voters to choose how they want to vote. Since straight ticket voting has not caused death or injury there is no reason to change it. Vote 12-7.

Rep. Steve Vaillancourt for the Minority of Election Law: Here we go again. Attempts to eliminate straight ticket voting have consistently failed during the past several sessions. Noble ideas often fail and have to resurface several times before they ultimately see the light of day. Such is the case with straight ticket voting. This outmoded concept leads to voter confusion and serves absolutely no useful purpose whatsoever. Proponents of keeping it claim that to do otherwise is tantamount to taking away an inherent right, but that is simply not true. A voter would still be able to vote for every Republican or Democrat or even every Libertarian candidate on the ballot should that voter so choose. He or she would simply have to place a mark next to each candidate's name. In the process of doing that, the voter might decide that a candidate of another party merits support, perhaps because that candidate knocked on the voter's door and made a favorable impression. Straight ticket voting rewards laziness and sloth. Votes in this House in the past have broken down almost entirely along party lines, Republicans opposing elimination due in large part to the perception that since there are more registered Republicans statewide, Republicans benefit. Perceptions can be wrong. Illinois Republicans pushed to ban straight ticket voting since they believed elimination would help them in the Chicago area. When straight ticket voting was finally eliminated in the state, however, Republicans were hurt because Democrats did better downstate and still held strong in Cook County. Let's put parties aside this year and do what is most likely to produce election of the most qualified, most committed candidates. The tri-partisan minority says the time has come. Elimination will not take options away from voters; it will not lead to lower voter turnout; it will eliminate confusion and reward competence.

Reps. Manning, Buckley and Vaillancourt spoke against.

Reps. Stritch, Bowles and Clegg spoke in favor.

Rep. Herman requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

YEAS 186 NAYS 147

YEAS 186

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Nedeau, Stephen	Rice, Thomas Jr	Rosen, Ralph
Russell, David	Thomas, John	Wendelboe, Fran	

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Lyman, L Randy	Mock, Henry	Patten, Betsey	Philbrick, Donald
Quimby, Lee	Stevens, Stanley	Sullivan, P Judith	

CHESHIRE

Avery, Stephen	Emerson, Susan	Fairbanks, Chandler	Hunt, John
Roberts, William	Royce, H Charles		

COOS

Gallus, John	Guay, Lawrence	Horton, Lynn	Pratt, Leighton
Rozek, Michael	Stohl, Eric	Tholl, John Jr	Woodward, David

GRAFTON

Alger, John	Dudley, Terri	Eaton, Stephanie	Gabler, William
Gilman, G Michael	Giuda, Robert	Marshall, Gene	Mirski, Paul
Scanlan, David	Sova, Charles	Teschner, Douglass	Ward, Brien
Williams, Burton			

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Balcom, John	Batula, Peter	Bergeron, Jean-Guy
Bouchard, David	Bouldin, Michael	Brundige, Robert	Bruno, Pierre
Calawa, Leon Jr	Carlson, Donald	Christensen, D L Chris	Christiansen, Lars
Clegg, Robert Jr	Coughlin, Pamela	Dionne, Kimberley	Drisko, Richard
Dwyer, Paul	Eaton, Richard	Elliott, Larry	Emerton, Lawrence Sr
Fields, Dennis	Fletcher, Richard	Ford, Nancy	Furman, Christine
Gargas, Carolyn	Golding, William	Graham, John	Greenberg, Gary
Haley, Robert	Hall, Charles	Herman, Keith	Holden, Randolph
Hopper, Gary	Jean, Loren	Johnson, Lionel	Kurk, Neal
LaRose, Richard	Leach, Edward	Lessard, Rudy	McHugh, Claire
McRae, Karen	Mercer, Robert	Milligan, Robert	Moran, Edward
Pappas, Marc	Pepino, Leo	Reeves, Sandra	Rowe, Robert
Sargent, Maxwell	Seibel, Christopher	Tahir, Saghir	Thompson, Rob
Thulander, O Alan	Wheeler, Robert	White, Donald	

MERRIMACK

Anderson, Eric	Colcord, J D	Cummings, Raymond	Dunne, Christopher
Fraser, Leo Jr	Hess, David	Hutchinson, John	Kennedy, Richard

L'Heureux, Stephen	Langer, Ray	Leber, William	MacKay, James
Poulin, David	Swindlehurst, John	Whalley, Michael	Winter, Steven

ROCKINGHAM

Arndt, Janet	Belanger, Ronald	Bishop, Franklin	Bowles, Raimond
Camm, Kevin	Carson, Sharon	Chalbeck, Kevin	Corbin, Corey
Cox, Russell	Dalrymple, Janeen	Dearborn, Bruce	Dodge, Robert
Fesh, Bob	Flanagan, Natalie	Flanders, John Sr	Francoeur, Sheila
Giordano, Ronald	Gleason, John	Griffin, Mary	Hamel, Albert
Hill, Jonathan	Holland, James Jr	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Letourneau, Robert
Major, Norman	McKinney, Betsy	Moore, Benjamin	Nowe, Ronald
Packard, Sherman	Palermo, Diane	Pitts, Jacqueline	Power, Lucille
Priestley, Anne	Putnam, Ed II	Quandt, Marshall	Quandt, Matthew
Rausch, James	Sapareto, Frank	Sloan, Stephen	Stone, Joseph
Stritch, C Donald	Varrell, Thomas	Welch, David	Weyler, Kenneth
Zolla, William			

STRAFFORD

Berube, Roger	Brennan, William	Callaghan, Frank	Cossette, Larry
Harrington, Michael	Musler, George	Twombly, James	Woods, Phyllis

SULLIVAN

Flint, Gordon Sr	Jones, Constance	Leone, Richard	Odell, Bob
Rodeschin, Beverly			

NAYS 147

BELKNAP

Johnson, William	Millham, Alida	Pilliod, James	Wood, Jane
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CARROLL

None

CHESHIRE

Allen, Peter	Batchelder, Robert	Burnham, Daniel	Dexter, Judson
Espieffs, Peter	Manning, Joseph	McGuirk, Paul	Meador, David
Mitchell, McKim	Pratt, John	Richardson, Barbara	Russell, Ronald
Weed, Charles	Zerba, Roger		

COOS

Bradley, Paula	Landers, Dana	Mears, Edgar
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GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Cooney, Mary
Ham, Bonnie	Lovett, Sid	Naro, Debra	Nordgren, Sharon
Pawlek, Marion	Scovner, Nancy	Sokol, Hilda	

HILLSBOROUGH

Andosca, Mary	Baroody, Benjamin	Bellavance, Paul	Bergin, Peter
Buckley, Raymond	Chabot, Robert	Clayton, William	Clemons, Jane
Cote, Peter	Craig, James	Daigle, Robert	Desrosiers, William
Dokmo, Cynthia	Drabinowicz, A Theresa	Duval, Jeffrey	Foster, Linda
Ginsburg, Ruth	Goley, Jeffrey	Gorman, Mary	Guinta, Frank
Hall, Betty	Kacavas, John	Konys, Christine	L'Heureux, Robert
LaFlamme, Paul	Lasky, Bette	Lynde, Harold	McDonough-Wallace, Alice
Melcher, Harold	Messier, Irene	Movsesian, Lori	O'Connell, Timothy
Palangas, Eric	Salts, Greg	Schulze, Joan	Shaw, Barbara
Spiess, Paul	Sweeney, Cynthia	Vaillancourt, Steve	Williams, Carol

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Daneault, Gabriel
Davis, Frank	Feuerstein, Martin	Fraser, Marilyn	French, Barbara
Gile, Mary	Greco, Vincent	Hager, Elizabeth	Jacobson, Alf
Lockwood, Priscilla	Moore, Carol	Owen, Derek	Perkins, Randy
Potter, Frances	Rodd, Beth	Rush, Deanna	Seldin, Gloria

Wallner, Mary Jane

Whittemore, James

Yeaton, Charles

ROCKINGHAM

Blanchard, MaryAnn

Clark, Martha Fuller

Clark, Vivian

Coes, Betsy

DiFruscia, Anthony

Downing, Michael

Gilbert, Karl

Kane, Cecelia

Kelley, Jane

Langley, Jane

Langone, John

McGuire, Robert

Micklon, Stephanie

Norelli, Terie

Pantelakos, Laura

Robertson, Carl

Ruffner, Walter

Shultis, Elizabeth

Splaine, James

Trueman, Raymond

Weatherspoon,
Jacquelyne

Whittier, John

STRAFFORD

Bickford, David

Brown, Julie

Dunlap, Patricia

Estabrook, Iris

Ferland, Paul

Goodwin, Earle

Heon, Richard

Hughes, Christopher

Johnson, Nancy

Knowles, William

Lent, Donald

McCarthy, Gerald

Pelletier, Arthur

Pelletier, Marsha

Proulx, Raymond

Rollo, Michael

Smith, Marjorie

Snyder, Clair

Taylor, Kathleen

Wall, Janet

Woodill, Rodney

SULLIVAN

Allison, David

Burling, Peter

Cloutier, John

Ferland, Brenda

Franklin, Peter

Harris, Joseph

Harris, Sandra

Phinizy, James

Robb, Amy

and the majority report was adopted.

HB 348-FN, prohibiting the land application of sludge in certain excavation areas. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Betty B. Hall for the Majority of Environment and Agriculture: The bill as amended by the majority of the committee replaces the entire bill with a suspension on the issuance of new permits to spread sludge on excavation areas. It applies only to gravel pits, which are located over stratified drift aquifers. The very limited prohibition sunsets in two years. Spreading of sludge on currently permitted sites can continue. The majority believes that protecting our aquifers for the next two years while we complete current research (being done here in NH) is a reasonable exercise of our responsibility for our drinking water sources. Vote 8-6.

Rep. Harold P. Melcher for the Minority of Environment and Agriculture: The minority of the committee felt the bill is unjustified by verifiable evidence of harm, prohibits the very scientific research which could provide the evidence the proponents say they must have to end the

moratorium, lays a heavy burden on taxpayers to dispose of a product that is now revenue-producing, threatens landfill capacity, makes gravel pit reclamation impractical, and incidentally takes away the livelihood of the people engaged in the industry.

Amendment (0797h)

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

AN ACT relative to suspending the issuance of any permits for the land application of sludge and short paper fiber in certain excavation areas.

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

1 Suspension of Permit Issuance. Notwithstanding any other law to the contrary, the department of environmental services shall suspend issuing any new permits for the land application of sludge and short paper fiber, as defined in RSA 485-A:2, in any excavation area, as defined in RSA 155-E:1, VI, located over a stratified drift aquifer as determined by the most recent United States Geological Survey aquifer map or in any affected site, as defined in RSA 12-E:1, I, located over a stratified drift aquifer as determined by the most recent United States Geological Survey aquifer map.

2 Repeal. Section 1 of this act, relative to land application of sludge and short paper fiber, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2003.

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

AMENDED ANALYSIS

This act temporarily suspends the issuance of any new permits for the land application of sludge and short paper fiber in certain excavation areas for a period of 2 years.

Adopted.

Reps. O'Connell, Melcher and Scanlan spoke against and yielded to questions.

Reps. Betty Hall and Guay spoke in favor and yielded to questions.

Rep. Owen spoke in favor.

Rep. Babson requested a roll call; sufficiently seconded.

The question being adoption of the majority report.

YEAS 149 NAYS 196

YEAS 149

BELKNAP

Czech, Stanley	Flanders, Donald	Pilliod, James	Wood, Jane
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CARROLL

Bradley, Jeb	Dickinson, Howard
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CHESHIRE

Allen, Peter	Batchelder, Robert	Burnham, Daniel	Dexter, Judson
Espieffs, Peter	Fairbanks, Chandler	McGuirk, Paul	Pratt, John
Richardson, Barbara	Weed, Charles		

COOS

Bradley, Paula	Guay, Lawrence	Landers, Dana	Mears, Edgar
Rodrigue, Robert	Rozek, Michael		

GRAFTON

Akins, Ralph	Benn, Bernard	Cooney, Mary	Eaton, Stephanie
Ham, Bonnie	Lovett, Sid	Mirski, Paul	Naro, Debra
Nordgren, Sharon	Pawlek, Marion	Scovner, Nancy	Sokol, Hilda
Teschner, Douglass			

HILLSBOROUGH

Balcom, John	Baroody, Benjamin	Buckley, Raymond	Clayton, William
Daigle, Robert	Desrosiers, William	Drabinowicz, A Theresa	Duval, Jeffrey
Ford, Nancy	Goley, Jeffrey	Graham, John	Greenberg, Gary
Guinta, Frank	Haley, Robert	Hall, Betty	Holden, Randolph
Kacavas, John	Keye, Harvey	Konys, Christine	Lynde, Harold
Martin, Mary Ellen	McDonough-Wallace, Alice	Messier, Irene	Palangas, Eric
Schulze, Joan	Shaw, Barbara	Souza, Kathleen	Tahir, Saghir
Vaillancourt, Steve			

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Daneault, Gabriel
Davis, Frank	Fraser, Marilyn	French, Barbara	Gile, Mary
Greco, Vincent	Hager, Elizabeth	Jacobson, Alf	L'Heureux, Stephen
Langer, Ray	Moore, Carol	Owen, Derek	Perkins, Randy
Potter, Frances	Poulin, David	Rodd, Beth	Rush, Deanna
Seldin, Gloria	Wallner, Mary Jane	Whittemore, James	Winter, Steven
Yeaton, Charles			

ROCKINGHAM

Bishop, Franklin	Blanchard, MaryAnn	Bowles, Raimond	Clark, Martha Fuller
Clark, Vivian	DiFruscia, Anthony	Downing, Michael	Hamel, Albert
Kane, Cecelia	Katsakiores, George	Kelley, Jane	Langley, Jane
McGuire, Robert	McKinney, Betsy	Micklon, Stephanie	Moore, Benjamin
Norelli, Terie	Packard, Sherman	Pantelakos, Laura	Pitts, Jacqueline
Power, Lucille	Quandt, Marshall	Quandt, Matthew	Robertson, Carl
Ruffner, Walter	Shultis, Elizabeth	Splaine, James	Trueman, Raymond
Varrell, Thomas	Weatherspoon, Jacquelyne	Woekel, Ralph	

STRAFFORD

Brennan, William	Callaghan, Frank	Dunlap, Patricia	Estabrook, Iris
Ferland, Paul	Goodwin, Earle	Heon, Richard	Johnson, Nancy
Knowles, William	Lent, Donald	McCarthy, Gerald	Pelletier, Arthur
Pelletier, Marsha	Proulx, Raymond	Rollo, Michael	Smith, Marjorie
Snyder, Clair	Wall, Janet	Woodill, Rodney	

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Franklin, Peter	Harris, Joseph	Harris, Sandra	Odell, Bob
Phinizy, James	Robb, Amy		

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Holbrook, Robert	Johnson, William
Lawton, David	Millham, Alida	Nedeau, Stephen	Rice, Thomas Jr
Rosen, Ralph	Russell, David	Thomas, John	Wendelboe, Fran

CARROLL

Babson, David Jr	Kenney, Joseph	Lyman, L Randy	Mock, Henry
Patten, Betsey	Philbrick, Donald	Quimby, Lee	Stevens, Stanley
Sullivan, P Judith			

CHESHIRE

Avery, Stephen	Emerson, Susan	Hunt, John	Manning, Joseph
Meadar, David	Mitchell, McKim	Roberts, William	Royce, H Charles
Russell, Ronald	Zerba, Roger		

COOS

Davis, Perley	Gallus, John	Horton, Lynn	Pratt, Leighton
Stohl, Eric	Tholl, John Jr	Woodward, David	

GRAFTON

Alger, John	Almy, Susan	Cobb, John	Dudley, Terri
Gabler, William	Gilman, G Michael	Giuda, Robert	Marshall, Gene
Scanlan, David	Sova, Charles	Ward, Brien	Williams, Burton

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Andosca, Mary	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Batula, Peter	Bellavance, Paul
Bergeron, Jean-Guy	Bergin, Peter	Bouchard, David	Bouldin, Michael
Brundige, Robert	Bruno, Pierre	Calawa, Leon Jr	Carlson, Donald
Chabot, Robert	Christensen, D L Chris	Christiansen, Lars	Clegg, Robert Jr
Clemons, Jane	Cote, Peter	Coughlin, Pamela	Craig, James
Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard	Dwyer, Paul

Eaton, Richard	Elliott, Larry	Emerton, Lawrence Sr	Fields, Dennis
Fletcher, Richard	Foster, Linda	Furman, Christine	Gargasz, Carolyn
Ginsburg, Ruth	Golding, William	Gorman, Mary	Hall, Charles
Herman, Keith	Hopper, Gary	Jean, Loren	Johnson, Lionel
Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul	LaRose, Richard
Lasky, Bette	Leach, Edward	Lefebvre, Roland	Lessard, Rudy
McHugh, Claire	McRae, Karen	Melcher, Harold	Mercer, Robert
Milligan, Robert	Moran, Edward	Movsesian, Lori	O'Connell, Timothy
Pappas, Marc	Pepino, Leo	Reeves, Sandra	Rowe, Robert
Salts, Greg	Sargent, Maxwell	Seibel, Christopher	Spiess, Paul
Sweeney, Cynthia	Thompson, Rob	Thulander, O Alan	Wheeler, Robert
White, Donald	Williams, Carol		

MERRIMACK

Anderson, Eric	Colcord, J D	Cummings, Raymond	Dunne, Christopher
Feuerstein, Martin	Fraser, Leo Jr	Hess, David	Hutchinson, John
Kennedy, Richard	Leber, William	Lockwood, Priscilla	MacKay, James
Swindlehurst, John	Whalley, Michael		

ROCKINGHAM

Arndt, Janet	Belanger, Ronald	Camm, Kevin	Carson, Sharon
Chalbeck, Kevin	Coes, Betsy	Corbin, Corey	Cox, Russell
Dalrymple, Janeen	Dearborn, Bruce	Dodge, Robert	Dowling, Patricia
Fesh, Bob	Flanagan, Natalie	Flanders, John Sr	Francoeur, Sheila
Gilbert, Karl	Giordano, Ronald	Gleason, John	Griffin, Mary
Hill, Jonathan	Holland, James Jr	Johnson, Robert	Johnson, Rogers
Katsakiores, Phyllis	Kelley, William	Kobel, Rudolph	Langone, John
Letourneau, Robert	Major, Norman	Nowe, Ronald	Palermo, Diane
Priestley, Anne	Putnam, Ed II	Rausch, James	Sapareto, Frank
Sloan, Stephen	Stone, Joseph	Stritch, C Donald	Welch, David
Weyler, Kenneth	Whittier, John	Zolla, William	

STRAFFORD

Berube, Roger	Bickford, David	Brown, Julie	Cossette, Larry
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Harrington, Michael
Tsiros, William

Hughes, Christopher
Twombly, James

Musler, George
Woods, Phyllis

Taylor, Kathleen

SULLIVAN

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

and the majority report failed.

Rep. Scanlan moved Inexpedient to Legislate.

Adopted.

HB 392, establishing a committee to study the property tax status for land of agricultural fairs.
OUGHT TO PASS WITH AMENDMENT

Rep. John R. Swindlehurst for Environment and Agriculture: This bill as amended is concerns the relationship between agricultural fairs and their host communities. Testimony indicated some fairs have tax problems while others do not. The committee is very concerned about the decline of agriculture in our state and believes agriculture needs all the promotion it can get. The educational aspects of agricultural fairs must be preserved. Concern was expressed that the host communities should be compensated for services they provide. This bill requires an agreement between a host community and its fair for those services. This bill does not mandate any amount of money or duration of agreement. Vote 17-1.

Rep. O'Connell moved Recommit to Committee.

Adopted and recommitted to Environment and Agriculture.

HB 393-FN, relative to plant nurseries and nursery stock. **OUGHT TO PASS WITH AMENDMENT**

Rep. Timothy D. O'Connell for Environment and Agriculture: This bill revises the laws relative to the registration and inspection procedures for plant nurseries. All commercial producers, or sellers, of nursery stock must be licensed annually. A nursery inspector shall inspect any nursery as determined necessary by the director. Upon successful completion of an on-site inspection, a certificate will be issued by the director verifying that the nursery stock is free of plant pests or disease for distribution. Vote 14-0.

Amendment (0752h)

Amend RSA 433:21, I as inserted by section 1 of the bill by replacing it with the following:

I. "Certificate" means a document indicating that plant stock has been inspected and found to be apparently free from dangerous insects and plant diseases.

Amend RSA 433:21, VI as inserted by section 1 of the bill by replacing it with the following:

VI. "Director" means the state entomologist, qualified by scientific training and practical experience, directly answerable to the commissioner, in charge of and responsible for the activities of the division of plant industry.

Amend RSA 433:21, X and XI as inserted by section 1 of the bill by replacing them with the following:

X. "Horticultural services" means any arborist, landscape architect or gardening consultant whose function is that of providing services relative to horticulture.

XI. "License" means an authorization from the director to sell plant stock.

Amend RSA 433:23 as inserted by section 3 of the bill by replacing it with the following:

433:23 Certified Stock. All nursery stock shipped into New Hampshire shall bear on each consignment or package ~~[an unexpired]~~ a valid license or certificate ***number indicating*** that the contents of that consignment or package have been inspected by a duly authorized inspecting officer, and that the contents are apparently free from all dangerous insects and plant diseases, and are therefore certified stock.

Amend RSA 433:28, V as inserted by section 5 of the bill by replacing it with the following:

V. Nursery stock infected with plant diseases or infested with plant pests shall not be offered for sale or given away.

Amend RSA 433:32, I(a) as inserted by section 10 of the bill by replacing it with the following:

(a) Selling, distributing, receiving, or delivering nursery stock which has not been licensed or certified.

Adopted .

Report adopted and ordered to third reading.

HB 581-FN Relative to the authority of the commissioner of agriculture, markets, and food to search for invasive species. **INEXPEDIENT TO LEGISLATE**

Rep. Burton W. Williams for Environment and Agriculture: The committee feels that the commissioner has the authority to accomplish this already. It would require unnecessary general fund expenditures. Vote 16-2.

Rep. Babson moved Recommit to Committee.

Adopted and recommitted to Environment and Agriculture.

HB 610, allowing the sale of raw milk cheese and unpasteurized apple cider in New Hampshire. **OUGHT TO PASS WITH AMENDMENT**

Rep. Burton W. Williams for Environment and Agriculture: This bill replaces the long-standing agricultural traditions of New Hampshire. It allows distribution of unpasteurized milk, cheese and cider to certain customers. Vote 13-0.

Amendment (0705h)

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

1 Sale of Dairy Products; Sale of Raw Milk Cheese Allowed. Amend RSA 184:30-a to read as follows:

184:30-a Pasteurization Required. No milk or milk products as defined in RSA 184:79 shall be sold, offered for sale or served unless pasteurized. This shall not serve to prohibit the direct sale of raw milk or cream from the producer, store or milk pasteurization plant to the final consumer, or milk or cream from a producer to stores, nor the serving of raw milk at bona fide boarding houses where the milk is produced on the premises, provided that in the dining room of such boarding houses a sign is prominently displayed stating that such raw milk is served therein, ***nor the sale within the state of cheese made from raw milk when such cheese has been aged a minimum of 60 days at 35 degrees fahrenheit or colder, and is clearly labeled as unpasteurized.***

2 New Paragraph; Manufacture and Sale of Unpasteurized Cider. Amend RSA 434:40-b by inserting after paragraph IV the following new paragraph:

V. That unpasteurized cider may be sold within the state if such cider is clearly labeled as unpasteurized.

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

AMENDED ANALYSIS

This bill allows the sale of cheese made from raw milk if such cheese is aged for 60 days and the sale of unpasteurized apple cider within the state. Such products shall be clearly labeled as unpasteurized.

Adopted.

Report adopted and ordered to third reading.

HB 625-FN, establishing a moratorium on the land application of class B biosolids. **INEXPEDIENT TO LEGISLATE**

Rep. Richard P. Brewster for Environment and Agriculture: This bill would mandate a moratorium on land application of biosolids. It was felt this would not be appropriate at this time. Vote 10-7.

Rep. Betty Hall and Owen spoke against.

Rep. Melcher and Babson spoke in favor.

Adopted.

HB 676-L, establishing a committee to study the creation of a regional program for collection and marketing certain components of the municipal solid waste stream. **OUGHT TO PASS WITH AMENDMENT**

Rep. George T. Musler for Environment and Agriculture: The intent of this study is to address relieving increased demand on landfills and to provide an "end-point" for certain components of the municipal solid waste stream, both at the municipal level and from existing waste districts. Particular attention will be given to creating collection points in order to market certain components in the waste stream, taking into consideration the concept of economy of scale. Vote 16-0.

Amendment (0621h)

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership and Compensation.

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

(a) Three members of the house of representatives, appointed by the speaker of the house, including one member of the environment and agriculture committee and one member of the municipal and county government committee.

(b) Three members of the senate, appointed by the president of the senate, including one member of the environment committee and one member of the ways and means committee.

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

3 Duties. The committee shall study the creation of enabling legislation for the formation of regional districts for collection and marketing of certain components in the solid waste stream including, but not limited to, aluminum, steel, various metals, newsprint, plastics, and glass, and the collection of other post-consumer wastes. The purpose of such districts shall be to reduce toxicity in the solid waste stream, reduce the amount of solid waste destined for disposal, and allow increased public sector management of waste materials. A component of proposed legislation shall be state reimbursement of costs to municipalities that are members of such regional districts.

Adopted.

Report adopted and ordered to third reading.

HB 105-FN-A, establishing an agricultural nutrient management program and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: The amendment creates a program to help farmers and other livestock owners protect water quality by managing nutrients, like manure, from agricultural sources according to Best Management Practices on a voluntary basis through small grants. The original bill created a designated fund. The amendment removes this mechanism and also calls for a report on the status of the program each year beginning in October 2002 by the Commissioner of Agriculture. \$20,000 appropriated each year from fees currently generated by fertilizer registration and inspection will be matched by \$30,000 Department of Environmental Services Federal Clean Water Act grant money for the purpose of this program. The Commissioners of Agriculture and Environmental Services strongly support this bill. Vote 20-0.

Amendment (0610h)

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

1 New Subdivision; Agricultural Nutrient Management Program. Amend RSA 431 by inserting after section 35 the following new subdivision:

Agricultural Nutrient Management Program

431:36 Program Established.

I. The commissioner of the department of agriculture, markets, and food shall establish an agricultural nutrient management program. The program shall assist agricultural land and livestock owners with efforts to minimize potential adverse effects on waters of the state resulting from agricultural nutrients including fertilizers, animal manures, and agricultural compost. The purpose of the program shall be to provide educational, technical, and financial assistance to agricultural land owners with implementing best management practices as provided in RSA 431:34-35, and such other practices deemed necessary to mitigate water pollution. The goal of the program is to assist and enable the continued viability of farming in New Hampshire and the preservation of open space in a manner that is compatible with the state's public health and environmental objectives. The commissioner shall be authorized to accept grants, gifts, and donations from any public or private sources for the purposes stated in this paragraph.

II. The commissioner shall report by October 1 of each year, beginning 2002, to the house environment and agriculture committee, the senate environment committee, the house finance committee, and the senate finance committee. The report shall include:

- (a) The use and current status of the fund;
- (b) The work accomplished;
- (c) The number of grantees and the amount of the grant received by each; and
- (d) The effectiveness of the implementation of agricultural best management practices needed to more fully protect water quality.

2 Appropriations.

I. The sum of \$20,000 is appropriated to the department of agriculture for each year of the biennium, ending June 30, 2003, for the purpose of funding the agricultural nutrient management program established under RSA 431:36. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

II The commissioner shall apply for a grant of \$30,000 through the department of environmental services from the Environmental Protection Agency pursuant to section 319 of the Clean Water Act for nonpoint source pollution programs.

AMENDED ANALYSIS

This bill requires the commissioner of the department of agriculture, markets, and food to establish a program of agricultural nutrient management in the state of New Hampshire. This bill provides for funding through June 30, 2003, and requires the commissioner to apply for a grant from the department of environmental services.

Adopted.

Report adopted and ordered to third reading.

HB 177-FN-A, relative to the purchase of a wheelchair van for the veterans' home in Tilton and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Beverly T. Rodeschin for Finance: This bill, as amended, appropriates up to \$25,000 for the purchase of a wheelchair van for the Veterans' Home in Tilton. The funds are to be matched by private donations on a dollar-for-dollar basis. The appropriation is against an expected FY 01 surplus, but the funds may be drawn anytime before June 30, 2002. The amendment is acceptable to the Veterans' Home. Vote 21-0.

Amendment (0465h)

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

1 Appropriation; Department of Administrative Services; Wheelchair Van for Veterans' Home. The sum of up to \$25,000 is hereby appropriated for the fiscal year ending June 30, 2001 to the department of administrative services, for the purpose of matching private donations on a dollar per dollar basis for the purchase of a wheelchair van for the veterans' home in the town of Tilton. This appropriation shall not lapse until June 30, 2002. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill appropriates state funds to match private donations for the purchase of a wheelchair van for the veterans' home in Tilton.

Adopted.

Report adopted and ordered to third reading.

HB 270-FN, increasing the mileage reimbursement rate for members of the legislature. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill deals with an issue that has been avoided for decades – reimbursement to members. Members work hard for others and this bill is overdue. It increases by \$.04 a mile the allowance effective for members in the next session. Vote 17-4.

Amendment (0695h)

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

1 General Court; Travel Allowance to Members. Amend RSA 14:15-a, I, (b)(1) and (2) to read as follows:

(1) For the first 45 miles, [~~\$.38~~] **\$.42** per mile; and

(2) For all miles in excess of 45 miles, [~~\$.19~~] **\$.23** per mile.

2 Application. The rules for travel allowance for members of the general court provided for in RSA 14:15-a, I(b)(1) and (2) as amended by section 1 of this act shall be used for the calculation of reimbursement to members beginning on or after December 4, 2002.

3 Effective Date. This act shall take effect December 4, 2002.

Adopted.

Rep. Holden requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 230 NAYS 97

YEAS 230

BELKNAP

Boyce, Laurie	Czech, Stanley	Flanders, Donald	Holbrook, Robert
Lawton, David	Nedeau, Stephen	Russell, David	Thomas, John
Wendelboe, Fran	Wood, Jane		

CARROLL

Bradley, Jeb	Dickinson, Howard	Lyman, L Randy	Patten, Betsey
Philbrick, Donald	Stevens, Stanley	Sullivan, P Judith	

CHESHIRE

Allen, Peter	Avery, Stephen	Batchelder, Robert	Burnham, Daniel
Dexter, Judson	Emerson, Susan	Espiefs, Peter	Hunt, John
Manning, Joseph	McGuirk, Paul	Meador, David	Mitchell, McKim
Pratt, John	Richardson, Barbara	Roberts, William	Royce, H Charles
Russell, Ronald	Weed, Charles	Zerba, Roger	

COOS

Bradley, Paula	Davis, Perley	Guay, Lawrence	Horton, Lynn
Landers, Dana	Mears, Edgar	Pratt, Leighton	Rozek, Michael
Stohl, Eric	Tholl, John Jr	Woodward, David	

GRAFTON

Akins, Ralph	Almy, Susan	Cooney, Mary	Dudley, Terri
Gabler, William	Marshall, Gene	Naro, Debra	Nordgren, Sharon
Pawlek, Marion	Scanlan, David	Scovner, Nancy	Sokol, Hilda
Teschner, Douglass	Ward, Brien		

HILLSBOROUGH

Alukonis, David	Artz, Lawrence	Batula, Peter	Bellavance, Paul
Bergin, Peter	Bouchard, David	Brundige, Robert	Carlson, Donald
Chabot, Robert	Christensen, D L Chris	Coughlin, Pamela	Daigle, Robert
Dionne, Kimberley	Drabinowicz, A Theresa	Drisko, Richard	Dyer, Merton
Eaton, Richard	Emerton, Lawrence Sr	Fletcher, Richard	Ford, Nancy
Foster, Linda	Furman, Christine	Gargasz, Carolyn	Goley, Jeffrey
Gorman, Mary	Goulet, Maurice	Graham, John	Guinta, Frank
Hall, Betty	Hall, Charles	Herman, Keith	Jean, Loren
Johnson, Lionel	Kurk, Neal	LaFlamme, Paul	LaRose, Richard
Leach, Edward	Lefebvre, Roland	Lessard, Rudy	Lynde, Harold
Martin, Mary Ellen	McDonough-Wallace, Alice	McHugh, Claire	McRae, Karen
Melcher, Harold	Mercer, Robert	Messier, Irene	Milligan, Robert
Moran, Edward	O'Connell, Timothy	Pappas, Marc	Pepino, Leo
Rowe, Robert	Sargent, Maxwell	Schulze, Joan	Seibel, Christopher
Spieß, Paul	Sweeney, Cynthia	Vaillancourt, Steve	Wheeler, Robert
White, Donald	Williams, Carol		

MERRIMACK

Anderson, Eric	Brewster, Richard	Clarke, Claire	Colcord, J D
Cummings, Raymond	Daneault, Gabriel	Dunne, Christopher	Feuerstein, Martin
Fraser, Leo Jr	French, Barbara	Greco, Vincent	Hager, Elizabeth
Hess, David	Hutchinson, John	Jacobson, Alf	L'Heureux, Stephen
Leber, William	MacKay, James	Moore, Carol	Perkins, Randy
Poulin, David	Rush, Deanna	Swindlehurst, John	Wallner, Mary Jane
Whalley, Michael	Whittemore, James	Winter, Steven	

ROCKINGHAM

Arndt, Janet	Belanger, Ronald	Bishop, Franklin	Bowles, Raimond
Camm, Kevin	Carson, Sharon	Chalbeck, Kevin	Coesh, Betsy
Corbin, Corey	Cox, Russell	Dalrymple, Janeen	Dearborn, Bruce
Dodge, Robert	Dowling, Patricia	Downing, Michael	Flanagan, Natalie
Flanders, John Sr	Francoeur, Sheila	Gilbert, Karl	Giordano, Ronald
Gleason, John	Griffin, Mary	Henderson, Warren	Holland, James Jr
Johnson, Robert	Kane, Cecelia	Katsakiores, George	Katsakiores, Phyllis
Kelley, Jane	Kobel, Rudolph	Langley, Jane	Langone, John
Letourneau, Robert	Major, Norman	McGuire, Robert	Micklon, Stephanie
Moore, Benjamin	Nowe, Ronald	Pantelakos, Laura	Rausch, James
Ruffner, Walter	Sapareto, Frank	Shultis, Elizabeth	Sloan, Stephen
Splaine, James	Stone, Joseph	Stritch, C Donald	Trueman, Raymond
Varrell, Thomas			

STRAFFORD

Bickford, David	Brown, Julie	Callaghan, Frank	Cossette, Larry
Estabrook, Iris	Ferland, Paul	Goodwin, Earle	Grassie, Anne
Heon, Richard	Johnson, Nancy	Knowles, William	McCarthy, Gerald
Musler, George	Pelletier, Arthur	Pelletier, Marsha	Proulx, Raymond
Rollo, Michael	Snyder, Clair	Taylor, Kathleen	Woodill, Rodney

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Flint, Gordon Sr	Franklin, Peter	Harris, Joseph	Harris, Sandra
Jones, Constance	Odell, Bob	Phinizy, James	

NAYS 97

BELKNAP

Bartlett, Gordon	Dewhirst, Glenn	Johnson, William	Millham, Alida
Pilliod, James	Rice, Thomas Jr	Rosen, Ralph	

CARROLL

Babson, David Jr	Kenney, Joseph	Mock, Henry
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CHESHIRE

Fairbanks, Chandler

COOS

Gallus, John	Rodrigue, Robert
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GRAFTON

Alger, John	Benn, Bernard	Cobb, John	Giuda, Robert
Lovett, Sid	Mirski, Paul	Sova, Charles	Williams, Burton

HILLSBOROUGH

Andosca, Mary	Arnold, Thomas Jr	Balboni, Michael	Balcom, John
Bergeron, Jean-Guy	Bruno, Pierre	Buckley, Raymond	Calawa, Leon Jr
Christiansen, Lars	Clegg, Robert Jr	Cote, Peter	Craig, James
Dokmo, Cynthia	Dwyer, Paul	Elliott, Larry	Fields, Dennis
Golding, William	Greenberg, Gary	Holden, Randolph	Hopper, Gary
Kacavas, John	Keye, Harvey	Konys, Christine	L'Heureux, Robert
Lasky, Bette	Movsesian, Lori	Panagopoulos, Nicholas	Salts, Greg
Souza, Kathleen	Tahir, Saghir	Thompson, Rob	Thulander, O Alan

MERRIMACK

Bouchard, Candace	Davis, Frank	Fraser, Marilyn	Gile, Mary
Langer, Ray	Lockwood, Priscilla	Owen, Derek	Rodd, Beth
Yeaton, Charles			

ROCKINGHAM

Clark, Vivian	DiFruscia, Anthony	Fesh, Bob	Hamel, Albert
Hill, Jonathan	Hutchinson, Karen	Itse, Daniel	Johnson, Rogers
Kelley, William	McKinney, Betsy	Packard, Sherman	Palermo, Diane

Pitts, Jacqueline	Power, Lucille	Priestley, Anne	Putnam, Ed II
Quandt, Marshall	Quandt, Matthew	Robertson, Carl	Weatherspoon, Jacquelyne
Welch, David	Whittier, John	Woekel, Ralph	Zolla, William

STRAFFORD

Berube, Roger	Brennan, William	Dunlap, Patricia	Harrington, Michael
Hughes, Christopher	Lent, Donald	Smith, Marjorie	Twombly, James
Wall, Janet			

SULLIVAN

Robb, Amy	Rodeschin, Beverly
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and the report was adopted.

Ordered to third reading.

Rep. Phyllis Woods did not vote and wished to be recorded against.

HB 276-FN-A, relative to reimbursement of legal fees of supreme court employees who retained counsel during the impeachment proceedings regarding chief justice David A. Brock and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert G. Holbrook for Finance: The Finance Committee felt that the Supreme Court employees should not have to bear the cost of hiring attorneys to represent them in the unusual Judge Brock case. The appropriation would be \$7,354. to cover this cost. Vote 19-0.

Amendment (0609h)

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

AN ACT relative to reimbursement of legal fees of supreme court employees who were subpoenaed and incurred legal fees during the impeachment proceedings regarding chief justice David A. Brock and making an appropriation therefor.

Amend the bill by replacing section 1 with the following:

1 Appropriation; Reimbursement of Legal Fees of Supreme Court Employees. The sum of \$7354 is appropriated for the fiscal year ending June 30, 2002 to the supreme court, for the purpose of reimbursing supreme court employees who were subpoenaed during the impeachment proceedings regarding chief justice David A. Brock and incurred legal fees. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill makes an appropriation to the supreme court to reimburse supreme court employees who were subpoenaed and incurred legal fees during the impeachment proceedings regarding chief justice David A. Brock.

Adopted.

Report adopted and ordered to third reading.

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

HB 279-FN-A-L, relative to the payment of certain unfunded accrued liability of the retirement system and making an appropriation therefor. **OUGHT TO PASS**

Rep. Robert L. Wheeler for Finance: This bill eliminates the expenditure for additional normal retirement contributions and replaces it with amortization payments for \$5.25 million of bonds. In FY 02, state expenditures will increase by \$1174; FY 03 general fund expenditures will decrease by \$38,000. Vote 17-0.

Adopted and ordered to third reading.

HB 295-FN, relative to medicaid recoveries from third party settlements. **OUGHT TO PASS**

Rep. Francine Wendelboe for Finance: This bill is a request of the Department of Health and Human Services and deals with reimbursement to the state for medicaid services provided for services to a low income person who later receives a third party settlement payment for their injury. Current practice allows the injured party to retain 10% of the award, allows 33% for attorney fees, then the balance is applied to the expenditures made by the state for the injured party's care. If there are funds remaining after full reimbursement to the state, any remaining funds go to the injured party.

Trial attorneys have challenged the 10% level in attempts to get a greater pro rata share for the injured party. The Department testified this costs almost \$10,000 per case when a challenge occurs and explained this legislation would put the policy into statute. If this legislation fails, more cases – perhaps all cases – would be taken to court for a judge to decide the percentage. This would potentially eliminate the state reimbursement for all monies expended by the state on the injured party's behalf. Vote 12-9.

Adopted and ordered to third reading.

HB 328-FN-L, relative to fees of sheriffs and deputy sheriffs. **OUGHT TO PASS**

Rep. Robert L. Wheeler for Finance: The Committee felt that the increase to \$15 from \$10 in the fees charged for the service of civil writs was warranted given the associated increase in costs and that the bailiffs' rates in this bill were consistent with other courts and the budget and therefore should be supported. Vote 14-6.

Rep. Jacobson spoke against.

Rep. Wheeler spoke in favor.

On a division vote, 251 members having voted in the affirmative, 58 in the negative, the report was adopted.

Ordered to third reading.

HB 350-FN, relative to persons with disabilities participating in the work incentive program.
OUGHT TO PASS

Rep. Francine Wendelboe for Finance: This legislation will create opportunities for persons with significant disabilities to obtain employment and work towards greater independence and self-sufficiency. Unfortunately, under current state law, most of these individuals would lose their medicaid benefits if they earn above a certain income limit. Even if their employment offers health insurance, most employer-sponsored health plans do not cover the long-term supports needed by these individuals. The loss of these essential services prevents many disabled individuals from working according to their full capacity, keeping them in poverty and dependent upon cash assistance and other state programs.

In the fall of 1999 Congress unanimously passed an act that allows for a number of changes to medicaid and employment laws to enable these individuals to work but still retain their critical care services under medicaid. This bill would enable these changes to take place in New Hampshire. The employed disabled worker would pay, on a sliding fee scale, part of the cost of the continued medicaid coverage. This legislation is part of an ongoing effort to create better health care options for adults with disabilities who are employed, as directed by SB 183 of the 1999 legislature. The \$500,000 cost in FY 02 and the \$700,000 cost in FY 03 will be included in the budget. Vote 21-0.

Adopted and ordered to third reading.

HB 354-FN-A-L, extending the kindergarten construction program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Finance: Four years ago the state made a promise to local school districts to encourage them to add public kindergarten. We said we would pay 75% of their building costs. Twenty-five of the districts without kindergarten have now voted it in. This bill, by extending the program for two more years, keeps our promise to our school districts. Vote 18-3.

Amendment (0855h)

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

2 Statement of Intent. It is the intent of the general court to extend the kindergarten construction program to provide grants to offset a substantial portion of the cost of construction of kindergarten facilities, exclusive of site acquisition and core facilities, to any eligible school district which does not operate a kindergarten program, and which has voted to adopt kindergarten in the district.

3 Kindergarten Construction Program; Appropriation Amended. Amend 1997, 348:6 to read as follows:

348:6 Appropriation; Kindergarten Construction. A sum not to exceed [~~\$22,500,000~~]
\$24,000,001 hereby appropriated to the department of education for the purposes of constructing kindergarten classrooms. This appropriation shall be non-lapsing and in addition to any other appropriation to the department of education; provided, however, that the department of education shall not approve grant requests for such purposes for more than:

I. \$6,000,000 in the biennium ending June 30, 1999.

II. \$5,000,000 in the fiscal year ending June 30, 2000.

III. \$5,000,000 in the fiscal year ending June 30, 2001.

IV. [~~\$6,500,000~~] **\$7,000,000** in the fiscal year ending June 30, 2002.

V. \$1,000,000 in the fiscal year ending June 30, 2003.

VI. \$1 in the fiscal year ending June 30, 2004.

4 Kindergarten Construction Program; Bonding Amount Amended. Amend 1997, 348:7, I as amended by 1997, 351:56 to read as follows:

348:7 Bonds Authorized.

I. To provide funds for the appropriation made in section 6 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~\$22,500,000~~] **\$24,000,001** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A; provided that bonds or notes shall not be issued in excess of:

(a) \$6,000,000 in the biennium ending June 30, 1999.

(b) \$5,000,000 in the fiscal year ending June 30, 2000.

(c) \$5,000,000 in the fiscal year ending June 30, 2001.

(d) [~~\$6,500,000~~] **\$7,000,000** in the fiscal year ending June 30, 2002.

(e) \$1,000,000 in the fiscal year ending June 30, 2003.

(f) \$1 in the fiscal year ending June 30, 2004.

5 Effective Date. This act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill extends the kindergarten construction program through the fiscal year ending June 30, 2004 and increases by \$1,500,001 the amount of the bonded appropriation for the kindergarten construction program.

Adopted.

Report adopted and ordered to third reading.

HB 537-FN-A, relative to the land and community heritage investment program and the state's travel and tourism promotion and development effort and making appropriations therefor.
INEXPEDIENT TO LEGISLATE.

Rep. Robert L. Wheeler for Finance: It was felt by the committee that this is an important issue and belongs in the budget. Its purpose, funding, and administrative process are contained in HB 1 and HB 2 and therefore we recommend Inexpedient to Legislate. Vote 18-4.

Adopted.

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

HB 587-FN-A, establishing a commission on the status of men, and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Paul J. Dwyer, Sr. for Finance: The Committee does not feel that at this time new dollars can be spent for staff, rent, phones and other expenditures to establish a new commission, however well-intended. Vote 13-8.

Rep. Kurk moved Recommit to Committee.

Adopted and recommitted to Finance.

HB 603-FN-A, providing the commissioner of administrative services an option to self-fund the state employee health plan and requiring a reserve fund therefor. **OUGHT TO PASS**

Rep. Robert L. Wheeler for Finance: This bill allows, but does not require, the Commissioner of Administrative Services to contract for a self-insured group health plan for state employees. This issue was studied, and with an ever-shrinking number of carriers in the state this additional option becomes quite attractive. If the Department of Administrative Services elects this option, a reserve fund to cover certain claims and expenses is required. Vote 16-5.

Adopted and ordered to third reading.

HB 658-FN-A, relative to the homeless prevention fund and making an appropriation therefor. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Francine Wendelboe for the Majority of Finance: The subject of homelessness is a complex one that encompasses many reasons for someone becoming homeless – from a shortage of affordable housing, to high rents, to behavioral problems, to people who just hit a rough spot of short duration. This legislation would require the state to fund \$1 for every \$3 provided by private donors up to a maximum of 1 million state dollars. The sponsor testified there are two sources interested in donating \$2 million but for confidentiality reasons could not name the source or give definite assurances of a permanent commitment of funding in subsequent years. This raised concerns of the state being expected to increase the state level in future years.

Most importantly, this would contradict the intent of SB 1 of the 1985 session which was a negotiated commitment between the municipalities, counties, and the state on who pays for certain social services. Prior to SB 1 being enacted, municipalities were responsible for all general welfare assistance, aid to the permanently and totally disabled (APTD), nursing home care and juvenile costs for one year. In exchange for municipalities fully being responsible for general assistance, the county and state starting being liable for APTD, nursing home care and juvenile costs from day one. This bill, in essence, proposes that the state take back that responsibility. At the very least, it would create confusion about who should provide assistance and it would also create the need for all kinds of checking to avoid double dipping.

In addition to the town assistance required under law, there already exist many other sources to assist people who face homelessness. The Housing Finance Authority has an emergency rent program which funds up to three months rent for 400 people. The Department of Health and Human Services has \$1.3 million a year for temporary assistance. Many churches and private and non-profit entities provide help for rent, food, and utilities. A new fund of \$10.9 million a year will become available this year. This fund was created by a mil tax on all non-municipal electric utility customers. These funds will be used to pay the utility costs of low income people so that they will pay no more than 6% of their income on electricity – even if they have electric heat.

Many other sources of assistance are available including the new funding amount for utilities. Also, there are other pieces of legislation coming from the Senate which may help address the non-general assistance causes of homelessness. Finally, when SB 128 (which created the study committee on homelessness) passed last year, there was a clear expression reflected in the minutes that there be no general funds considered. In fact, the blurb specifically showed the legislative intent in SB 128 being passed was that it was amended to remove any reference to the general fund and even removed the \$1.00 original general fund appropriation.

While the Committee is sympathetic to homelessness, for all the reasons above stated, the majority of the Committee recommends Inexpedient to Legislate. Vote 12-10

Rep. Marjorie K. Smith for the Minority of Finance: Last year the legislature passed and the governor signed into law SB 128 which created the Homeless Prevention Fund. The legislature recognized overwhelmingly that prevention is far more cost effective – and likely to succeed – than attempts to put the pieces back together once a family has lost its home. Homelessness breeds unemployment and contributes to school failure. The costs of homelessness are enormous to the family and to society. This bill, as passed by the Health and Human Services Committee with a unanimous vote, matches one state dollar with three private dollars, leveraging limited state dollars to attract private dollars that might not otherwise be spent in this way. This bill gives priorities to very low income persons or families in which one or more adults in the family are working or in an employment training program, there is a minor child or a disabled person.

Rep. Kurk moved Recommit to Committee.

Adopted and recommitted to Finance.

HB 693, rescinding the prohibition on the possession and use of tobacco products by minors and making tobacco use prevention programs in secondary schools the priority of the tobacco use prevention fund. **INEXPEDIENT TO LEGISLATE**

Rep. Richard J. LaRose for Finance: The substance of this bill revolves around two issues – one of policy and one of finance. The policy issue is whether to repeal RSA 126-K:6 that criminalizes the possession of tobacco products by minors. Many Committee members thought that the sponsor should consider legislation for the next session so that a policy committee might deal with this matter. The second issue dealt with increasing the funding for tobacco prevention to \$6 million annually from its current \$3 million level by reducing the amount of the tobacco settlement money going to the education trust fund. The Department of Health and Human Services testified in opposition to this increase because it would not be consistent with its task force's recommendation and the state's plan. Consequently the Committee recommends this bill be Inexpedient to Legislate. Vote 14-7.

Adopted.

HB 152-FN, relative to expanding the legal methods of taking game animals. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Robert J. L'Heureux for the Majority of Fish and Game: This bill is the result of HB 1152 filed in House Session 2000 which was assigned to a sub-committee for interim study. In addition to the public hearing before the Fish and Game Committee in the LOB, Saturday work sessions were held in Lancaster, Concord, and Keene to obtain public input. Based upon research, pertinent public testimony and extensive review of materials submitted, it was determined that the establishment of a crossbow season as cited in HB 1152 fell under the authority of the Fish and Game Department and not the Legislature. HB 152 as amended, grants this authority to the Fish and Game Department. Once this authority is established, the Fish and Game Department will develop the necessary rules and regulations under RSA 541-A:1 to expand the legal method of taking of game to include crossbows. As amended, this bill has the support of sportsmen, the New Hampshire Wildlife Federation and the Fish and Game Department. Vote 9-8.

Rep. Eric G. Stohl for the Minority of Fish and Game: This bill in its original form, was brought before this committee about four years ago. It was studied statewide for an extended period of time. There was support as well as objections from sportsmen everywhere. The objections seemed to center around the fact of the use of the crossbow during the archery season. If this bill was to become law, the minority also feels that a major law enforcement issue will arise. The archery season does overlap the firearms season, raises the issue of whether a deer was shot with a crossbow or a regular bow. In addition, there are two deer tags that are allowed for archery hunting. We feel this may possibly lead someone to shoot the animals with a crossbow rather than a bow which would be impossible for a Conservation Officer to prove either way. The minority feels that the main intent of this bill is to allow the use of crossbows in the archery season by all hunters. The use of crossbows for hunting deer in New Hampshire today is restricted to persons with disabilities that prevent them from using conventional bows. The minority feels that the existing law governing the use of crossbows in New Hampshire should remain as is; for use only by individuals that cannot operate a conventional bow.

Amendment (0009h)

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

AN ACT relative to expanding the legal methods of taking deer.

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

2 New Section; Taking Deer by Crossbow; Rulemaking. Amend RSA 208 by inserting after section 7 the following new section:

208:7-a Taking Deer by Crossbow; Rulemaking. The executive director of fish and game, with the consent of the commission, may adopt rules under RSA 541-A to allow for the taking of deer by crossbow during the regular firearms season, for persons holding a valid firearms deer tag, or as specified in RSA 206:23-c. Such rules may include, but not be limited to, conditions or limitations as to the portions of the state crossbows may be used, the manner and method of taking with a crossbow, mandatory education requirements for the use of a crossbow, and any additional licensing requirements and associated fees.

3 Effective Date. This act shall take effect January 1, 2003.

AMENDED ANALYSIS

This bill expands the permitted methods of hunting deer to include crossbow for persons holding a firearms deer tag and adds a rulemaking provision allowing the executive director of fish and game to adopt rules regarding the regulation and use of crossbow.

Adopted.

On a division vote, 196 members having voted in the affirmative and 114 in the negative, the majority report was adopted.

Ordered to third reading.

HB 720, relative to permitting the use of certain firearms for hunting deer. **OUGHT TO PASS WITH AMENDMENT**

Rep. Gary S. Hopper for Fish and Game: This bill increases the options for hunters, to allow certain handguns that have a similar trajectory to the shotguns already used in shotgun only areas. Handguns are currently legal for hunters in the state except these areas. **Vote 14-2.**

Amendment (0789h)

Amend the bill by replacing section 3 with the following:

3 New Section; Taking of Deer; Pistols Permitted; Rounds Limited. Amend RSA 208 by inserting after section 3-c the following new section:

208:3-d Pistols Permitted. Pistols permitted under RSA 208:3, 3-a, 3-b, and 3-c shall include a .357 Magnum, 10mm Automatic, .41 Remington, .44 Magnum, .45 Long Colt, .480 Ruger, provided that no pistol used for taking deer under this section shall be loaded with more than 5 rounds of ammunition at any time.

Adopted.

Report adopted and ordered to third reading.

HB 760-FN, relative to the possession of silencing devices and relative to the use of silencing devices for taking game. **OUGHT TO PASS WITH AMENDMENT**

Rep. Thomas A. Varrell for Fish and Game: This bill modifies RSA 207:4 which was inserted into the statutes in 1947. The original intent was to prevent the "taking of game" with a firearm equipped with a device to silence or muffle the sound of a gunshot. In 1955 these sections were recodified and the chapter heading which identifies the purpose "for the taking of game" was relocated to an index in Chapter 207. Thus the original intent became vague when read separately from the title. HB 760-FN clarifies the original intent of prohibiting the taking of wildlife with a silenced firearm, but allows the department of Fish and Game to grant a depredation permit which would allow a landowner to use a lawfully obtained silencing device under such a permit. Currently, there are more than eight hundred silencing devices lawfully possessed by New Hampshire citizens. These devices are strictly controlled and registered by the United States Department of the Treasury; and any transfer of ownership of such devices is through a federally licensed Class III firearms dealer accompanied by an extensive background investigation and waiting period of four months plus payment of a two hundred dollar transfer tax. This amended bill will not affect those registered devices lawfully possessed in the State of New Hampshire. Vote 17-0.

Amendment (0615h)

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

AN ACT relative to the use of silencing devices for taking game.

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

1 Fish and Game; Silencing Devices Amended. Amend RSA 207:4 to read as follows:

207:4 Silencing Devices.

I. No person shall ~~[sell, offer for sale, use, have in his possession, any gun,]~~ ***possess a rifle***, pistol, or other firearm fitted or contrived with any silencer or device for deadening the sound of explosion, ***for the purpose of taking wildlife***. Nothing in this section shall prohibit the use of a muzzle brake, polychoke, or compensator.

II. Nothing in this section shall prohibit a person who has obtained a depredation permit issued by the executive director of fish and game from taking wildlife under such permit using a lawfully obtained silencing device.

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

AMENDED ANALYSIS

This bill clarifies existing law prohibiting the taking of wildlife using a silencing device, and provides that a person who has obtained a depredation permit shall be exempt from this prohibition for the purpose of taking wildlife under the permit.

Adopted.

Report adopted and ordered to third reading.

HB 463-FN, relative to protective services to adults. **OUGHT TO PASS WITH AMENDMENT**

Rep. Joseph P. Manning for Health, Human Services and Elderly Affairs: This bill improves the procedures and guidelines needed in protecting vulnerable elderly from exploitation, abuse and neglect. It also improves the liability protection of those who, in good faith, report such wrongdoing. The amendment tightens up language that was overly broad in its scope in the original version. A revised fiscal note by the Administrative Office of the Courts to the Department of Health and Human Services states that there is no fiscal impact – state, county or local. Vote 16-0.

Amendment (0741h)

Amend RSA 161-F:43, VII as inserted by section 3 of the bill by replacing it with the following:

VII. "Vulnerable" means that the physical, mental, or emotional ability of a person is such that the person is unable to protect his or her own rights and interests or to manage personal, home, or financial affairs without assistance or support.

Amend the bill by replacing sections 4-8 with the following:

4 Clarification of Reporting Requirements. Amend the introductory paragraph of RSA 161-F:46 to read as follows:

Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, **financial officers** and law enforcement officials, ~~[having reason to believe]~~ **suspecting or believing in good faith** that any ~~[incapacitated]~~ adult ~~[protected under the provisions of this subdivision]~~ **who is or who is suspected to be vulnerable** has been subjected to ~~[physical]~~ abuse, neglect, **self-neglect**, or exploitation or is living in hazardous conditions shall report or cause a report to be made as follows:

5 Immunity From Liability. Amend RSA 161-F:47 to read as follows:

161-F:47 Immunity From Liability. Any person or agency, other than an alleged perpetrator, participating in good faith in the making of a report of an alleged incident of adult abuse, neglect or exploitation **or providing information relative to such incident** shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any ~~[such participant]~~ **person or agency providing information in good faith, including materials requested by the department pursuant to RSA 161-F:56**, shall have the same immunity with respect to participation in any investigation by the commissioner or his authorized representative or in any judicial proceeding resulting from such report.

6 "Incapacitated" Changed to "Vulnerable." Amend RSA 161-F:51 to read as follows:

161-F:51 Duties and Responsibilities.

I. The commissioner or his **or her** authorized representative, upon the substantiation of a report of abuse, neglect, or exploitation of ~~[an incapacitated]~~ **a vulnerable** adult, shall provide, when necessary, protective services to such adults.

II. The commissioner or his **or her** authorized representative shall refer all cases of serious bodily injury to ~~[an incapacitated]~~ **a vulnerable** adult **known or suspected to be the result of abuse, neglect, or exploitation to local law enforcement**, the department of justice or to the county attorney for possible criminal prosecution. The commissioner or his **or her** authorized representative ~~[may]~~ **shall** also report other cases of abuse, neglect, or exploitation ~~[as he deems appropriate, under procedures to be developed jointly by the department and the attorney general,]~~ **to local law enforcement**, the department of justice, or ~~[to]~~ the office of the county attorney for possible criminal prosecution **if there is reason to believe a crime has been committed**.

7 "Incapacitated" Changed to "Vulnerable." Amend RSA 161-F:53 to read as follows:

161-F:53 Entry of Premises. If either ~~[an incapacitated]~~ **a vulnerable** adult reported or suspected of being abused, neglected, or exploited refuses, or a caretaker or caregiver refuses, to allow the representative of the department entrance to the premises for the purpose of investigating a report of abuse, neglect, or exploitation, the probate court, in the county where the adult is found, upon a finding of probable cause, may order an authorized representative of the commissioner, a police officer, or other authorized individual to enter said premises in furtherance of such investigation.

8 Reference to Financial Records Added; Petition to Probate Court Authorized. Amend RSA 161-F:56 to read as follows:

161-F:56 Access to Information. In the course of an investigation conducted pursuant to this subdivision, the department's authorized representative may make any inquiries and obtain such information as is necessary to further such investigation. The department's authorized representative may review and photocopy any books, files, medical records, ***photographs, financial records,*** or other records ***on any medium*** that pertain to patients, residents, clients or alleged victims of abuse, neglect, or exploitation. ***In the event any person or agency refuses to allow the department access to materials necessary to further its investigation, the probate court, upon a finding of probable cause, may order the person or agency to release its records to the department.***

Adopted.

Report adopted and ordered to third reading.

CACR 5, relating to the rulemaking authority of the supreme court. Providing that supreme court rules are effective only when not inconsistent with statute. **OUGHT TO PASS WITH AMENDMENT**

Rep. James W. Craig for Judiciary: This CACR restores the legislature's constitutional right to initiate and regulate by statute the administration of, and the practice, procedure, and rules of evidence in, all courts of the state. The court retains its rulemaking powers but the legislature may also be able to regulate these matters by statute. In the event of conflict, the statute prevails over the rule provided that the statute is otherwise constitutional. HB 252 is a companion bill to this CACR and provides its detail. Vote 15-1.

Amendment (0873h)

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

RELATING TO: the rulemaking authority of the supreme court.

PROVIDING THAT: supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

Amend the resolution by replacing paragraph I with the following:

I. That article 73-a of the second part of the constitution be repealed and reenacted to read as follows:

[Art.] 73-a. [Supreme Court Administration.] The chief justice of the supreme court shall be the administrative head of all the courts. The chief justice shall, with the concurrence of a majority of the supreme court justices, have the power by rule to regulate the administration of, and the practice, procedure, and rules of evidence in, all courts in the state. The rules so adopted shall have the force and effect of law. Notwithstanding part I, article 37, the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. In the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

Amend the resolution by replacing paragraph IV with the following:

IV. That the wording of the question put to the qualified voters shall be:

"Are you in favor of amending article 73-a of the second part of the constitution to read as follows:

[Art.] 73-a. [Supreme Court Administration.] The chief justice of the supreme court shall be the administrative head of all the courts. The chief justice shall, with the concurrence of a majority of the supreme court justices, have the power by rule to regulate the administration of, and the practice, procedure, and rules of evidence in, all courts in the state. The rules so adopted shall have the force and effect of law. Notwithstanding part I, article 37, the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. In the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule."

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. The resolution also provides that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

Adopted.

Rep. Frances Potter spoke against.

Reps. Phyllis Woods and Jacobson spoke in favor.

Reps. Craig and Reid spoke in favor and yielded to questions.

Rep. Hess requested a roll call; sufficiently seconded.

The question being the adoption of the committee report.

YEAS 290 NAYS 48

YEAS 290

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Dewhirst, Glenn
Flanders, Donald	Holbrook, Robert	Johnson, William	Lawton, David
Millham, Alida	Nedeau, Stephen	Rice, Thomas Jr	Rosen, Ralph
Russell, David	Thomas, John	Wendelboe, Fran	Wood, Jane

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
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Lyman, L Randy
Stevens, Stanley

Mock, Henry
Sullivan, P Judith

Patten, Betsey

Philbrick, Donald

CHESHIRE

Avery, Stephen
Espieffs, Peter
McGuirk, Paul
Roberts, William

Batchelder, Robert
Fairbanks, Chandler
Meader, David
Royce, H Charles

Dexter, Judson
Hunt, John
Pratt, John
Weed, Charles

Emerson, Susan
Manning, Joseph
Richardson, Barbara
Zerba, Roger

COOS

Bradley, Paula
Horton, Lynn
Rodrigue, Robert
Woodward, David

Davis, Perley
Landers, Dana
Rozek, Michael

Gallus, John
Mears, Edgar
Stohl, Eric

Guay, Lawrence
Pratt, Leighton
Tholl, John Jr

GRAFTON

Akins, Ralph
Dudley, Terri
Giuda, Robert
Nordgren, Sharon
Ward, Brien

Alger, John
Eaton, Stephanie
Lovett, Sid
Scanlan, David
Williams, Burton

Almy, Susan
Gabler, William
Marshall, Gene
Sova, Charles

Cobb, John
Gilman, G Michael
Mirski, Paul
Teschner, Douglass

HILLSBOROUGH

Alukonis, David
Balboni, Michael
Bellavance, Paul
Brundige, Robert
Carlson, Donald
Clayton, William
Craig, James
Dokmo, Cynthia
Emerton, Lawrence Sr
Foster, Linda
Goley, Jeffrey

Andosca, Mary
Balcom, John
Bergeron, Jean-Guy
Bruno, Pierre
Chabot, Robert
Clegg, Robert Jr
Daigle, Robert
Drisko, Richard
Fields, Dennis
Furman, Christine
Gorman, Mary

Arnold, Thomas Jr
Baroody, Benjamin
Bergin, Peter
Buckley, Raymond
Christensen, D L Chris
Cote, Peter
Desrosiers, William
Duval, Jeffrey
Fletcher, Richard
Gargasz, Carolyn
Goulet, Maurice

Artz, Lawrence
Batula, Peter
Bouchard, David
Calawa, Leon Jr
Christiansen, Lars
Coughlin, Pamela
Dionne, Kimberley
Elliott, Larry
Ford, Nancy
Golding, William
Graham, John

Greenberg, Gary	Guinta, Frank	Hall, Charles	Herman, Keith
Holden, Randolph	Hopper, Gary	Jean, Loren	Johnson, Lionel
Kacavas, John	Konys, Christine	Kurk, Neal	L'Heureux, Robert
LaFlamme, Paul	LaRose, Richard	Lasky, Bette	Leach, Edward
Lefebvre, Roland	Lessard, Rudy	Lynde, Harold	Martin, Mary Ellen
McDonough-Wallace, Alice	McHugh, Claire	McRae, Karen	Melcher, Harold
Mercer, Robert	Messier, Irene	Milligan, Robert	Moran, Edward
Movsesian, Lori	O'Connell, Timothy	Palangas, Eric	Panagopoulos, Nicholas
Pappas, Marc	Pepino, Leo	Reeves, Sandra	Rowe, Robert
Salts, Greg	Sargent, Maxwell	Seibel, Christopher	Shaw, Barbara
Souza, Kathleen	Spiess, Paul	Sweeney, Cynthia	Tahir, Saghir
Thompson, Rob	Thulander, O Alan	Vaillancourt, Steve	Wheeler, Robert
White, Donald			

MERRIMACK

Anderson, Eric	Brewster, Richard	Colcord, J D	Cummings, Raymond
Dunne, Christopher	Feuerstein, Martin	Fraser, Leo Jr	Fraser, Marilyn
French, Barbara	Gile, Mary	Greco, Vincent	Hager, Elizabeth
Hess, David	Hutchinson, John	Jacobson, Alf	Kennedy, Richard
Langer, Ray	Leber, William	Lockwood, Priscilla	MacKay, James
Perkins, Randy	Poulin, David	Rodd, Beth	Rush, Deanna
Swindlehurst, John	Whalley, Michael	Winter, Steven	

ROCKINGHAM

Arndt, Janet	Belanger, Ronald	Bishop, Franklin	Bowles, Raimond
Camm, Kevin	Carson, Sharon	Chalbeck, Kevin	Clark, Martha Fuller
Clark, Vivian	Corbin, Corey	Cox, Russell	Dalrymple, Janeen
Dearborn, Bruce	DiFruscia, Anthony	Dodge, Robert	Dowling, Patricia
Downing, Michael	Fesh, Bob	Flanagan, Natalie	Flanders, John Sr
Francoeur, Sheila	Gilbert, Karl	Giordano, Ronald	Gleason, John
Griffin, Mary	Hamel, Albert	Henderson, Warren	Hill, Jonathan
Holland, James Jr	Hutchinson, Karen	Itse, Daniel	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane

Kelley, William	Kobel, Rudolph	Langley, Jane	Langone, John
Letourneau, Robert	Major, Norman	McGuire, Robert	McKinney, Betsy
Micklon, Stephanie	Nowe, Ronald	Packard, Sherman	Palermo, Diane
Pantelakos, Laura	Pitts, Jacqueline	Power, Lucille	Putnam, Ed II
Quandt, Marshall	Quandt, Matthew	Rausch, James	Robertson, Carl
Ruffner, Walter	Sapareto, Frank	Sloan, Stephen	Stone, Joseph
Stritch, C Donald	Trueman, Raymond	Varrell, Thomas	Weatherspoon, Jacquelyne
Welch, David	Weyler, Kenneth	Whittier, John	Woekel, Ralph
Zolla, William			

STRAFFORD

Berube, Roger	Bickford, David	Cossette, Larry	Dunlap, Patricia
Goodwin, Earle	Grassie, Anne	Harrington, Michael	Hughes, Christopher
Knowles, William	McCarthy, Gerald	Reid, Christopher	Rollo, Michael
Taylor, Kathleen	Twombly, James	Wall, Janet	Woodill, Rodney
Woods, Phyllis			

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Flint, Gordon Sr	Franklin, Peter	Jones, Constance	Leone, Richard
Odell, Bob	Phinizy, James	Rodeschin, Beverly	

NAYS 48

BELKNAP

Pilliod, James

CARROLL

None

CHESHIRE

Allen, Peter	Burnham, Daniel	Mitchell, McKim
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COOS

None

GRAFTON

Benn, Bernard	Cooney, Mary	Naro, Debra	Pawlek, Marion
Scovner, Nancy	Sokol, Hilda		

HILLSBOROUGH

Drabinowicz, A Theresa	Dwyer, Paul	Dyer, Merton	Eaton, Richard
Ginsburg, Ruth	Hall, Betty	Schulze, Joan	Williams, Carol

MERRIMACK

Bouchard, Candace	Clarke, Claire	Daneault, Gabriel	Davis, Frank
Moore, Carol	Owen, Derek	Potter, Frances	Seldin, Gloria
Wallner, Mary Jane	Whittemore, James	Yeaton, Charles	

ROCKINGHAM

Blanchard, MaryAnn	Coes, Betsy	Kane, Cecelia	Norelli, Terie
Shultis, Elizabeth	Splaine, James		

STRAFFORD

Brennan, William	Brown, Julie	Callaghan, Frank	Estabrook, Iris
Johnson, Nancy	Lent, Donald	Pelletier, Arthur	Pelletier, Marsha
Proulx, Raymond	Smith, Marjorie	Snyder, Clair	

SULLIVAN

Harris, Joseph	Harris, Sandra
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290 members having voted in the affirmative and 48 in the negative, the report was adopted by the constitutionally required three-fifths vote and ordered to third reading.

Rep. Mock moved that remarks made in debate on CACR 5 and HB 252 be printed in the Journal.

Adopted.

remarks

(Rep. Whalley in the Chair)

Rep. Potter: Thank you, Mr. Speaker and greetings, colleagues in the House. I'm Frances Potter, Representative-at-large from Concord. You will hear from supporters of this amendment that supreme court justices have been arrogant. In particular, Justice Brock grudgingly and after long delay, has admitted ethical misconduct. There has been a lot of friction between the legislature and the court. I agree entirely about the past and will move to the present. Three sources of friction are gone; namely, the three justices who have retired or resigned. There's a new majority of three in the supreme court and by the time this amendment could take effect, it will be majority of four. The court has reformed itself by accepting a merit system for selecting judges, a written recusal policy that is widely admired, reduction of appellate delay through the "rocket docket" and a new study and publishing the standards for periodic evaluation of all judges. Lastly, the supreme court appointed Attorney Wilfred Sanders and Father Jonathan DeFelice, President of Saint Anslem College, to convene a task force to propose a truly independent judicial conduct commission. Several other measures adopted to reform the judiciary have passed in the legislature. For example, the House has adopted a revised retirement and pension plan for judges and the Senate has adopted two desirable bills: one would provide for rotation of the role of chief justice and another requires the naming of legislators to a courts advisory committee on rules. The court indicates it will accept this plan. The combined impact of these measures is major. We are actually lucky in New Hampshire. Other states considering judicial reform are starting at square one. We already use merit selection, for example, so we aren't fighting the big contributions made by big law firms to get judges selected. We're ahead in this respect. There have been complaints about judicial activism but, let's note, this complaint can come from either end of the political spectrum. It does depend on whose ox is gored. Judges are perceived as fair when they are perceived as being nonpartisan. That is, they don't have to fear retribution when they make unpopular decisions. This is known as "decisional independence," an essential quality of a good court system. Judges are also perceived as fair when they are accountable. As the constitution says, they must behave well. This means that they must be prompt, courteous, display knowledge of the law and a good judicial temperament, etc. So, how do you enforce good behavior? Now we're back to the judicial conduct commission. Attorney Sanders and Father DeFelice appointed their own task force including three legislators. They recommend a judicial conduct commission that would be free standing, have its own budget and report to the three branches government. They recommend that its members should be appointed by officials from all three branches government, executive, legislative and judicial, including a majority of public, non-legal members. The Court is expected to accept this report but I fear that the legislature may not accept this report. There's a retained bill in the House to have all ten members of the judicial conduct commission appointed from the legislature; they would make their own rules and decide penalties for judges. And, also, they would decide for all members of the legal profession; that is, they would have the roles of both the JCC and the PCC. This means that one branch of government would control another branch of government. It would erase the checks and balances we all learned about in American history classes. And here is a common question: "Who would be willing to become a judge under this system?" This bill, CACR 5, explicitly disclaims Article 37 in the Bill of Rights regarding the separation of powers. I think you should go slow in changing this fundamental principle. The framers of the constitution feared that the judiciary would be the weaker branch. That's why judges are appointed for life-70 in New Hampshire- and to have salaries that can't be decreased, so that they will be independent. Let's remember the role of each branch of government in a democracy. The legislative and executive branches answer to majority rule. We do, and should, respond to voters. The judiciary does not. The role of the judiciary in democracy is to uphold the rule of law. The judicial role is to protect minorities and individuals, and in the words of the Pledge of Allegiance, "justice for all."

I hope we will find the new majority in the supreme court to be reasonable people. I hope we can work with them to achieve, in the words of Part I, Article 37 of the constitution, "one indissoluble bond of union and amity." I hope we'll give it a try and vote against the proposed amendment.

Rep. Phyllis Woods: Thank you, Mr. Speaker. Honorable members of the House, a constitutional amendment is a most serious change to make. I can see right from the starting gate that there is confusion and questions about what exactly we were attempting to do in House Judiciary Committee. So, I am going to start at the beginning and give you a little bit of a background and bring you right up to date to exactly what CACR 5 is intended to do.

The 1974 Constitutional Convention passed a resolution to amend Part II of the New Hampshire Constitution by inserting Article 73-a which said, and I'll read it for you, "The chief justice of the supreme court shall be the administrative head of all the courts. He shall, with the concurrence of the majority of the supreme court justices, make rules governing the administration of all courts in the state and the practice and procedure to be followed in all such courts. The rules so promulgated shall have the force and effect of law." Now, there was at the time a statute on the books that provided for a unified court system with the supreme court at the top, but this amendment made the unified courts constitutional and named the chief justice as the administrative head and clarified his authority with the other justices to make rules a power which they already had. It was not intended to change the general principle that the rules of court so far as procedure is concerned had the effect of law. It was the understanding of the delegates at the convention that if this amendment was adopted it would not deprive the legislature of the right it had to regulate court procedure by statute. Now, there is some very clear language in the journal that makes that topic very clear and it was brought up under questioning.

Now, over the years there has been some controversy about the fact that when the amendment was put on the ballot to be voted on by the requisite two-thirds of the voters in 1978, that that last sentence, "The rules so promulgated shall have the force and effect of law," did not appear on the ballot or in the voter's guide. However, when it was originally enacted in November, 1978, there was no problem as it was clearly understood what the purpose of the amendment had been and the legislature continued to make laws regarding procedure and evidence as it had done in the past. And from 1978, when the amendment was passed, until 1997, there was no case that even suggested that the legislature didn't also retain the power to pass laws pertaining to procedures and evidence.

But in 1997, a serious problem became evident in a decision the court rendered known as "prior sexual assault evidence." In that case, citing the separations of powers clause, Part I, Article 37, the court basically said in this decision that the ability to regulate court procedure and evidence is exclusively a matter for the supreme court and the legislature doesn't have any power to make rules or laws regarding procedure and evidence. Now this decision radically changed the relationship between the judicial and legislative branches. It caused a major shift in the balance of powers that had been there. Prior to this ruling, it had always been the case that the legislature not only had this right but that a statute would also trump a rule in case there became a conflict. The purpose, then, of this amendment, CACR 5, is not anything to do with the legislature infringing on the judiciary, but rather, the other way around. It's about not allowing the judicial branch to infringe on the role of the legislative branch. The carefully crafted wording which was picked apart by our subcommittee over a period of several weeks is designed to do nothing but restore the proper balance of power between the branches. This is the way it currently is in the federal system and the way it is in most other states. It will serve to prevent the courts from restricting the power that the legislature always had and, by rights, should retain, to make such laws. The amendment simply adds two sentences to the existing 73-a and I'm going to read those two sentences. "Notwithstanding Part I, Article 37 (now, that is the separation of powers clause) the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. In the event of a conflict between a statute and a rule, the statute if otherwise valid shall supercede the rule." This statement which is

added, as I said, to 73-a, we believe will respect the separation of powers, restore full lawmaking authority to the legislature and it states unequivocally, so there's no question, that in the event of a conflict of a rule and a statute, the statute will prevail as it did for a long, long time prior to the 1974 Constitutional Convention and prior to the court's 1997 decision.

We believe this is a very important adjustment to make. The committee was in compliance and I would ask you to please support the report of the committee of Ought to Pass on CACR 5.

Rep Craig: Thank you, Mr. Speaker. I rise in support of House Judiciary Committee's vote of 15 to 1 for Ought to Pass CACR 5. I would like to begin by commending Rep. Potter for getting up here and saying what she said about the judiciary and the courts because I think this is not a place where I would normally do that nowadays after what's gone on between the legislature and the supreme court in the last couple of years. When I came here three years ago, I would have done the same thing, unhesitatingly. My grandfather was an attorney in Manchester from 1929 until he died in 1963; my father has been an attorney in Manchester since 1952; and I've been an attorney in Manchester since 1983. ...(tape change)...I feel I've been treated fairly. I know some of the judges in the supreme court. I've always thought they were decent and honorable men. I haven't always agreed with them but I think, in the main, we have one of the finest judiciaries in the country. That's not to say there are not problems. I've heard all the stories about arrogance and that stuff but, to tell you the truth, I see more arrogance when I go to get my car fixed. So I think they're people just like everybody else. I don't mean to make light of that but there's a point to be made. So, if I'm a court reformer, I'm a reluctant one. Last time this came up to change 73-a, I voted against it and my side won last time. The day the House voted that the Judiciary Committee should investigate Judge Brock, that motion was taken off the table, and 73-a was voted unanimously and was killed in the Senate last year. I was against that but I've changed my thinking on this issue. I do it a little bit reluctantly but I think it is the right thing to do. I really do believe that.

The issue was made about the independence of the judiciary. I'm concerned about that, too. The constitution, Part I, Article 37, does establish separation of powers. I would just like to read it to you; it is not very long. "In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity." I read that to say that it doesn't have to be absolute separation of powers but only leaves it to the legislature and the people to determine how much separation there has to be to make a system work as well as it can. I think that we just need to change where the line is right now. I think we can do that, and I think we have done it with this CACR. As has been mentioned already, this only affects the rulemaking that the supreme court does now. But what really concerns me, and I think you should really think about this when you vote on this issue, is that as it stands right now, the supreme court can make rules. There's no question about that. There's no question that the rules that it makes have the force and effect of law. They are laws, just as much as what we do here are laws after they are passed. The difference, to me, and the danger, to me, is that here when we make laws we send them to the Senate and if it gets by the Senate, we send them to the Governor. So there are checks and balances in the laws that we make. The problem that we are trying to address here is that the supreme court, as well as us, can make laws, but there are no checks on the laws that the supreme court makes. The only check on the laws that the supreme court makes is the supreme court itself. I think, and I've just come around to this in my thinking, it's not a bad thing to have checks on lawmaking. That's what we do and that's all we're doing to the supreme court. That does change the balance of power a little bit, but I think it changes it to the good, just like the constitution envisioned. There is a companion bill to this CACR and, if the CACR passes, I'll be up here again to explain to you how the procedure will work. I don't want to bore you with that if I don't have to, so I'll wait until later to do that. All this does is change the procedural law.

The other thing that concerns me is that the supreme court can only make procedural laws and not substantive laws. There is no definition, no cut line where procedural law begins and substantive law ends. So that the supreme court sometimes can make substantive law and there's no check and balance on what they do. Those are concerns, and I think they are valid and that they are beneficial, but like anything change is a little bit scary, but I think they are necessary changes. The only other thing that I would add is that the supreme court would retain 100 per cent, it would not affect the decisional aspect of the supreme court. They would have every right to make any decision that they have just like they do right now and if our legislature enacted a statute that overturned one of their rules, and our action was unconstitutional, the supreme court would retain the right to determine whether our actions were constitutional or unconstitutional. So, we really don't take any of their powers away from them; it just adds a balance and a check on what procedural laws that they are entitled to enact right now and they will continue to enact in the future. I would ask you to vote in favor of the committee's 15 to 1 Ought to Pass recommendation. Thank you.

Rep. Marjorie Smith: Thank you, Mr. Speaker. Thank you, Rep. Craig. This is my question. I'm trying very hard to separate the possible emotionalism from the facts in this situation and I understand the initial bill which sought to correct a problem that has been with us since the constitutional convention, but I wonder about the degree to which this amendment takes us from where we are now, and my question to you is why you would take this approach rather than the approach that has been tried and true in the federal court system? In that procedure the courts write the rules. They submit the rules to the Congress. If the Congress has a problem with the rule, they send it back to the court and say, "This is our problem. Please correct it." The court's doing the court's business and the legislature is doing the legislature's business. When I look at what you have proposed, I don't really see this as any different than "tit for tat," our concern that the court in some situations is doing the legislature's business. I think you have drawn the line too far in favor of the legislature and I'd like you to help me understand why you're not using the federal procedure.

Rep. Craig: Thank you, Rep. Smith. The form that we are using is a form of what the federal procedure is. It was taken from the federal model and adopted into what it is now. This is contained in House Bill 252 which accompanies the CACR and the way it will work is the supreme court will retain all of its rulemaking authority and procedures. The legislature does not touch that. They will continue to make the rules as they do right now. The only addition that the statute would make is that when the rules are finished and promulgated, they will have the force and effect of law, just as they do now. Where this new statute picks up is that after that occurs, those rules will be sent to the Speaker of the House and the Senate President. At that point the legislature has the option of doing nothing and if it does nothing, those rules stay in effect just as the supreme court intended and promulgated. If the legislature has a problem for any reason with those rules, then it has the option of creating a statute which would override that rule. So, in a sense it is the federal system, except that it is not a recommendation, but we would be doing it by statute rather than sending a recommendation back. But I think it's the same principle as you've described in the federal system.

Rep. Marjorie Smith: I think we are speaking the same language but I don't think we're understanding each other. My key concern is that we will be doing the court's business. We will, in effect, be making the rules, rather than be saying to the court, "We don't think you have gotten it quite right. This is what our concern is. You straighten it out and come back to us." What we are doing is saying, "We know better, thank you, about how you should run the court." And I suggest to you if the shoe were on the other foot, you'd be pretty unhappy.

Rep. Craig: Is that a question?

Rep. Marjorie Smith: Would you believe?

Rep. Craig: You know what's coming, right? I believe that you believe that.

Rep. Rowe: Thank you, Mr. Speaker. I thank the Honorable member from Manchester. Let me ask you a few questions in terms of the very important element of checks and balances between the three branches. Am I correct that you said that if this legislature or the governor, the executive branch or any agency under the executive branch or this branch sets a rule, the judicial branch has a right to rule it unconstitutional?

Rep. Craig: That's correct.

Rep. Rowe: However, after the recent decision by the supreme court, is it not correct that the supreme court by a decision by only three supreme court justices can set a rule that trumps a statute?

Rep. Craig: I'll take your word that it's the three justices, but that's exactly right. There is one situation and only one where there is no check on lawmaking and that is with the supreme court procedural rules. When they make a rule, there is no check on it other than the supreme court. Everywhere else that I know of there is a check on the lawmaking procedure. There is a check and a balance.

Rep. Rowe: And are you asking under CACR 5 nothing more than to restore the balance that has been common law in the United States for over 200 years?

Rep. Craig: That's correct.

Rep. Row: Thank you.

Rep. Kennedy: Two points, if I might. Excuse my voice. Article 4, Section 4 of the Constitution of the United States which was the first right granted to every citizen of this country was a republican form of government which is this body. Are we not the ones who are responsible directly to the people and their direct representative?

Rep. Craig: I had trouble hearing your question, but I think the answer is yes.

Rep. Kennedy: Secondly, if I could say one little, last thing. There's been a question as to whether we're after judges or not. I served on the first Fairbanks investigation and after that, I stood at this place and defended Judge Brock because I didn't think he was responsible for what happened. By the same standards, I came before you with a CACR on an old friend of mine, finest gentleman I know, who has passed away, a judge. I don't believe in my heart that we are after judges, we're after principles. Principles should always go before personalities. If we fail to put principles before personalities, we go down the slippery road. Is that not true, sir?

Rep. Craig: I agree with you 100 percent. As I said, these kind of things are difficult for me because of what I do for work but that is absolutely right. We all took an oath, I took an oath and I have to do what I think is right under the constitution. I can't think of the people on the other side of the river and the judges because my job is to do what's right by the constitution. And I think that is what the Judiciary Committee has done here. So you are absolutely right, Rep. Kennedy.

Rep. Jacobson: Thank you, Mr. Speaker. Looks like a diminished audience. Back in 1978 when Part II, 73-a was first adopted, from that point on there has been a continuing problem. The major part of that problem without going into all of the details is that secrecy became the most important

ingredient in the relationship between the legislative branch and the judicial branch. Now, in our tripartite system of government, the whole notion was that each part of the government should have check or balance or both checks and balances on each other. But with the adoption of Part II, 73-a the court emphatically stated that the legislature had no check on the court except in a question of budget, and that was stated directly to me. Now, what this proposal does is to restore that check and balance so that we can review, as is the case in the federal system, the rules of court, and may I say that 80 to 90 percent of all the rules are not going to be challenged. It would be the occasional and rare occasion that a challenge would come. But we do need this check and balance and may I also say that one of the important checks and balances was removed a few years earlier. In the old system there was a huge check and balance on the courts because we could at that time remove one court and put another court in. I don't think that's the way to go and now both the superior court and the supreme court are, in a sense, constitutional, not in a sense, in a real sense are constitutional. Whereas the district court is still the child of the legislature. So what I want to say, and there have been a lot of things said today, is I urge you to support this amendment for the sole purpose of restoring the constitutional idea of checks and balances. Thank you.

Rep. Mock: Mr. Speaker, could I ask for a quorum call? This is a very important constitutional amendment. This hall should be absolutely full. Could I ask for that?

Rep. Whalley: I have asked the Sergeant at Arms to go into the anteroom and bring members back; they are aware that there will be a roll call. The question is on the committee report of Ought to Pass with Amendment. The Chair recognizes the final speaker, the member from Dover, Rep. Reid.

Rep. Reid: Thank you, Mr. Speaker. I rise today to support the committee recommendation of Ought to Pass as Amended on CACR 5. What I'm asking this House to do is support the principles laid down by our founding fathers of a system of government which includes separation of powers and checks and balances. Each of the institutions of our government should have check and balances on its power. As Madison said in Federalist 47, "when the lawmakers and the law judges are one in the same," ... "when the lawmaking power and the law judging power is placed into the same hands without any checks or balances, that leads to arbitrary lawmaking and arbitrary law judging." All we are asking is that this area of law that is so important to every litigant in this state, every criminal defendant, every witness, every crime victim, every family going through a divorce, every person who turns to the courts to seek redress for their grievances is subject to the rules of court. These, fellow members, are the rules of court. This is an area of law as important as any other area of law and that affects the citizens of this state just as strongly. This is an area of law that our state supreme court has, and it wasn't just one justice, and it wasn't just one court, it happened over time. This isn't about this particular court sitting today or any particular justice. This is about an exception that has been made by the courts over time to the constitutional system of checks and balances, an exception that says that these laws are subject to absolutely no checks and absolutely no balances. The court and the court alone makes the rules, and the court and the court alone judges whether those rules are valid and comport with our constitution. That's the problem that we're seeking to redress here. And I know that amending the constitution is something that we should not do lightly. But I'm really not asking for a change in the constitution or a change to the intent of the founding fathers and the framers. No, what I'm asking, and what we're asking, is that we return the constitution to the original intent of the framers. Because for 200 years it was clear that the legislature was supreme in lawmaking. Even judges such as Chief Justice Charles Doe, who was a judicial activist and as controversial as any justice that we've had, and who sometimes in practice didn't follow the principle as well as he might, understood and said clearly that with respect to lawmaking, with respect to statutes, the legislature is supreme and that applied both to procedural rules, substantive rules and substantive law. So this is a change that has come about in recent years, and a change that has really injured the separation of powers, injured the balance of powers, and it has been a source of friction between the branches of government, between the executive and the judiciary, between the legislative and the judiciary, for twenty years now. This predates Claremont, it predates the recent

issues, it doesn't have anything to do with those except, maybe, that this exception that has been carved out from the checks and balances has caused increased animosity and has maybe caused a sort of fortress mentality over at the court that hasn't served the people of New Hampshire, has not served the government of this state and has not served the court. This CACR is not anti-court, it's not anti-anybody. It is pro-court. The support for this CACR in the Judiciary Committee was not along party lines. It had nothing to do about how you felt about the Claremont decision. It had nothing to do with how you felt about the impeachment. It had nothing to do with whether you were conservative or a liberal, a Democrat or a Republican. What it had to do with was the desire to return the constitution to the original principles that our founding fathers cared so deeply about. This isn't an issue of disliking one branch of government, trusting one and not the other. And I've heard some people say about this, "You know, we can't trust the legislature to make court rules." Well, frankly, the legislature doesn't want to be making the court rules. The way it worked before and the way it will work again if we pass this CACR is simple. The court makes its own rules and those rules are valid and they have the force and effect of law as they always have unless they conflict with the statute passed by the representatives of the people. Now, now does this interfere with the independence of the judiciary? Absolutely not. When the judiciary looks at a statute of ours or a rule of ours, they can still say that rule is unconstitutional. So, let's take an-- example the prior sexual assault evidence case. Let's say that the court has put in an evidence rule, and you know the legislatures in all but just a handful of states have the right to make evidence rules. But, let's say the court put in an evidence rule that was in the minority, it wasn't the majority rule, it was the rule in maybe a few states but most of the states had a different rule and this legislature, in response to the people, said we'd rather have the rule that's in most of the states. We sent that over to the supreme court. If the supreme court said, "Hey, that rule violates the state constitution in New Hampshire because it violates the due process rights of litigants here," I would have no problem with that. That is a role that the court retains. It is an important role. It's important that the court be free from political influence when it's making decisions about the constitutionality of our statute. That's a check on our power. But what the court did in the prior sexual assault evidence case is say, "We're not even going to ask the question of whether or not this violates due process or some other right of the defendant. We're just going to say 'we like our rule better and the legislature shouldn't have anything to say about this area of the law.'" Now, a question asked earlier by the representative from Durham, are we taking more power than we should? Are we taking more power than the Congress has? Absolutely not. Our court without any sort of review by us or any statement by us gets to make rules and that will still be the case. But if the rule conflicts with a statute of ours and that statute is otherwise valid, it's constitutional, then the statute prevails and that's what the founding fathers intended. So this isn't about mistrust of the court and it isn't about mistrust of the legislature. I trust the legislature as much as I trust any branch of government that is made up of human beings. And I don't trust the court any less than I trust any institution made up of human beings. But that's exactly the point. We are institutions made up of fallible human beings and that's why people like Madison and John Adams said there have to be checks and balances; there has to be a check on every power of the government, including the power to make these rules. So, I urge you to support CACR 5 and vote in favor of the constitutional principle of separation of powers. Vote in favor of removing this friction that has existed between the court and the legislature, of healing some of these wounds. It is a vote in favor of the legislature, in favor of the court, in favor of the state of New Hampshire and in favor of the constitution. Thank you, Mr. Speaker.

(Speaker in the Chair)

Rep. Pilliod: Thank you, Mr. Speaker, and thank you for accepting the question. This is more as just a brief question and is a puzzle. I am not speaking against your recommendation or for it. But the representative from Dover has not explained something to me, and I have to ask it. In the amendment which we are going to be asked to pass, each rule so transmitted, because it's supposed to be transmitted to the President and the Speaker, doesn't say anything about the General Court; but each rule so transmitted shall include a provision addressing the extent to which the rule shall

apply to proceedings then pending before any court and also a list of any statutes that will conflict with the rule, so forth, all those details, that's wonderful; but it says the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court. When? We are not in session most of the time. And, in fact, do we just sort of say, "OK, we're going to take on this problem of a rule that we don't like someday," and I would just like to have that answered if I could. Thank you.

Rep. Reid: The gentleman is speaking about a bill that will come up after this. All the constitutional amendment does is restore the checks and balances by saying that when a rule conflicts with a statute, the statute prevails so long as it doesn't otherwise violate a part of the constitution. Now, we will be debating the bill that the gentleman has brought up and I'm sure that he can ask that question them, but what I can say is a rule that is passed by the court that doesn't conflict with a statute will be valid just as it always has. Thank you, Mr. Speaker.

special orders regular calendar part ii (cont'd)

HB 252, establishing a committee to study the administrative functions and procedures of the state court system. **OUGHT TO PASS WITH AMENDMENT**

Rep. James W. Craig for Judiciary: This bill is a companion to CACR 5. It provides the mechanism by which court rules promulgated by the Supreme Court will be regulated by the legislature. The bill provides that all court rules currently in existence shall continue in effect. It also applies RSA 91-A, the right-to-know law, to the Supreme Court's rulemaking procedures. Finally, the bill requires copies of all rules promulgated by the court to be sent to the Speaker of the House and to the Senate President with a summary of each rule. The legislature then has the option of changing or voiding any rule by statute, or doing nothing. If the legislature does nothing, the rule retains the force and effect of law. Vote 15-0.

Amendment (0876h)

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

AN ACT relative to rules promulgated by the supreme court.

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

1 New Section; Supreme Court; Rules of Practice and Procedure and Rules of Evidence; Power to Prescribe. Amend RSA 490 by inserting after section 4-a the following new section:

490:4-b Rules of Procedure and Evidence; Power to Prescribe.

I. The supreme court shall have the power to prescribe rules of practice and procedure and rules of evidence to be followed in all courts of this state. All such rules in effect prior to the effective date of this section shall remain in full force and effect, except as they may be changed by statute or by rule of court pursuant to this section.

II. The rules described in paragraph I shall not abridge, enlarge, or modify any substantive right. All preexisting laws, which conflict with the proposed rules, shall be of no further force and effect after such rules have taken effect.

III. The rulemaking procedures of the supreme court shall be subject to the provisions of the right to know law, RSA 91-A, except that the failure to comply with RSA 91-A shall not invalidate a rule adopted under this section.

IV. The supreme court shall transmit to the speaker of the house of representatives and the president of the senate a copy of all rules, including emergency rules, at the time that they are promulgated by the court. Each rule so transmitted shall include a provision addressing the extent to which the rule shall apply to proceedings then pending before any court, a list of any statute that will conflict with the rule, as well as an explanatory note concerning the purpose of, and need for, the proposed rule. The transmission shall also include any minority views of justices or committee or subcommittee members concerning the proposed rule.

2 Contingency. If a constitutional amendment is adopted by the voters in the 2002 election which provides that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute shall supersede the rule, section 1 of this act shall take effect January 1, 2003. If such a constitutional amendment is not adopted, then section 1 of this act shall not take effect.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

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

AMENDED ANALYSIS

This bill provides that rules promulgated by the supreme court have the force and effect of law and may be changed by statute, and requires that supreme court rulemaking procedures comply with the right to know law. This bill takes effect only if CACR 5 of the 2001 legislative session is adopted in the 2002 general election.

Adopted.

On a division vote, 269 members having voted in the affirmative and 30 in the negative, the report was adopted.

Ordered to third reading.

remarks

Rep. Craig: Thank you, Mr. Speaker. I rise in support of the committee report of ought to pass as amended. I think you have probably heard most of what's in this bill, but this is the companion bill to the CACR which just passed the house, and this is the guts of how the legislature would regulate supreme court rules. It provides (1) that the supreme court retains all of its powers to prescribe rules in practice and procedure and rules of evidence; that does not change under this statute. All rules that are in effect now will remain in effect. This statute does not change that. The statute does change in Roman Numeral Two (II). It requires that any rule that the supreme court passes from now on will nullify any existing statute that conflicts with the new rule. That is a provision that gets rid of old, archaic statutes that are on the books. So, in other words, when the supreme court comes up with a new rule, it will have to send over to the legislature a list of any rule that conflicts with the

new rule and that statute will be null and void at that time. The other thing that the statute does is that it applies RSA 91-a, the right-to-know law, to the court's rulemaking procedure. That is not in effect right now and doesn't affect any decisional process, that merely affects the rulemaking process. It opens it up to the right-to-know law. Article 4 of the statute, as I said, the rulemaking procedure remains exactly the same as it does now. If the supreme court wants to change it in any way, they are free to do that. The only way that it does change is that after rules are fully promulgated, they have the force and effect of laws they do now, but a report has to follow each rule and the report goes to the Speaker of the House and the President of the Senate. In that report would be a list of any statute that conflicts with the rule, an explanation of what the rule does and why it is needed, and a list of any objections that were voiced with the rule. At that time and as part of this, the legislature can do nothing and if it does nothing the rule says in effect and has the force and effect of law. If the legislature for any reason objects to the rule, it can change that rule by statute. The statute would have to be enacted and go through the regular statutory process and then it would, in a sense, if it got through and is not vetoed by the governor, it would trump the court rule. That is the supervisory provision for the court rules that's in the statute. That's really the guts to the whole thing and that's what's changed. The legislature is free to form any kind of committee to oversee this, and the court is free to change their rulemaking committee any way they see fit. Our committee chose not to micromanage. That is up to the legislature and to the supreme court. This is just enabling action and the rest of it will come as it may. It is my firm hope, we tried to balance, to correct what we felt was this problem in the law and at the same time it was never the Judiciary Committee's intent that anytime a legislator is mad at the court because it lost some court hearing, he comes over here and files a bill because he's mad at the court. We hope that each side will be responsible in this procedure and that perhaps a couple of legislators will be appointed to the rulemaking committee, oversee it as it goes forward and this will never be a problem again. That's the hope of the committee and I think that is probably a realistic hope, at least I sincerely hope that it is. The last thing that is in this statute is that it only comes into effect if and when the CACR that we just passed becomes law after the election in 2002. So, this statute would only come into effect on January 1, 2003 and the reason for that is because of the election for CACR, and it would not come into effect if the CACR was not passed by the voters. That in a nutshell is what's in the statute and I'll take any questions if there are any.

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.

special orders regular calendar part ii (cont'd)

HB 450, relative to work product under the right-to-know law. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. John M. Pratt for the Majority of Judiciary: This bill gives additional protection to the work papers, notes and preliminary drafts of Legislative Budget Assistant auditors made in preparation of audit reports authorized under Chapter 14 of the Revised Statutes Annotated. The bill was requested by the Legislative Budget Assistant in response to a recent decision of the New Hampshire Supreme Court. The amendment deleted a second section of the bill which would have made changes to the right-to-know law. Vote 12-8.

Rep. Peter E. Franklin for the Minority of Judiciary: The minority view of this bill is that it should be killed. This bill was brought forward in response to the *Goode v. Buckley* case, which was remanded to Superior Court at the beginning of this year. Until we know the final disposition of the case, we are tilting at windmills. It is quite possible that Revised Statutes Annotated (RSA) 91-A has worked quite well and there is no need for any legislation.

Amendment (0339h)

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

AN ACT relative to certain work product under the right-to-know law.

Amend the bill by deleting section 3 and renumbering the original section 4 to read as section 3, respectively.

AMENDED ANALYSIS

This bill clarifies that certain work papers are not subject to the right-to-know law.

Adopted.

Rep. Franklin spoke against.

Rep. John Pratt spoke in favor.

On a division vote, 202 members voting in the affirmative and 60 in the negative, the majority report was adopted by the necessary two-thirds.

Ordered to third reading.

clerk's note

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

HB 505, limiting the liability of manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others. **INEXPEDIENT TO LEGISLATE**

Rep. Peter R. Leishman for Judiciary: The Committee applauds the efforts of the sponsor to limit (frivolous) lawsuits against gun manufacturers, distributors and dealers. However, the majority of the committee believes the proposed legislation is too broad a weapon to protect the firearms community, and that a judge and jury should be trusted to sort out ridiculous claims. To date, there have been no claims based on misuse against manufacturers of guns in New Hampshire, nor successful actions in other states. Courts have recognized the frivolous nature of these suits. The majority was troubled about other interests that might seek immunity for misuse of their product(s) should this legislation pass. Vote 14-3.

Adopted.

HB 221, establishing a right to work act which provides for freedom of choice on whether to join a labor union. **INEXPEDIENT TO LEGISLATE**

Rep. Ralph F. Woekel for Labor, Industrial and Rehabilitative Services: The committee felt that this was more a statement of principal than a bill and consequently was inappropriate for legislation. Vote 16-1.

Rep. Itse requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 240 NAYS 82

YEAS 240

BELKNAP

Bartlett, Gordon	Czech, Stanley	Johnson, William	Millham, Alida
Nedeau, Stephen	Pilliod, James	Russell, David	Thomas, John
Wood, Jane			

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Lyman, L Randy
Philbrick, Donald			

CHESHIRE

Allen, Peter	Batchelder, Robert	Burnham, Daniel	Emerson, Susan
Espiefs, Peter	Manning, Joseph	McGuirk, Paul	Meader, David
Mitchell, McKim	Pratt, John	Richardson, Barbara	Royce, H Charles
Weed, Charles	Zerba, Roger		

COOS

Bradley, Paula	Davis, Perley	Gallus, John	Guay, Lawrence
Horton, Lynn	Landers, Dana	Mears, Edgar	Pratt, Leighton
Rodrigue, Robert	Rozek, Michael	Stohl, Eric	Tholl, John Jr
Woodward, David			

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Eaton, Stephanie
Gabler, William	Giuda, Robert	Lovett, Sid	Marshall, Gene
Naro, Debra	Nordgren, Sharon	Pawlek, Marion	Scanlan, David
Scovner, Nancy	Sokol, Hilda	Teschner, Douglass	Ward, Brien
Williams, Burton			

HILLSBOROUGH

Andosca, Mary	Artz, Lawrence	Balboni, Michael	Baroody, Benjamin
Bellavance, Paul	Bergeron, Jean-Guy	Bouchard, David	Bruno, Pierre
Buckley, Raymond	Calawa, Leon Jr	Carlson, Donald	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Clayton, William	Cote, Peter
Craig, James	Daigle, Robert	Desrosiers, William	Dionne, Kimberley
Drabinowicz, A Theresa	Drisko, Richard	Duval, Jeffrey	Elliott, Larry
Emerton, Lawrence Sr	Fletcher, Richard	Foster, Linda	Furman, Christine
Gargasz, Carolyn	Ginsburg, Ruth	Golding, William	Goley, Jeffrey
Gorman, Mary	Goulet, Maurice	Greenberg, Gary	Guinta, Frank
Hall, Betty	Hall, Charles	Holden, Randolph	Hopper, Gary
Johnson, Lionel	Kacavas, John	Konys, Christine	L'Heureux, Robert
LaFlamme, Paul	Lasky, Bette	Leach, Edward	Lessard, Rudy
Lynde, Harold	Martin, Mary Ellen	McDonough-Wallace, Alice	Melcher, Harold
Mercer, Robert	Messier, Irene	Milligan, Robert	Movsesian, Lori
O'Connell, Timothy	Palangas, Eric	Panagopoulos, Nicholas	Pappas, Marc
Pepino, Leo	Salts, Greg	Sargent, Maxwell	Schulze, Joan
Shaw, Barbara	Spiess, Paul	Sweeney, Cynthia	Tahir, Saghir
Thompson, Rob	Vaillancourt, Steve	Wheeler, Robert	Williams, Carol

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Colcord, J D
Cummings, Raymond	Daneault, Gabriel	Davis, Frank	Feuerstein, Martin
Fraser, Leo Jr	Fraser, Marilyn	French, Barbara	Gile, Mary
Greco, Vincent	Hutchinson, John	Jacobson, Alf	Lockwood, Priscilla
MacKay, James	Moore, Carol	Owen, Derek	Perkins, Randy
Potter, Frances	Rodd, Beth	Rush, Deanna	Seldin, Gloria

Swindlehurst, John
Yeaton, Charles

Wallner, Mary Jane

Whalley, Michael

Whittemore, James

ROCKINGHAM

Belanger, Ronald

Bishop, Franklin

Blanchard, MaryAnn

Bowles, Raimond

Carson, Sharon

Chalbeck, Kevin

Clark, Martha Fuller

Coes, Betsy

Corbin, Corey

Dearborn, Bruce

DiFruscia, Anthony

Dowling, Patricia

Downing, Michael

Fesh, Bob

Flanagan, Natalie

Flanders, John Sr

Giordano, Ronald

Gleason, John

Holland, James Jr

Hutchinson, Karen

Johnson, Robert

Kane, Cecelia

Katsakiores, George

Katsakiores, Phyllis

Kobel, Rudolph

Langone, John

McGuire, Robert

McKinney, Betsy

Micklon, Stephanie

Norelli, Terie

Nowe, Ronald

Packard, Sherman

Palermo, Diane

Pitts, Jacqueline

Quandt, Marshall

Quandt, Matthew

Robertson, Carl

Shultis, Elizabeth

Sloan, Stephen

Splaine, James

Stritch, C Donald

Trueman, Raymond

Weatherspoon,
Jacquelyne

Welch, David

Whittier, John

Woekel, Ralph

Zolla, William

STRAFFORD

Berube, Roger

Bickford, David

Brennan, William

Callaghan, Frank

Dunlap, Patricia

Estabrook, Iris

Goodwin, Earle

Grassie, Anne

Hughes, Christopher

Johnson, Nancy

Knowles, William

Lent, Donald

McCarthy, Gerald

Pelletier, Arthur

Pelletier, Marsha

Proulx, Raymond

Rollo, Michael

Smith, Marjorie

Snyder, Clair

Taylor, Kathleen

Wall, Janet

Woodill, Rodney

Woods, Phyllis

SULLIVAN

Burling, Peter

Cloutier, John

Ferland, Brenda

Flint, Gordon Sr

Franklin, Peter

Harris, Joseph

Harris, Sandra

Jones, Constance

Leone, Richard

Odell, Bob

Phinizy, James

NAYS 82

BELKNAP

Boyce, Laurie
Rice, Thomas Jr

Dewhirst, Glenn
Rosen, Ralph

Holbrook, Robert
Wendelboe, Fran

Lawton, David

CARROLL

Kenney, Joseph
Sullivan, P Judith

Mock, Henry

Patten, Betsey

Stevens, Stanley

CHESHIRE

Avery, Stephen
Roberts, William

Dexter, Judson

Fairbanks, Chandler

Hunt, John

COOS

None

GRAFTON

Akins, Ralph
Gilman, G Michael

Alger, John
Mirski, Paul

Cobb, John
Sova, Charles

Dudley, Terri

HILLSBOROUGH

Arnold, Thomas Jr
Brundige, Robert
Eaton, Richard
Herman, Keith
McHugh, Claire
Rowe, Robert
White, Donald

Balcom, John
Clegg, Robert Jr
Fields, Dennis
Jean, Loren
McRae, Karen
Seibel, Christopher

Batula, Peter
Coughlin, Pamela
Gonzalez, Carlos
Kurk, Neal
Moran, Edward
Souza, Kathleen

Bergin, Peter
Dokmo, Cynthia
Graham, John
LaRose, Richard
Reeves, Sandra
Thulander, O Alan

MERRIMACK

Anderson, Eric
Leber, William

Dunne, Christopher
Poulin, David

Kennedy, Richard
Winter, Steven

Langer, Ray

ROCKINGHAM

Arndt, Janet

Camm, Kevin

Cox, Russell

Dalrymple, Janeen

Dodge, Robert	Francoeur, Sheila	Gilbert, Karl	Griffin, Mary
Hamel, Albert	Henderson, Warren	Itse, Daniel	Johnson, Rogers
Kelley, William	Langley, Jane	Letourneau, Robert	Power, Lucille
Putnam, Ed II	Rausch, James	Ruffner, Walter	Stone, Joseph
Varrell, Thomas	Weyler, Kenneth		

STRAFFORD

Cossette, Larry	Reid, Christopher	Twombly, James
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SULLIVAN

Rodeschin, Beverly

and the report was adopted.

HB 469-FN-L, relative to the applicable minimum wage for hourly employees. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Russell D. Bridle for the Majority of Labor, Industrial and Rehabilitative Services: There are 644,000 New Hampshire residents employed in 1999 of which 360,000 were hourly wage earners. Approximately 10,000 or 1.5% are tipped employees who typically make substantially more than minimum wage (\$5.15). According to the 1999 statistics approximately 27,000 (4.2%) earned wages ranging from \$5.16 to \$6.14. In contrast to other states in New England, New Hampshire had the second lowest percentage of workers earning less than \$6.15 per hour. The majority of the committee understood that since 1999, wages have climbed higher yet and unemployment lower, allowing for workers to shop for higher paying jobs. An important point in the consideration of a state minimum wage would be the negative impact on some of the very people it would be meant to help. An increase in minimum wage could impact low income workers by changing income qualifications for earned income credit, child and dependent care credit, child tax credit, credit for elderly or the disabled and education credits and SSI. Vote 10-8.

Rep. Jeffrey P. Goley for the Minority of Labor, Industrial and Rehabilitative Services: The minority of the committee felt that New Hampshire's lowest paid workers deserve a raise. Without an increase in the last four years, New Hampshire's most disadvantaged workers have lost pace with the rapid cost increase of fuel, housing and other basic needs.

Reps. Bergin, Martha Fuller Clark , Marshall Quandt and Karen Hutchinson spoke against.

Reps. Cummings, Dickinson and Gilman spoke in favor.

Rep. Norelli spoke against and yielded to questions.

Rep. Martha Fuller Clark requested a roll call; sufficiently seconded.

The question being adoption of the majority report.

YEAS 170 NAYS 163

YEAS 170

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Dewhirst, Glenn
Flanders, Donald	Holbrook, Robert	Lawton, David	Nedeau, Stephen
Rosen, Ralph	Russell, David	Thomas, John	Wendelboe, Fran

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Lyman, L Randy	Mock, Henry	Patten, Betsey	Philbrick, Donald
Stevens, Stanley	Sullivan, P Judith		

CHESHIRE

Avery, Stephen	Dexter, Judson	Emerson, Susan	Fairbanks, Chandler
Hunt, John	Roberts, William	Royce, H Charles	

COOS

Gallus, John	Horton, Lynn	Pratt, Leighton	Stohl, Eric
Tholl, John Jr	Woodward, David		

GRAFTON

Alger, John	Cobb, John	Eaton, Stephanie	Gabler, William
Gilman, G Michael	Giuda, Robert	Marshall, Gene	Mirski, Paul
Scanlan, David	Sova, Charles	Teschner, Douglass	Ward, Brien
Williams, Burton			

HILLSBOROUGH

Alukonis, David	Arnold, Thomas Jr	Artz, Lawrence	Batula, Peter
Bergeron, Jean-Guy	Bouchard, David	Brundige, Robert	Bruno, Pierre
Calawa, Leon Jr	Carlson, Donald	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clegg, Robert Jr	Coughlin, Pamela	Desrosiers, William

Dionne, Kimberley	Drisko, Richard	Dyer, Merton	Eaton, Richard
Fields, Dennis	Fletcher, Richard	Furman, Christine	Gargas, Carolyn
Golding, William	Goulet, Maurice	Greenberg, Gary	Guinta, Frank
Hall, Charles	Herman, Keith	Holden, Randolph	Hopper, Gary
Jean, Loren	Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul
Lessard, Rudy	McHugh, Claire	McRae, Karen	Mercer, Robert
Milligan, Robert	Moran, Edward	O'Connell, Timothy	Pappas, Marc
Pepino, Leo	Reeves, Sandra	Rowe, Robert	Sargent, Maxwell
Souza, Kathleen	Tahir, Saghir	Thompson, Rob	Thulander, O Alan
Vaillancourt, Steve	White, Donald		

MERRIMACK

Anderson, Eric	Cummings, Raymond	Dunne, Christopher	Hess, David
Hutchinson, John	Kennedy, Richard	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Poulin, David	Swindlehurst, John
Whalley, Michael	Winter, Steven		

ROCKINGHAM

Arndt, Janet	Belanger, Ronald	Bishop, Franklin	Camm, Kevin
Carson, Sharon	Chalbeck, Kevin	Clark, Vivian	Corbin, Corey
Cox, Russell	Dalrymple, Janeen	Dodge, Robert	Dowling, Patricia
Fesh, Bob	Flanagan, Natalie	Francoeur, Sheila	Giordano, Ronald
Griffin, Mary	Hamel, Albert	Henderson, Warren	Itse, Daniel
Johnson, Robert	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kelley, William	Kobel, Rudolph	Letourneau, Robert	Major, Norman
McKinney, Betsy	Nowe, Ronald	Packard, Sherman	Palermo, Diane
Putnam, Ed II	Rausch, James	Ruffner, Walter	Sapareto, Frank
Sloan, Stephen	Stone, Joseph	Stritch, C Donald	Varrell, Thomas
Welch, David	Weyler, Kenneth	Woekel, Ralph	Zolla, William

STRAFFORD

Bickford, David	Cossette, Larry	Harrington, Michael	Hughes, Christopher
Twombly, James	Woods, Phyllis		

SULLIVAN

Jones, Constance	Leone, Richard	Odell, Bob	Rodeschin, Beverly
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NAYS 163

BELKNAP

Johnson, William	Millham, Alida	Pilliod, James	Rice, Thomas Jr
Wood, Jane			

CARROLL

None

CHESHIRE

Allen, Peter	Batchelder, Robert	Burnham, Daniel	Espiefs, Peter
Manning, Joseph	McGuirk, Paul	Meadar, David	Mitchell, McKim
Pratt, John	Richardson, Barbara	Weed, Charles	Zerba, Roger

COOS

Bradley, Paula	Davis, Perley	Guay, Lawrence	Landers, Dana
Mears, Edgar	Rodrigue, Robert	Rozek, Michael	

GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Cooney, Mary
Dudley, Terri	Lovett, Sid	Naro, Debra	Nordgren, Sharon
Pawlek, Marion	Scovner, Nancy	Sokol, Hilda	

HILLSBOROUGH

Andosca, Mary	Balboni, Michael	Balcom, John	Baroody, Benjamin
Bellavance, Paul	Bergin, Peter	Buckley, Raymond	Clayton, William
Cote, Peter	Craig, James	Dokmo, Cynthia	Drabinowicz, A Theresa
Duval, Jeffrey	Elliott, Larry	Emerton, Lawrence Sr	Ford, Nancy
Foster, Linda	Ginsburg, Ruth	Goley, Jeffrey	Gonzalez, Carlos
Gorman, Mary	Graham, John	Hall, Betty	Johnson, Lionel

Kacavas, John	Konys, Christine	LaRose, Richard	Lasky, Bette
Leach, Edward	Lefebvre, Roland	Lynde, Harold	Martin, Mary Ellen
McDonough-Wallace, Alice	Melcher, Harold	Messier, Irene	Movsesian, Lori
Palangas, Eric	Panagopoulos, Nicholas	Salts, Greg	Schulze, Joan
Seibel, Christopher	Shaw, Barbara	Spiess, Paul	Sweeney, Cynthia
Wheeler, Robert	Williams, Carol		

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Colcord, J D
Daneault, Gabriel	Davis, Frank	Feuerstein, Martin	Fraser, Leo Jr
Fraser, Marilyn	French, Barbara	Gile, Mary	Greco, Vincent
Hager, Elizabeth	Jacobson, Alf	Moore, Carol	Owen, Derek
Perkins, Randy	Potter, Frances	Rodd, Beth	Rush, Deanna
Seldin, Gloria	Wallner, Mary Jane	Whittemore, James	Yeaton, Charles

ROCKINGHAM

Blanchard, MaryAnn	Bowles, Raimond	Clark, Martha Fuller	Coes, Betsy
Dearborn, Bruce	DiFruscia, Anthony	Downing, Michael	Flanders, John Sr
Gilbert, Karl	Gleason, John	Hill, Jonathan	Holland, James Jr
Hutchinson, Karen	Kane, Cecelia	Langley, Jane	Langone, John
McGuire, Robert	Micklon, Stephanie	Norelli, Terie	Pitts, Jacqueline
Power, Lucille	Quandt, Marshall	Quandt, Matthew	Robertson, Carl
Shultis, Elizabeth	Splaine, James	Trueman, Raymond	Weatherspoon, Jacquelyne
Whittier, John			

STRAFFORD

Berube, Roger	Brennan, William	Callaghan, Frank	Dunlap, Patricia
Estabrook, Iris	Goodwin, Earle	Grassie, Anne	Johnson, Nancy
Knowles, William	Lent, Donald	McCarthy, Gerald	Pelletier, Arthur
Pelletier, Marsha	Proulx, Raymond	Reid, Christopher	Rollo, Michael
Smith, Marjorie	Snyder, Clair	Taylor, Kathleen	Wall, Janet
Woodill, Rodney			

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Flint, Gordon Sr
Franklin, Peter	Harris, Joseph	Harris, Sandra	Phinizy, James

And the majority report was adopted.

protest

Pursuant to Part 2, Article 24 of the New Hampshire constitution, Rep. Rollo requested that his protest be entered on the Journal.

I wish to enter my protest of the vote on HB 469, an act increasing the minimum wage. It is unconscionable to treat working people in such a malicious manner.

HB 452, establishing a committee to study the reimbursement for expenses of legislators. **OUGHT TO PASS**

Rep. Keith R. Herman for Legislative Administration: There has been much discussion and debate over how the legislature should be compensated. Earlier this session the House voted to increase the mileage reimbursement for legislators choosing to receive the state rate. The New Hampshire constitution allows for legislators only to be reimbursed for mileage for actual attendance. It is clear, any change in how we are compensated or reimbursed will require a constitutional change. HB 452 establishes a study committee to recommend changes to our compensation. The study committee can propose a constitutional amendment to be considered by the House next year. The committee is retaining CACR 21 to use as a vehicle for any recommendations from the study committee. If the study committee fails to recommend something, CACR 21 will still be available for House action. Vote 9-4.

Adopted and ordered to third reading.

HB 574, establishing a committee to study the recodification of laws relating to the joint committee on legislative facilities and the application of the right-to-know law. **OUGHT TO PASS**

Rep. Peter F. Bergin for Legislative Administration: It has been a number of years since this issue was studied. After hearing testimony from a number of people in favor of such a study, the committee voted in favor of such a study of the right-to-know law as it applies to the joint committee on legislative facilities. Vote 9-4.

Adopted and ordered to third reading.

HB 251, establishing that local zoning ordinances regulating location are applicable to community living facilities. **INEXPEDIENT TO LEGISLATE**

Rep. Mary R. Cooney for Municipal and County Government: The intent of this bill was to prevent the possibility of any sex offenders being housed in state community living facilities which are located near schools or neighborhoods where children are present. This bill would take away the State's ability to establish a community living facility in the most appropriate location, as required by State and Federal law. There is a need to balance the rights of the disabled and others with the

rights of the residents. This bill does not address the problems that might arise with sex offenders living in neighborhoods. By law, they may do so now once a sentence has been served and they have registered with the local police department. In reality, developmentally disabled persons housed in such a facility are far more regulated and controlled, because of the supervision and services they receive, than a sex offender who is not disabled. A developmentally disabled sex offender, who is incompetent to stand trial for an offense and considered a risk to the community, is housed in a special facility for such offenders. This bill was brought about because the Department of Health and Human Services did not allow public input prior to making the decision to assign such a person to a community facility. The bill had the effect of putting the placement of all citizens with all types of disabilities at risk. This bill would go against the purpose of RSA 126-A "to provide an integrated, administrative structure for the design and delivery of a comprehensive and coordinated system of health and human services which is family-centered and community based for the citizens of New Hampshire." Vote 14-1.

Rep. Patten moved Recommit to Committee.

Adopted and recommitted to Municipal and County Government.

HB 607-FN-A-L, relative to reimbursement for police assistance provided to schools within a cooperative school district or an authorized regional enrollment area school. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Robert W. Brundige for the Majority of Municipal and County Government: The committee sympathized completely with the sponsors. We felt that this issue can and should be resolved by the affected associated school boards by placing a line item in the operating budget. Further, the committee was precluded from recommending the passage of this bill because it is a direct violation of Part I, Article 28-a of the New Hampshire Constitution which does not allow the State to require local political subdivisions to pay for new or expanded programs, unless the State is willing to fund that requirement. Vote 10-6.

Rep. Mary R. Cooney for the Minority of Municipal and County Government: The minority feels that the lack of communication between some cooperative school districts and the related hosting towns makes it imperative that an agreement be required to reimburse the hosting town for police costs incurred during the school year. Some cooperative district schools have needed to call police up to 300 times in one year.

Rep. Patten moved Recommit to Committee.

Adopted and Recommitted to Municipal and County Government.

HB 543-FN, establishing the division of ports and harbors within the Pease development authority and transferring all functions, powers, and duties of the New Hampshire state port authority. **OUGHT TO PASS WITH AMENDMENT**

Rep. William E. Leber for Public Works and Highways: This bill was introduced by the majority of the committee to study the organization and operations of the New Hampshire Port Authority (NHPORT) under HB 1559, Chapter 153 of 2000. The bill simply transfers the total operation functions and responsibilities, personnel and properties as a unit to the Pease Development Authority (PDA) to be named the Division of Ports and Harbors. The amendment includes a complete rewrite of the PDA statute RSA 12-G to include the NHPORT statutes as are appropriate to combine the two organizations. Particular care was required in that certain requirements of the Federal government in the transfer of Pease Air Force Base to the state had to be protected and kept

separate from the operation of the NHPORT. Therefore, some of the changes were simply identifying the "airport" from the "division" when referring to properties and funds. The PDA legal counsel was involved with the rewrite, and it has been coordinated with the personnel in the Attorney Generals Office. The Treasurer reviewed it as to its affect on the various bonding issues. All have indicated the amendment covers the concerns of all agencies. The study committee found that there have been many studies and proposals for changing or combining operations of the NHPORT, starting in 1985 in a Sunset review report, that called for its termination and transfer its responsibilities to other agencies. Further studies in 1991 recognized the similarities of the two agencies and the efficiencies that may accrue through a merger. Other studies followed in the 1990s, and currently the study authorized in Chapter 153, Laws of 2000, which looked at the possibility of assigning the NHPORT to the Department of Transportation, or the Department of Resources and Economic Development or the PDA. The committee recognizes that integration of the functions of the NHPORT with the PDA will allow for faster and more coordinated development and operation of the Port and Harbors on the Seacoast. Combined administration and marketing efforts will benefit the Seacoast region and all the citizens of the state. The amendment provides for a direct line of authority and responsibility from the PDA Board of Directors to the Division Director of Ports and Harbors, who serves at the pleasure of the Board. The classified employees remain unchanged and continue to serve as state classified employees. The current Board of Directors of the NHPORT will be retained as an Advisory Council to the Division Director on issues of programs, rules, operations, etc., and to insure communications flow both ways, a requirement that the PDA Board shall respond with reasons if a Council recommendation is not accepted. Also, to relieve some concerns that the PDA may develop the Port properties in other ways, the amendment states the ports remain working ports. The amendment also provides that the Director of the Port Authority on the effective date of this act shall serve as initial Director of the Division of Ports and Harbors. The committee considered but rejected a motion to retain this bill, and voted with confidence that this is the time and this is the instrument to effect the change needed for the future strength and stability of the NH ports and harbors on the Seacoast. Vote 17-2.

Amendment (0878h)

Amend the bill by replacing section 2 with the following:

2 State Treasurer; Application of Receipts; Reference Amended. Amend RSA 6:12, I (vvv) to read as follows:

(vvv) Moneys deposited in the harbor dredging and pier maintenance fund established in RSA ~~[271-A:24]~~ **12-G:46**.

Amend the bill by replacing sections 5-6 with the following:

5 Resources and Economic Development; Review of Reports Required; Reference Changed. Amend RSA 12-A:34 to read as follows:

12-A:34 Review of Reports Required. For the purpose of ensuring comparability of impact reports on economic development programs issued under RSAs 4-C:6-a, 12-A:33, ~~[12-G:26-a]~~ **12-G:30**, and 162-A:23-a, the department of resources and economic development, in consultation with the legislative budget assistant, shall periodically review such reports at least once every 5 years and make recommendations to be utilized by the agencies making such reports for an improved and consistent methodology for assessing the quantity and quality of jobs created and saved and the growth potential and environmental impacts of such programs. This section shall not apply to promotional literature.

6 Pease Development Authority. RSA 12-G is repealed and reenacted to read as follows:

CHAPTER 12-G

PEASE DEVELOPMENT AUTHORITY

12-G:1 Declaration of Purpose.

I. The general court recognizes that the closure and redevelopment of Pease Air Force Base is a matter of great concern for the town of Newington, the city of Portsmouth, the seacoast region, and the state of New Hampshire. Therefore, the general court finds that a comprehensive study of all issues related to the closure and redevelopment of Pease Air Force Base is necessary to ensure proper planning and optimal use of the property. The study shall have as a primary concern the impact of the closure and redevelopment of Pease Air Force Base on the economies, environment, and quality of life of the affected communities, the seacoast region, and the state.

II. The general court further recognizes that the economies, environment, and quality of life of the affected communities, the seacoast region, and the state will depend on the speedy and proper redevelopment of Pease Air Force Base. Thus, it is hereby declared to be in the public interest and to be the policy of the state to foster and promote the redevelopment of Pease Air Force Base by implementing the comprehensive conversion and redevelopment plan being prepared by the former Pease Air Force Base redevelopment commission and the Pease development authority.

III. It is further declared that creation of a development authority to implement the comprehensive conversion and redevelopment plan and to promote, oversee, and integrate the development of Pease Air Force Base is in all respects for the benefit of the affected communities, the seacoast region, and the state and for the improvement of their welfare and prosperity, including the creation of employment and other business opportunities. It is also the intent of the general court that the authority be empowered to assume from the Pease Air Force Base redevelopment commission the responsibility for obtaining federal approval of the comprehensive conversion and redevelopment plan and complete any steps in the planning process that may remain incomplete as of July 1, 1990, and to create a development authority with the power, duties, and authority to implement all aspects of the comprehensive conversion and redevelopment plan subject to provisions of this chapter, including without limitation, taking title in the name of the state of New Hampshire, acting by and through the authority, to any or all of Pease Air Force Base.

IV. The general court further recognizes that integration of the functions of the former New Hampshire state port authority with the functions and duties of the Pease Development Authority will allow for faster and more coordinated development of New Hampshire ports with the conversion and redevelopment of Pease Air Force Base. Thus, it is declared to be in the public interest and the policy of the state to combine in one authority all power, authority, and responsibility for the promotion and development of Pease Air Force Base and the ports of New Hampshire for the benefit of the seacoast region and all of the citizens of New Hampshire. It is also the intent of the general court that in the furtherance of its responsibility to promote and develop New Hampshire ports that they remain working ports with due consideration given to the commercial, recreational, and private interests associated therewith.

12-G:2 Definitions. In this chapter:

I. "Airport district" means:

(a) The property conveyed, granted, or otherwise transferred to the authority by the federal government or any agency thereof pursuant to section 13(g) of the Surplus Property Act of 1944, as amended, or such other provision of federal law authorizing transfer of federal surplus property for airport purposes. Property conveyed, granted, or otherwise transferred to the authority in this manner shall automatically become part of the airport district, but may be removed from the airport district by the authority in accordance with the procedures prescribed in RSA 12-G:13, II, after the contraction of the airport district has been approved by the governing body of the municipality in which the land sought to be taken from the airport district is located; or

(b) Property conveyed, granted, or otherwise transferred to the authority by the federal government or any agency thereof, or otherwise acquired by the authority, and declared or designated by the authority as the "airport district" in accordance with the procedures prescribed in RSA 12-G:13, II, after the expansion of the district has been approved by the governing body of the municipality in which the land sought to be added to or taken from the airport district is located. Such property may be subsequently removed from the airport district by the authority in accordance with the procedures prescribed in RSA 12-G:13, II, after the contraction of the airport district has been approved by the governing body of the municipality in which the land sought to be taken from the airport district is located.

II. "Airport project" means the development, construction, reconstruction, maintenance, or operation of any property of the authority or of any airport by the authority, including all real property and tangible and intangible personal property, structures, machinery, equipment, and appurtenances or facilities which are part of such airport or used or useful in connection therewith either as ground facilities for the convenience of handling aviation equipment, passengers, and freight or as part of aviation operation, air navigation, and air safety operation, and excluding any division project.

III. "Airport property" means all real property and tangible and intangible personal property, rights, and facilities of the authority excluding division property.

IV. "Appointing authorities" means the governor and executive council, the president of the senate, the speaker of the house of representatives, the mayor and city council of the city of Portsmouth, and the board of selectmen of the town of Newington.

V. "Authority" means the Pease development authority.

VI. "Board" means the board of directors of the authority.

VII. "Bond" means any bond, note, or other evidence of indebtedness issued under this chapter.

VIII. "Commission" means Pease Air Force Base redevelopment commission established pursuant to 1989, 3:2.

IX. "Director" means a member of the board.

X. "Division" means the Pease development authority, division of ports and harbors.

XI. "Division director" means the director of the division of ports and harbors.

XII. "Division project" means the development, construction, reconstruction, maintenance, or operation of any property of the authority related to the ports, harbors, and navigable tidal rivers of the state under the jurisdiction of the authority, including dredging activities authorized under RSA 12-G:45 and including all real property and tangible and intangible personal property, structures, machinery, equipment, and appurtenances or facilities used or useful in connection therewith and listed on the inventory of division projects maintained pursuant to RSA 12-G:43, I(e).

XIII. "Division property" means all real property and tangible and intangible personal property, rights, and facilities of the authority related to ports, harbors, and navigable tidal rivers administered or operated by the authority through the division and listed on the inventory of division property maintained pursuant to RSA 12-G:43, I(e).

XIV. "Division revenues" means any appropriations received by the division and any rents, profits, fees, charges, receipts, and other income derived or to be derived by the authority from the purchase, sale, leasing, development, or operation of division property or projects and the operation of related facilities located thereon.

XV. "Excess revenues" means those revenues other than division revenues in excess of the funds identified in the audit performed pursuant to RSA 12-G:29 required (a) to pay the costs of operating, maintaining, and repairing all property and projects of the authority except division property and division projects, (b) to pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board or the executive director except those costs of administering and operating the division, (c) to pay the principal of, and premium, if any, and the interest on the outstanding bonds of the authority, except any bonds issued in relation to any division property or project, as the same become due and payable, (d) to create and maintain reserves established pursuant to RSA 12-G:18 or required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority, (e) to create and maintain a capital improvement fund for airport property and airport projects to be established by the board in an amount not more than \$10,000,000, and (f) to pay all taxes owed by the authority related to its ownership or operation of airport property or airport projects. Excess revenue shall not include any revenues generated from property transferred or conveyed to the authority pursuant to section 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. section 1622(g), as amended, within the airport district, unless the board and the Federal Aviation Administration deem, in compliance with applicable Federal Law, including but not limited to 49 U.S.C. App. section 2210(a)(12), such revenues to be excess revenues within the meaning of this chapter.

XVI. "Land use controls" means all municipal ordinances and requirements or rules of the authority regulating the use, development, and improvement of property, including, but not limited to, zoning ordinances, subdivision regulations, site plan review regulations, and building, electric, plumbing, and fire codes.

XVII. "Pease Air Force Base" means all land, easements, buildings, structures, and appurtenances owned or controlled by the United States Department of Defense on January 1, 1990, in the towns of Newington and Greenland, or the city of Portsmouth.

XVIII. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state (including the state of New Hampshire), municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body.

XIX. "Port authority" means the New Hampshire state port authority established pursuant to 1957, 262:1.

XX. "Resolution" means:

(a) The statements of intent adopted by formal vote of the commission on the dates set forth below and related to the following:

(1) The New Hampshire Air National Guard on August 1, 1989.

(2) The Pease Air Force Base trash-to-energy plant on August 15, 1989.

(3) The proposed wildlife refuge at Pease Air Force Base on August 29, 1989.

(4) Asbestos in housing at Pease Air Force Base on October 10, 1989.

(5) The provision of health care for military retirees on October 24, 1989.

(b) Any other statement of intent designating a resolution and adopted by the commission since March 20, 1989.

XXI. "Revenues" means the gifts, contributions, and appropriations from any source and the rents, profits, fees, charges, receipts, and other income derived or to be derived by the authority from the purchase, sale, leasing, or development of Pease Air Force Base and the operation of related facilities located thereon and all right to receive the same, including investment earnings and the proceeds of any borrowing hereunder or of any sale or disposition or insurance of any assets of the authority, excluding division revenues.

XXII. "Security document" means any trust agreement, security agreement, or resolution authorizing the issuance of or securing bonds.

XXIII. "State" means the state of New Hampshire.

XXIV. "Surplus Property Act" and all references to section 13(g) of the Surplus Property Act of 1944, as amended, mean any provision of federal law authorizing transfer of federal surplus property for airport purposes, including 49 U.S.C. section 47151(a); 50 U.S.C. App. section 1622(g), as amended, to the extent applicable prior to the enactment of 49 U.S.C. section 47151(a); and any other provision of federal law that may be subsequently enacted that authorizes the transfer of federal surplus property for airport purposes.

XXV. "Vessel" means boats of all sizes propelled by sail, machinery, or hand, scows, dredgers, shellfish cars, and craft of every kind.

12-G:3 Pease Development Authority Established.

I. There is hereby created a body politic and corporate of the state, to be known as the Pease development authority, to carry out the provisions of this chapter. The authority is hereby deemed to be a public instrumentality, and the exercise by the authority of the powers conferred by

this chapter shall be deemed and held to be the performance of public and essential governmental functions of the state.

II. Any resolution or contract executed or approved by or on behalf of the commission shall be binding on, shall inure to the benefit of, and shall be performed by, the authority whether so expressed or not. All rights, title, and interest in and to all assets and all obligations and liabilities of the commission vested in or possessed by the commission on June 1, 1990, shall vest in and be possessed, performed, and assumed by the authority. The passing of rights, remedies, duties, covenants, agreements, and obligations in accordance with this paragraph shall not increase or diminish them.

III. Nothing in this chapter shall be construed as requiring the authority to assume, adopt, or otherwise be bound by the bylaws, votes, or decisions of the commission or any advisory committee thereof except as set forth in paragraph II and RSA 12-G:44.

IV. Any rule or contract executed or approved by or on behalf of the port authority shall be binding on, shall inure to the benefit of, and shall be performed by, the authority whether so expressed or not. All rights, title, and interest in and to all assets and all obligations and liabilities of the port authority vested in or possessed by the port authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority shall vest in and be possessed, performed, and assumed by the authority. The passing of rights, remedies, duties, covenants, agreements, and obligations in accordance with this paragraph shall not increase or diminish them. Nothing in this chapter shall be construed as precluding the authority from amending or rescinding, to the extent permitted by law, and by law, rule, vote, or decision rendered by the port authority prior to the transfer to the authority of the duties, functions, and jurisdiction of the port authority.

12-G:4 Management by Board of Directors; Executive Director.

I. The management of the authority shall be vested in a board of 7 directors to be appointed as follows:

- (a) One member appointed by the governor and executive council.
- (b) One member appointed by the mayor and city council of the city of
Portsmouth.
- (c) One member appointed by the board of selectmen of the town of
Newington.
- (d) One member appointed by the president of the senate.
- (e) One member appointed by the speaker of the house of representatives.
- (f) One member appointed jointly by the mayor and city council of the city of
Portsmouth and the board of selectmen of the town of Newington.
- (g) One member who is nominated by majority vote of the legislative
delegation of Strafford county, including the senators whose districts include towns in Strafford
county and who is appointed by the governor, the senate president, and the speaker of the house.
The member appointed in this manner shall be a resident of Strafford county and shall serve an
initial term of 2 years beginning June 1, 1993. Subsequent terms shall be governed by the provisions

of this section. The member appointed in this manner may be removed from office for cause after hearing by the Strafford county legislative delegation.

II. The governor shall appoint the chairman of the board, who shall serve in that capacity at the pleasure of the governor. Directors shall hold office for 3 years and until their successors shall have been appointed. State-appointed directors may be removed from office pursuant to the provisions of RSA 4:1. Directors appointed by the municipal appointing authorities may be removed from office for cause after hearing by the municipal appointing authorities.

III. Four members of the board shall constitute a quorum. A minimum of 4 affirmative votes shall be required for any action of the board, except for the adoption of land use controls, which shall require 5 votes.

IV. The directors shall serve without compensation from the authority, except for such incidental expenses determined by the board to be necessary and incurred while performing business of the authority.

V. Directors shall be residents of the state. No director shall be an elected public official of the state, federal government, or any political subdivision of the state or federal government. Notwithstanding any other provision of law, public employees and appointed officials of the state and any of its political subdivisions may serve, if appointed in accordance with the provisions of this chapter, as directors of the authority.

VI. The board shall appoint an executive director, who shall be the chief executive and administrative officer of the authority and who shall have general and active supervision and direction over the day-to-day business and affairs of the authority and its officers and employees, subject, however, to the direction and control of the board. The executive director shall be responsible for ensuring that all division revenues and all costs associated with operating and maintaining division property and division projects are accounted for separately from all other revenues and costs of the authority and shall perform all such other duties as from time to time may be assigned to the executive director by the board. The executive director shall hold office for an indefinite term at the pleasure of the board. The executive director shall also be the secretary of the authority, shall keep a record of the proceedings of the authority, and shall be the custodian of all books, documents, and papers filed with the authority and of its minute book and seal. The executive director shall have the power to cause copies to be made of all minutes and other records and documents of the authority and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates. The executive director may employ such assistants, legal counsel, and clerical and administrative staff as is directed by the board and within the limits of funds available for that purpose. The executive director may from time to time, with the prior consent of the board, establish and maintain such operating divisions within the authority as he or she shall deem necessary for the proper and efficient conduct of business under this chapter and may assign such staff members to any such division. The salary of the executive director shall be established by the board.

12-G:5 Statements of Financial Interests; Content; Form.

I. Every member of the board shall file by July 1 of each year a verified written statement of financial interests in accordance with the provisions of this section, unless the member has already filed a statement in that calendar year.

II. A member of the board shall not be allowed to enter into or continue his or her duties, unless the member has filed a statement of financial interests with the secretary of state.

III. Statements of financial interests shall contain the following information:

(a) The name, address, and type of any professional, business, or other organization in which the reporting individual was an officer, director, associate, partner, proprietor, or employee, or served in any other professional or advisory capacity, and from which any income in excess of \$10,000 was derived during the preceding calendar year.

(b) The description of any debt and the name of the creditor for all debts in excess of \$5,000 owed by the reporting individual, as well as the description of any debt and the name of the debtor for all debts in excess of \$5,000 owed to the reporting individual, but only if the creditor or debtor, respectively, or any guarantor of the debt, has done work for or business with the state in the preceding calendar year. Loans issued by financial institutions whose normal business includes the making of loans of the kind received by the reporting individual, and which are made at the prevailing rate of interest and in accordance with other terms and conditions standard for such loans at the time the debt was contracted need not be disclosed. Debt issued by publicly-held corporations and purchased by the reporting individual on the open market at the price available to the public need not be disclosed.

IV. The statement of financial interests shall be completed by typewriting or hand printing, and shall be verified, dated, and signed by the reporting individual personally. It shall be submitted on a form prescribed by the secretary of state.

12-G:6 Disqualification of Member. If any director, or the spouse or issue of any director, shall be interested either directly or indirectly or shall be a director, officer, or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract or other matter with the authority, including any loan to any eligible mortgagor or loan to or purchase of any loan from any lending institution, such interest shall be disclosed to the board and shall be set forth in the minutes of the board. The member having such interest shall not participate on behalf of the authority in any proceedings or decision relating to such contract or matter.

12-G:7 Duties.

I. The authority assumes from the commission and shall perform the following duties:

(a) Monitoring the proposed closing of Pease Air Force Base.

(b) Conducting a comprehensive study of all issues related to the closure, conversion, redevelopment, and future use of Pease Air Force Base. This study shall have as a primary concern the impact of the closure and redevelopment of Pease Air Force Base on the economies, environment, and quality of life of the affected communities, the seacoast region, and the state.

(c) Reviewing all options relative to the most appropriate use of Pease Air Force Base.

(d) Formulating and adopting a comprehensive plan for conversion and redevelopment of Pease Air Force Base and submitting this plan to the federal authorities no sooner than 30 days following submission to the appointing authorities.

(e) Submitting the comprehensive plan for the conversion and redevelopment of Pease Air Force Base to the appropriate agency or agencies of the federal government.

II. The authority shall at all times act in a manner which is consistent with the public good and pursuant to this chapter shall seek to implement the comprehensive plan for the conversion and redevelopment of Pease Air Force Base identified in paragraph I.

12-G:8 Incorporation; Powers. The authority shall have all of the powers necessary or convenient to carry out the purposes and provisions of this chapter, including the power:

I. To sue and be sued in all courts and to initiate or participate in actions and proceedings, whether judicial, administrative, arbitral, or otherwise.

II. To have a seal, and to alter such seal at pleasure and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any manner.

III.(a) To employ or retain as independent contractors architects, engineers, attorneys, accountants, and such other advisors and employees, consultants, and agents as may be necessary in its judgment without regard to any personnel or civil service law or personnel or civil service rule of the state, to prescribe their duties and qualifications, and to fix and pay their compensation, if any.

(b) To appoint qualified individuals to serve as unpaid volunteers or advisors under such terms and conditions as it may deem necessary. Such volunteers or advisors may be reimbursed for such incidental expenses determined by the board to be necessary and incurred while performing the business of the authority.

IV. To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with property or any interest therein, whether tangible or intangible, for its purpose.

V. To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, all or any of its airport or division property or any interest therein, except that no real property of the division may be sold, conveyed, exchanged, transferred, or otherwise disposed of, except by license, lease, or other agreement subject to a term of not more than seven years, without the prior approval of the governor and the executive council.

VI. To apply for and accept gifts, loans, grants, property, funds, money, materials, labor, supplies, or services from the United States of America or its agencies or departments or any state agency or any political subdivision of the state, or any other person, to carry out the terms and provisions of, or make agreements with respect to, any such gifts, loans, or grants, and to do any and all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of such gifts, loans, or grants.

VII. To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security interest in, use, or otherwise deal in and with, bonds and other obligations, shares, or other securities or interests therein issued by others, whether engaged in a similar or different business or activity.

VIII. To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with any person, firm, corporation, municipality, state agency, governmental unit, or other entity, foreign or domestic, provided that no contract in excess of \$10,000, including contracts under paragraphs III and XV, shall be made without requests for proposal. This

requirement may be eliminated by an affirmative vote of 5 members of the board on any particular matter. Justification for eliminating the requirement shall be recorded in the minutes of the meeting.

IX. To borrow money for purposes not related to division property or division projects at such rate or rates of interest as the authority may determine, issue its notes, bonds, or other obligations to evidence such indebtedness, and secure any of its obligations by mortgage or pledge of all or any of its airport property or any interest therein, tangible or intangible, whether then owned or thereafter acquired.

X. To arrange for guaranties of its notes, bonds, or other obligations pursuant to RSA 12-G:31 by the federal government or by any private insurer or otherwise, and to pay any premiums therefor.

XI. To issue such notes, bonds, or other obligations, whether or not the income therefrom to the holders is exempt from federal income taxation.

XII. To purchase notes, bonds, or other obligations of the authority at such price or prices, in such manner, and upon such terms as the authority may determine.

XIII. To invest and reinvest its funds, and take and hold property as security for the payment of funds so invested.

XIV. To procure insurance against any loss in connection with its airport or division property or projects in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor. Nothing in this paragraph shall be construed as a waiver of the sovereign immunity of the state except as authorized under RSA 491:8.

XV. To enter into and perform contracts and agreements, whether or not they may be deemed to constitute indebtedness under applicable law, for the joint and separate planning, financing, construction, purchase, operation, maintenance, use, sharing costs of, ownership, mortgaging, leasing, sale, disposal of, or other participation in facilities, products, or services of any person who engages in business on property owned or controlled by the authority.

XVI. To maintain a principal office in the state and an office or offices at such other place or places as it may determine.

XVII. To make any inquiry, investigation, survey, feasibility study, or other study which the authority may deem necessary to enable it to carry out effectively the provisions of this chapter.

XVIII. To apply to the appropriate agencies and officials of the federal government and the state for licenses, permits, or approvals of its plans, airport projects, or division projects as it may deem necessary or advisable, and to accept such licenses, permits, or approvals as may be tendered to it by such agencies or officials, upon such terms and conditions as it may deem appropriate.

XIX. To make bylaws and establish committees for the management and regulation of its affairs as it may deem necessary, and subject to agreements with bondholders, to make rules pursuant to its own procedures for the use of its airport projects and property and division projects and property, including but not limited to zoning, subdivision, and site plan review regulations, and

building, electric, plumbing, and fire codes, and to establish and collect rentals, fees, and all other charges for the use of projects under the jurisdiction of the authority and for services or commodities sold, furnished, or supplied by the authority.

XX. To design, construct, maintain, operate, improve, and reconstruct such airport projects and division projects as shall be consistent with the purposes and provisions of this chapter, including without limitation the maintenance and development of aviation and port services, including landing fields, heliports, hangars, shops, passenger and freight terminals, control towers, piers, wharves, navigation aids, and all facilities necessary or convenient in connection with any such airport project or division project and also to contract for the construction, operation, or maintenance of any parts thereof, or for services to be performed thereon, and to rent parts thereof and grant concessions thereon, all on such terms and conditions as the authority may determine.

XXI. To take such other action as it may deem necessary and advisable in the furtherance of the purposes of this chapter.

12-G:9 General Authority Power. In addition to the powers and duties specifically enumerated in RSA 12-G:7, RSA 12-G:8, and RSA 12-G:42, the authority shall have every power enumerated in the laws of the state granted to the authority, the division, the executive director, the division director, the port authority, or any administrative unit of the authority.

12-G:10 Coordination With Department of Resources and Economic Development. The authority shall coordinate its publicity efforts and the activities of the division with the department of resources and economic development.

12-G:11 Status of Authority Employees; Entitlement to State Benefits; Reimbursement of Costs.

I. Except for any classified employee of the division, the authority may hire, fix, and pay compensation, prescribe duties and qualifications, and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the state. Except for any classified employee of the division, the employees of the authority shall not be classified employees of the state within the meaning of RSA 21-I:49. Except for any classified employee of the division, any individual employed by the authority shall be deemed an employee at will and shall serve at the pleasure of the authority.

II. Notwithstanding the provisions of paragraph I, any individual employed by the authority, except for any classified employee of the authority, whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state provided, however, that the election is made in writing within 30 days of the start of employment. Upon election by such individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority. This paragraph shall not apply to any classified employee of the division.

III. The state classified positions of the port authority shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority. Any person employed in such a position at the time of such transfer or at any time

subsequent thereto shall be deemed a classified employee of the division. All classified employees of the division shall be classified employees of the state of New Hampshire within the meaning of RSA 21-I:49 and shall be subject to all requirements, and be entitled to all benefits and emoluments, of the state personnel system. Nothing herein shall preclude the general court from increasing or decreasing the number of classified positions within the division.

IV. Notwithstanding any other provision of law, the authority or the executive director may assign as necessary any employee of the authority with appropriate skills and training to perform any responsibility, task, or duty assigned by statute to the authority or the division, including without limitation, on a temporary basis, any responsibility, task, or duty previously or otherwise assigned to any classified employee of the division. To the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or revenues of the authority other than division revenues, such fund or other source of revenue shall be reimbursed for the cost of such wages, salary, benefits, and other expenses, including without limitation reasonable overhead expenses, from funds drawn from the fund established under RSA 12-G:37 and, to the extent authorized, from the fund established under RSA 12-G:46. The executive director of the authority, subject to the approval of the board, is authorized to determine and fix, as necessary, rates of reimbursement.

12-G:12 Coordination Between State and Federal Governments.

I. In addition to any other duties set forth in any provision of this chapter, the authority shall coordinate with, and provide information to, the United States Department of Defense, and any official or employee thereof, regarding any matter related to the ownership, condition, closure, conversion, redevelopment, or future use or operation of Pease Air Force Base. Notwithstanding any other provision of law, no political subdivision of the state shall submit any plan regarding the closure, conversion, redevelopment of future use, or operation of Pease Air Force Base without the prior approval of the authority.

II. Notwithstanding any provision of law, except for the authority, no political subdivision or any agency of the state or governmental unit thereof, may apply for or receive pursuant to any provision of federal law any funds, grants, or other assistance from the Office of Economic Adjustment within the United States Department of Defense relative to the closure, conversion, redevelopment, or future use of Pease Air Force Base without prior approval of the authority. Except for the authority, no state political subdivision, or any agency or governmental unit thereof, shall apply for or receive any funds, grants, or other assistance from any agency of the federal government relative to the closure, conversion, redevelopment, or future use of Pease Air Force Base without prior notification to the authority. The provisions of this paragraph shall not apply to the adjutant general or to school administrative units for the city of Portsmouth or the town of Newington.

III. Except for the adjutant general and notwithstanding any other provision of law, the authority shall be the only person in the state authorized to negotiate, purchase, or otherwise obtain on behalf of the state or any of its political subdivisions any fee ownership, easement, lease, or other property interest in any property in, or on a part of, Pease Air Force Base, except that the town of Newington may negotiate for and reacquire from the federal government the "Old Stone School" and associated yard located on Nimble Hill Road and the city of Portsmouth may negotiate for and acquire Jones School and Brackett School and associated yards located on Northwood Road and Rockingham Drive, respectively. The board may grant exemptions in its sole discretion from this provision to any state agency or political subdivision on such terms and conditions as it may deem appropriate.

IV. Notwithstanding any other provision of law, the authority shall be the only person authorized in the state to accept on behalf of the state or any of its political subdivisions any title to, or any other interest in, the runway, taxiways, parking aprons, hangars, control tower, airspace, or other property or related facilities at Pease Air Force Base, from the United States pursuant to section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. section 1622(g)), as amended.

12-G:13 Local Land Use Controls.

I. Notwithstanding any other provision of law, any and all land use controls of the town of Newington and the city of Portsmouth shall not apply to any of the property at Pease Air Force Base transferred, conveyed, or otherwise granted to the authority by the federal government or any agency thereof. The authority shall have the exclusive jurisdiction in adopting and establishing land use controls for the property at Pease Air Force Base transferred, conveyed, or otherwise granted to the authority by the federal government or any agency thereof.

II. The authority shall adopt land use controls including, without limitation, regulations to establish zones, building codes, subdivision regulations, site plan review, and fire codes in order to implement the comprehensive conversion and redevelopment plan prepared by the commission no later than December 31, 1991. All land use controls and amendments to such controls shall be enacted in accordance with rules of procedure adopted by the authority and shall include at least one public hearing. In order to adopt, amend, interpret, or override any land use control, 5 affirmative votes of the authority shall be required. All land use controls enacted by the authority shall be filed in the Rockingham county registry of deeds, the clerk's office for the town of Newington, the clerk's office for the city of Portsmouth, and the New Hampshire office of state planning. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).

III. In adopting land use controls, the authority may adopt, in whole or in part, the land use controls of the town of Newington and/or the city of Portsmouth. If the authority opts not to adopt the land use controls of Newington and/or Portsmouth, in whole or in part, the authority shall adopt its own land use controls which are consistent with the comprehensive conversion and redevelopment plan prepared by the commission and consistent with the master plans of the town of Newington and the city of Portsmouth. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).

IV. The land use controls and any amendments to them adopted by the authority shall only apply to all airport property at Pease Air Force Base acquired by the authority from the federal government or any agency thereof, and shall remain applicable and enforceable after the sale, lease, assignment, or other transfer of any or all of such property to such person by the authority. All other property at Pease Air Force Base shall be subject to all land use controls of the municipalities in which such property is located. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).

V. With the exception of the airport zone and that portion of the airport industrial zone acquired by the authority pursuant to the Surplus Property Act of 1944, section 13(g), in the enforcement of land use controls, the following shall apply to property located at Pease Air Force Base:

(a) The authority shall delegate enforcement of the land use controls to the appropriate land use boards of the town of Newington and the city of Portsmouth for airport property within each municipality, respectively.

(b) If the town of Newington or the city of Portsmouth, as appropriate, rejects the enforcement on the basis of Part I, Art. 28-a of the New Hampshire constitution, the authority may delegate such enforcement to the community which did not reject it or to another community. If the town of Newington and/or the city of Portsmouth elects to perform said enforcement, the building inspection services, zoning enforcement services, and planning services of Portsmouth and/or Newington shall be made available to the authority for all land within the authority's control. In addition, the building code boards of appeal, the zoning boards of adjustment, and the planning boards of the respective municipalities shall process building code appeals, administrative appeals, special exception and variance requests, as well as subdivision, site plan review, and conditional use applications. The only charge that may be made for such services shall be the standard application fees charged by the municipalities for local permits.

(c) In all instances, the authority shall retain the power to make the final decision regarding applicability, interpretation, and enforcement of its land use controls, which shall require 5 affirmative votes.

(d) Any action of the authority in the exercise of its powers under this section shall be subject to a motion for rehearing and appeal in accordance with the appropriate provisions of RSA 677. In addition to any other person deemed to be an aggrieved person, the city of Portsmouth and the town of Newington and any abutters shall have standing to appeal land use decisions made by the authority.

(e) Any property located at the former Pease Air Force Base which is sold, leased, or otherwise conveyed by the United States government to any person other than the state of New Hampshire or one of its political subdivisions shall be in full compliance with all applicable municipal land use regulations, building codes, electrical codes, plumbing codes, and related codes prior to being occupied for any use by any person.

VI. The authority, after notice and hearing and in addition to any contract right or other power, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of the authority's land use controls applicable to the airport zone or that portion of the airport industrial zone acquired by the authority pursuant to the Surplus Property Act of 1944, section 13(g). The proceeds of any administrative fine levied pursuant to this section shall be deposited in the Pease Development Authority Airport Fund. The authority shall adopt rules relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violations of the authority's land use controls as provided in this paragraph;

(b) Procedures for notice and hearing prior to imposition of an administrative fine; and

(c) Procedures for rehearings and appeals to the board.

Any final action by the board in the exercise of the authority's powers under this section shall be subject to appeal in accordance with RSA 677.

VII. Notwithstanding any provisions of this section, all property on Pease Air Force Base west of McIntyre Road shall be designated a wildlife preserve under the control of the United States Department of the Interior, United States Fish and Wildlife Service, National Wildlife Refuge, or other appropriate federal or state agency. Except for the establishment of a national veteran

cemetery, the authority shall not permit the development of the property designated a wildlife refuge or preserve.

VIII. In any event, regulatory power over all land use controls at Pease Air Force Base except for the airport district and all property west of McIntyre Road designated as a wildlife preserve shall revert exclusively to the municipalities no later than January 1, 2020, or sooner at the election of the authority.

12-G:14 Limitations on State and Local Taxation; Provision of Services.

I. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and, except as provided in paragraph II, the authority shall not be required to pay any tax or assessment on any property or project owned by the authority under the provisions of this chapter or upon the revenues from such property or project, nor shall the authority be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf. Nothing in this section shall be construed to exempt any transferee, lessee, or tenant of the authority from paying any recording fee, transfer tax, or other tax required by state law.

II. All airport property within the boundaries of Pease Air Force Base but outside of the airport district located thereon that is owned or occupied by a person, other than the authority or any other entity exempted from taxation under RSA 72:23, shall be taxable by the municipality in which the property is located as though such property were not owned by the exempt entity and were held in fee simple. Upon leasing or renting by the authority of any of its airport property outside the airport district to a non-exempt entity for any use, the municipality in which such property is located shall subject such property to any and all applicable property taxes of the municipality as though such property were not owned by the state or authority and were held in fee simple. Tax payments shall be made as follows:

(a) In the case of such airport property rented from the authority, the renter shall pay, in lieu of real estate taxes, to the municipality in which the property is located an amount equal to the amount that would have been paid as ad valorem taxes in respect to such property, had it been owned by a nongovernmental person.

(b) In the case of such airport property leased from the authority, the lessee of such property shall pay all taxes duly assessed against such property no later than the due date. If the lessee fails to pay such duly assessed taxes by the due date:

(1) Interest shall accrue on the unpaid taxes at a rate of 18 percent per annum from the due date until such taxes are paid;

(2) The municipality in which the leased airport property is located shall have a lien, subordinate only to any existing lien of the authority or the state, upon any personal property including, but not limited to, equipment owned by the lessee, which lien shall continue in force from the due date until the taxes and accrued interest are paid; and

(3) The municipality may bring suit against the lessee in any court of competent jurisdiction for the recovery of any unpaid taxes and interest, together with reasonable attorney's fees and costs.

(c) Such tax payments shall be made at the times and in the manner prescribed for ad valorem property taxes for nongovernmental persons and shall be based on the valuation of the property determined by the respective municipality for such purpose, subject to any equalization or proportionality factor to be applied within such municipality. If the lessee or authority determines that any valuation made by a municipality is excessive, it may seek a reduction of the valuation by following the procedures prescribed in RSA 76 for the abatement of taxes.

III. For all airport property within the boundaries of Pease Air Force Base and within the airport district that is owned, leased, or occupied by a person, other than the authority, who is subject to the payment of a municipal services fee in lieu of real estate taxes for the provision of services by or on behalf of the authority which are traditionally provided by the town of Newington and/or the city of Portsmouth, and to the extent such municipal services fee is based in whole or in part on the valuation of the property by the respective municipality for such purpose, subject to any equalization or proportionality factor to be applied within such municipality, if the lessee or authority determines that any valuation made by a municipality is excessive, it may seek a reduction of the valuation by following the procedures prescribed in RSA 76 for the abatement of taxes.

IV. Notwithstanding any other provision of law:

(a) Security for all land and buildings within the airport district and security for all flights at Pease Air Force Base shall be provided by the authority. All other police services within the airport district shall be provided by the municipalities. Any municipality providing police services to the authority within the airport district shall be reimbursed in timely manner pursuant to a contract with the authority for all costs incurred by the municipality in providing such services, including but not limited to, salaries, benefits, insurance, equipment, and associated administrative expenses.

(b) The provision of all other services to land, buildings, and people in the airport district which are traditionally provided by the town of Newington and/or the city of Portsmouth shall be exclusively the responsibility of the authority. These services shall include, but not be limited to, the provision of fire protection, roadway maintenance, runway and parking apron maintenance, maintenance of all underground storage facilities, public assistance, public education, and public utilities. In accordance with the provisions of RSA 12-G:8, VIII, the authority may contract with any person for the provision of these services.

(c) Outside of the airport district the provision of the municipal services by the towns of Greenland and Newington and the city of Portsmouth shall be governed by the general law of the state and the other provisions of this chapter.

V. Notwithstanding any other provision of law, all property formerly held by the port authority and transferred to the authority, or acquired by the authority pursuant to RSA 12-G:39, is declared to be public property and shall be exempt from all taxes and special assessments of the state or any political subdivision thereof; provided that in lieu of such taxes the authority shall make payments to the city of Portsmouth in the amount of \$30,000 annually for the tax year commencing April 1, 2001, and each subsequent tax year for highway maintenance, fire protection, and other services.

12-G:15 Distribution of Excess Revenues.

I. Subject to the limitations contained in RSA 12-G:2, XV, excess revenues of the authority may be distributed by the board annually within 30 days of the end of the authority's fiscal year as follows:

(a) 50 percent to the state treasurer for deposit in the general fund.

(b) 50 percent to the town of Newington, the town of Greenland, and the city of Portsmouth, to be distributed based upon the ratio of the equalized assessed value of the real property within the boundaries of Pease Air Force Base, but not including the airport district, located within the town or city limits of each municipality to the total equalized assessed value of all such property.

II. Before any excess revenues are distributed pursuant to subparagraphs I(a) and (b), the authority shall reimburse in full on a pro rata basis the state, the town of Newington, and the city of Portsmouth for all funds provided to the commission or authority since March 30, 1989.

III. The annual report prepared by the authority pursuant to RSA 12-G:29 shall include a detailed explanation of any distribution of excess revenues made pursuant to this section or of any decision by the board not to make such distribution.

12-G:16 Limited Liability of State and Municipalities.

I. Except as provided in paragraphs II and III of this section, all obligations and liabilities incurred by the authority related to airport property or airport projects, whether arising from bonds, contracts, or otherwise, shall be corporate obligations of the authority and not general obligations of the state or any political subdivision thereof, and neither the full faith and credit nor the taxing power of the state, nor any subdivision thereof is pledged to support such obligations, except as provided in RSA 12-G:31, nor shall they be deemed a debt of the state or any political subdivision thereof in determining its borrowing capacity under any applicable law.

II. Any agreement between the United States and any agency thereof and the authority shall constitute a binding agreement between the United States and the state. Any agreement between the United States and the authority obligating the state to expend funds may be satisfied in full by revenues, bond proceeds, or other funds provided by the authority in the first instance, and if such funds are insufficient, then the obligations shall be satisfied by the state from other funds. Furthermore, any agreement between the United States and the authority requiring payment of funds by the authority to purchase any property at Pease Air Force Base shall be satisfied in full by revenues, bond proceeds, or other funds provided by the authority, and such payment shall not require a pledge of the full faith and credit of the state, except as otherwise provided under RSA 12-G:31.

III. All obligations and liabilities incurred by the authority related to division property or division projects, whether arising from bonds, contracts, or otherwise, shall be general obligations of the state of New Hampshire.

12-G:17 Issuance of Bonds. The authority may issue bonds which shall be obligations of the authority and not general obligations of the state, except as provided in RSA 12-G:31. Such bonds may be issued from time to time consistent with the purposes and provisions of this chapter, including, without limitation, financing the preacquisition costs and other costs of acquisition of any property or interest therein at Pease Air Force Base, or for any costs incurred in undertaking any airport project authorized by this chapter, or for paying or refunding any bonds issued pursuant to this section or interest thereon. The principal of, and premium, if any, and interest on all bonds shall be payable solely by the authority in accordance with the provisions of this chapter. Prior to each new issuance of bonds, the authority shall provide written notice to the state treasurer of the maximum amount of bonds proposed to be issued. The bonds shall be issued by the authority in such amounts as the board shall determine, not exceeding in the aggregate \$250,000,000. Bonds of each

issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, or other method as may be determined by the board, and shall mature at such time or times as may be determined by the board, except that no bonds shall mature more than 30 years from their date of issue. Bonds may be made redeemable before maturity either at the option of the authority or at the option of the holder, or upon the occurrence of specified events, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form and details of the bond. Subject to RSA 93-A, the bonds shall be signed by at least 4 members of the board. The bonds may be sold in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest as the board may determine.

12-G:18 Security Documents. Any bonds issued pursuant to RSA 12-G:17-28 may be issued pursuant to and entitled to the benefits of a security document between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, or by a security document directly between the authority and the purchasers of the bonds, and such security document shall be in such form and executed in such manner as may be determined by the board. Such security document may include the mortgage, pledge, or grant of a security interest in any airport property of the authority and may pledge or assign, in whole or in part, the revenues held or to be received by the authority, excluding any division revenues, any contract or other rights to receive the revenues, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the authority, and any proceeds thereof, excluding any division revenues. Such security documents may contain provisions for protecting and enforcing the rights, security, and remedies of the bondholders as may, in the discretion of the board, be reasonable and proper and not in violation of law. Such security documents may include provisions defining defaults and providing for remedies in the event of defaults, which may include the acceleration of maturities and the enforcement of any mortgage, pledge, or security interest, and covenants setting forth the duties of, and limitations on, the authority in relation to the custody, safeguarding, investment, and application of moneys, the issue of additional or refunding bonds, the fixing, revision, and collection of rates, charges, and other revenues, the use of any surplus bond proceeds, the establishment of reserves, the acquisition of any property or interest therein, or undertaking of any project, any contracts relating thereto, and subsequent amendments of such provisions and contracts. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues, or other moneys under a security document and to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or credit facilities as may be required by the authority acting under RSA 12-G:17-28. Any such security document may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders.

12-G:19 Credit Facilities and Insurance. Any bonds issued pursuant to RSA 12-G:17-28 may be issued pursuant to lines of credit or other banking arrangements under such terms and conditions not inconsistent with this chapter, and under such agreements with the purchasers or makers thereof, as the board may determine to be in the best interests of the authority. In addition to other security provided herein or otherwise by law, bonds issued by the authority pursuant to RSA 12-G:17-28 may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the authority by any bank, trust company, or other financial institution, within or without the state, and the authority may make any pledge, mortgage, assignment, or security interest in respect of its airport property and revenues other than division revenues as security for the reimbursement by the authority to the issuers of such letters or lines of credit, insurance, or credit facilities or any payments made thereunder.

12-G:20 Perfection and Priority of Mortgage, Pledge, or Security Interest. Any mortgage, pledge, or security interest made by the authority under RSA 12-G:17-28 shall be valid and binding and shall be deemed continuously perfected for the purposes of RSA 382-A and all other laws from

the time when the mortgage, pledge, or security interest is made. The airport property or revenues other than division revenues so mortgaged, pledged, or subjected to a security interest then held or thereafter acquired or received by the authority shall immediately be subject to the lien of such mortgage, pledge, or security interest without any physical delivery or segregation thereof or further act. The lien of such mortgage, pledge, or security interest shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. No such property or revenues may be used in a manner inconsistent with the terms governing such mortgage, pledge, or securities interest. Any agreement by which a pledge or security interest in personal property is created under RSA 12-G:17-28 shall be filed or recorded in the records of the secretary of state. Any mortgage or other agreement by which a security interest in real property is created under RSA 12-G:17-28 shall be filed with the register of deeds for Rockingham county.

12-G:21 Enforcement of Rights. Any owner of a bond issued under the provisions of RSA 12-G:17-28 and any trustee under a security document securing the same, except to the extent the rights given in this section may be restricted by such security document, may bring suit upon the bonds and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws of the state granted hereunder or under such security document and may enforce and compel performance of all duties required by this chapter or by such security document to be performed by the authority or by any director or officer of the authority.

12-G:22 Refunding Bonds. The authority, when authorized by the board, may issue refunding bonds for the purpose of paying any bonds issued under the provisions of RSA 12-G:17-28 at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the bonds being refunded as the board may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other expenses from the proceeds of such refunding bonds as may be required by a security document securing the bonds. The authorization and issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the authority in respect to the same shall be governed by the provisions of RSA 12-G:17-28 relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

12-G:23 Separate Funds. Any debt service fund, construction fund, debt service reserve fund, or other fund established in connection with the issuance of bonds pursuant to RSA 12-G:17-28 shall be kept separate from other moneys of the authority. The moneys deposited in any such funds, together with the income derived from any investments held as part of such funds, shall be expended without further authorization or appropriation as provided for in the security document establishing such funds.

12-G:24 Investment of Funds. Moneys in any fund or account created under the provisions of RSA 12-G:17-28, subject to the terms and provisions of any security document applicable thereto, may be invested. Except as otherwise provided by any such security document, obligations so purchased as an investment of money in said fund or account shall be deemed at all times to be part of said fund or account, and the interest thereon and any profit arising from the sale thereof shall be credited to said fund or account, and any loss resulting on their sale shall be charged to said fund or account, respectively.

12-G:25 Alteration of Rights of Bondholders. The state does hereby pledge to and agree with the holders of bonds issued RSA 12-G:17-28 that the state shall not limit or alter the rights hereby

vested in the authority to fulfill the terms of any agreements made with the said holders of such bonds or in any way impair the rights and remedies of such holders until such bonds, together with the interest on them, with the interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

12-G:26 Tax Exemption. Bonds issued pursuant to RSA 12-G:17-28 and their transfer and income, including any profit made on their sale or transfer, shall at all times be exempt from all taxation by or within the state.

12-G:27 Investment Securities. Notwithstanding any of the provisions of RSA 12-G:17-28 or any recitals in any bonds issued pursuant to RSA 12-G:17-28, all such bonds shall be deemed to be investment securities under RSA 382-A.

12-G:28 Eligible Investments. Bonds issued under the provisions of RSA 12-G:17-28 are hereby made securities in which all public officers, agencies and authorities of the state and of its political subdivisions, insurance companies, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency, authority, or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state or any political subdivision is now or may hereafter be authorized by law.

12-G:29 Audit and Annual Reports. The accounts of the authority shall be subject to an annual audit performed by an independent certified public accountant selected by the authority. The authority shall submit annually to all appointing authorities, to the house finance committee, the senate finance committee, the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library a detailed report of its operations and a complete financial audit for the preceding fiscal year, including financial statements prepared in accordance with generally accepted accounting principles.

12-G:30 Reports on Economic Development Programs.

I. The authority shall include, as part of its annual report or as a separate report published and made available to the public annually on or before September 1, beginning September 1, 1997, the following information regarding each economic development program funded, bonded, or guaranteed by the authority:

(a) Information regarding the number of jobs to be created or saved and the related wages and benefits levels.

(b) The growth potential of the program.

(c) The environmental impact of the program.

(d) The amount of the loan, grant, loan guarantee, bond guarantee, or tax incentives awarded.

II. The annual report shall also include information regarding the criteria for the awarding of economic development assistance and the means by which the authority tracks the

progress which each awardee makes in meeting the job, wage, and benefit projection included in its application for assistance.

12-G:31 State Bond Guarantee.

I. In view of the general public benefits expected to be derived from the airport property acquisitions and airport projects to be financed under this chapter, and their contribution to the social and economic prosperity of the state and its political subdivisions, the governor and council may award an unconditional state guarantee of the principal and interest thereon of bonds issued pursuant to RSA 12-G:17-28. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest, but the total amount of the principal of bonds guaranteed by the state under this section shall not exceed \$50,000,000, plus interest. The governor, with the advice and consent of the council, is authorized to draw a warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal and interest thereon of the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

State Treasurer

II. In connection with the award of a state guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds, the use of any airport property or operation of any airport project and the revenues therefrom, and reimbursement to the state if any state funds are used to honor the guarantee. Such terms and conditions may be contained in an agreement between the state and the authority, to be executed on behalf of the state by the governor and the state treasurer and on behalf of the authority by at least 4 directors.

III. In lieu of a state guarantee under this section, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding the total state bond guarantee authorized in RSA 12-G:31, I to make a loan or loans to the authority for the purposes of this chapter relating to airport property and airport purposes, and issue general obligation bonds or notes in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The terms and conditions of any such loan shall be determined by the state treasurer and the governor and council may impose such other conditions as they may deem appropriate. Payments of principal and interest on the bonds or notes issued under this paragraph shall be made when due from available funds of the authority. The principal amount of bonds of the authority that may be guaranteed by the state under paragraph I of this section shall be reduced by the amount of bonds issued by the state under this paragraph.

12-G:32 Operating Budget. The authority shall comply with the requirements of RSA 9:1 through 9:9, relative to the budget.

12-G:33 Comprehensive Development Plan Required. Notwithstanding any other provision of law and subject to approval by the fiscal committee of the general court of a comprehensive development plan for the former Pease Air Force Base prepared and submitted by the authority, the governor and council may award an unconditional state guarantee of the principal and interest

thereon of bonds issued under this section. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest, but the total amount of the principal of bonds guaranteed by the state under this section shall not exceed \$35,000,000, plus interest. The comprehensive development plan shall include the designation and delineation of a research district within the bounds of the former Pease Air Force Base. The governor, with the advice and consent of the council, is authorized to draw a warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal and interest thereon of the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

State Treasurer

12-G:34 Pease Matching Grants. Notwithstanding any other provision of law, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding \$5,000,000 to make a loan or loans to the authority to be used for the purposes of matching funds for Federal Aviation Administration grants, Economic Development Administration grants, and other available grants. General obligation bonds and notes shall be issued in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The terms and conditions of any such loan shall be determined by the state treasurer and the governor and council may impose such other conditions as they may deem appropriate. Payments of principal and interest on the bonds or notes issued under this paragraph shall be made when due from available funds of the authority.

12-G:35 Matching Funds. Notwithstanding any other provision of law, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding \$10,000,000 to make a loan or loans to the authority to be used solely for the purposes of matching public and private funds, and said aggregate moneys shall be expended solely for the development of the research district of the Pease International Tradeport. General obligation bonds and notes shall be issued in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The terms and conditions of any such loan shall be determined by the state treasurer and the governor and council may impose such other conditions as they may deem appropriate. Payments of principal and interest on the bonds or notes issued under this paragraph shall be made when due from available funds of the authority.

12-G:36 Pease Development Authority Airport Fund; Expenditure of Other Revenues.

I. For the purpose of providing a fund to be known as the Pease Development Authority Airport Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year excluding division revenues and any appropriation related to the division, division property, a division project, or any activity of the division.

II. All sums so credited are appropriated to the authority:

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with airport property, an airport project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all airport property and airport projects of the authority;

(c) To pay the costs of administering and operating the authority, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board or the executive director but excluding any such costs related to administering and operating the division, division property, or any division project;

(d) To pay the principal of, and premium, if any, and the interest on the outstanding bonds of the authority related to airport property or airport projects as the same become due and payable;

(e) To create and maintain reserves established pursuant to RSA 12-G:18 or required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority related to airport property or airport projects;

(f) To create and maintain a capital improvement fund for airport property and airport projects to be established by the board in an amount not more than \$10,000,000;

(g) To pay all taxes owed by the authority related to airport property or airport projects;

(h) To pay any excess revenues authorized pursuant to RSA 12-G:12; and

(i) In general for the payment of all expenses incident to the management and operation of the authority, excluding such expenses related to the management and operation of the division, division property, or any division project, as are consistent with its statutory purpose and as the board thereof may from time to time determine.

III. This fund shall constitute a continuing appropriation for the benefit of the authority. Any amount remaining in this fund to the credit of the authority at the close of any fiscal year shall be nonlapsing and shall be carried over and credited to its account for the succeeding year.

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. The revenues received and due to the authority from all other sources, except by way of state appropriation or division revenues, from whatever source derived shall be retained by the authority and shall be used in such manner as the board may determine consistent with the provisions of this chapter or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust, or security document.

VI. Notwithstanding any other provision of law, no revenues of the authority other than division revenues shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of the division, division property, or any division project.

12-G:37 Pease Development Authority Ports and Harbors Fund.

I. For the purpose of providing a fund to be known as the Pease Development Authority Ports and Harbors Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year relating to the division, division property, a division project, or any activity of the division, except any appropriation made to the harbor dredging and pier maintenance fund in accordance with RSA 12-G:46.

II. All sums so credited are appropriated to the authority:

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with division property, a division project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all division property and division projects;

(c) To pay all costs as allocated by the authority for administering and operating the division, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board, the executive director, the division director, or other provision of law, including without limitation, reimbursement of the fund established under RSA 12-G:36 or any other source of revenue of the authority other than division revenues to the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or from revenues of the authority other than division revenues;

(d) To pay the principal of, and premium, if any, and the interest on any outstanding bonds of the state related to division property or division projects as the same become due and payable;

(e) To pay all payments in lieu of taxes owed by the authority, if any, related to division property or division projects; and

(f) In general for the payment of all expenses incident to the management and operation of the division, as are consistent with its statutory purpose and as the board may from time to time determine.

III. This fund shall constitute a continuing appropriation for the benefit of the authority. All division revenues associated with operations and responsibilities assigned by the authority to the division in excess of the operating expenditures required for the activities of the division shall be deposited in the general fund until such time as any bonds authorized and issued relating to division property or division projects have been retired. After such bonds have been retired, any amount remaining to the credit of the authority in this fund at the close of any fiscal year in excess of the amounts required under paragraph II shall lapse and shall be returned to the general fund of the state.

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests

covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. Notwithstanding any other provision of law, no money in the fund shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of airport property or airport projects.

12-G:38 Authorization to Seek Designation as Port of Entry or International Airport and to Establish Foreign Trade Zone and Free Port Area.

I. The authority shall be and is hereby authorized to make application to the Secretary of the Treasury of the United States for the purpose of having Pease Air Force Base, or portions thereof, designated, established, or constituted, a port of entry, or an international airport, pursuant to the Customs Reorganization Act, 19 U.S.C. section 1 et seq., as amended, and 19 U.S.C. section 58b, as amended, and regulations of the United States Customs Service, including 19 C.F.R. section 101.0, et seq. and 19 C.F.R. section 122.1, et seq.

II. The authority shall be and hereby is authorized to make application to the Secretary of Commerce of the United States for the purpose of establishing, operating, and maintaining foreign-trade zones in the state of New Hampshire, including without limitation at Pease Air Force Base, pursuant to the Free Trade Zone Act, 19 U.S.C. section 81a, et seq., as amended, providing for the establishment, operation, and maintenance of foreign trade zones in or adjacent to ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes. Unless precluded by federal law, any foreign trade zone or free port area previously under the jurisdiction of the former port authority, and all duties, responsibilities, and obligations associated therewith, shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority.

III. The authority shall have full power and authority to select and describe the location of the zone for which application to establish may be made and to make such rules and take such other actions concerning the operation, maintenance, and policing of same as may be necessary to comply with the Free Trade Zone Act and the regulations adopted thereunder, or as may be necessary to comply with such regulations made in accordance with the acts of Congress relating to foreign trade zones. The authority hereby granted to the authority confers on the authority the right and duty to do all things necessary and proper to carry into effect the establishing, maintaining, and operating of foreign trade zones with the state of New Hampshire to comply with the provisions of any acts of Congress or rules promulgated thereunder relating to foreign trade zones or free port areas. The authority shall also be authorized to set and collect fees for the management of any foreign trade zone or free port area established or maintained under this chapter.

IV. The authority shall have full power and authority to lease the right or to erect, maintain, and operate any structures or buildings or enclosures as may be necessary or proper for the establishing and operating of any such foreign trade zones that might be established at Pease Air Force Base or in the state of New Hampshire.

V. The authority shall have the power and the duty to establish areas at Pease Air Force Base and in and around the ports, harbors, and navigable tidal rivers of the state of New Hampshire wherein personal property in transit shall be exempt from the provisions of the stock-in-trade tax and such other taxes and customs as are normally levied in a port of entry. For the purpose of this section, personal property in transit through the areas established by the authority is defined as follows: goods, wares, and merchandise which is (a) moving in interstate or international commerce through or over the areas hereinbefore established, or (b) which was consigned to a

warehouse, public or private, within the state, from outside the state, whether specified when transportation begins or afterward. Such property shall not be deprived of exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The exemption granted shall be liberally construed to effect the purposes of this chapter, provided, however, that the warehouse in which said goods, wares, or merchandise is stored shall not be owned, in whole or in part, by either the consignee or consignor.

Acquisition and Management of Division Property

12-G:39 Acquisition of Land for Port Purposes. In addition to any other power or authority conferred on the authority under this chapter, the authority, with the approval of the governor and council, may, in the name of the state, purchase, lease, or otherwise acquire lands or interests in land, including options, on, near, or adjacent to the tidal waters of the state suitable for constructing, establishing, and maintaining thereon piers, wharves, warehouses, or other facilities useful and necessary in the encouragement and development of commercial navigation. Before making any such purchase or acquisition, the authority shall submit to the governor and council a detailed description of the land or interests therein to be acquired, together with a statement of the purposes for which the property is suited and the cost of acquisition and estimated cost of development, as well as such other information as the governor and council shall require. The authority, with the approval of the governor and council, may accept gifts of land; and may in like manner accept and apply to the purchase of land or the development thereof, contributions, gifts, or aid in any form made or given for the purpose by any person, firm, or corporation, or by any municipality or by the United States, and may execute instruments necessary to qualify for such contributions, gifts, or aid. Any land or interest in land acquired by the authority pursuant to this section shall be considered division property and not airport property and shall not be included in the airport district.

12-G:40 Improvements. The authority, with the approval of the governor and council as to the nature and specifications of the intended project and the cost thereof, may undertake the improvement of any land acquired by it pursuant to RSA 12-G:39 by the construction thereon of piers, wharves, warehouses, or other facilities as specified in RSA 12-G:39. Any such improvement shall, insofar as possible, be self-liquidating; and the authority shall charge just and reasonable fees for the use thereof. All revenue received from such fees shall be considered division revenues, shall be accounted for separately from other revenues of the authority, and, after the deduction therefrom of the cost of operating such project, shall be applied to the amortization of any obligations of the authority related to division projects.

12-G:41 Reservation of Local Authority. All towns and cities within the confines of which there are ports, harbors, or navigable tide rivers of the state which are subject to the jurisdiction of the authority, or the division acting on behalf of the authority, shall retain all the powers of such town or city relative to such ports, harbors, and navigable tide rivers and the lands abutting the same, excluding lands located within the boundaries of the former Pease Air Force Base, so long as the authority has not by positive action or definite rule or regulation preempted the jurisdiction hereof. No town or city shall have any jurisdiction over the land or activities at the former Pease Air Force Base except as specifically authorized under other provisions of this chapter.

Division of Ports and Harbors

12-G:42 Additional Powers and Duties. The authority, acting through its division of ports and harbors, shall be responsible for the former functions, duties, and responsibilities of the port authority and shall have the following powers and duties in addition to any other powers and duties set forth in this chapter:

I. Have the authority to make all necessary arrangements with port authorities of other states and federal departments, agencies, and foreign countries and their port entities for the interchange of business, and for such other purposes as will facilitate and increase the commerce of the ports, harbors, and tidal navigable rivers of the state.

II. Establish offices for the transaction of division business at such places as, in the opinion of the authority, shall be advisable and necessary in carrying out the purposes hereof.

III. Be authorized and empowered to appoint and compensate a chief harbor master and harbor masters for communities within the confines of which there are ports, harbors, or navigable tide waters of the state who will enforce the directives of the authority and the division, such as the placement of moorings, the assignment of anchorage areas, and the movement of traffic. The authority may appoint an assistant harbor master at any such place to assist the harbor master of such place in carrying out the harbor master's duties.

IV. Be authorized and empowered to contract with and secure the services of a port terminal operating firm, subject to approval of governor and council, for the purpose of having such firm operate a part or all of the facilities of the authority, including piers, wharves, warehouses, parking and storage areas, or other facilities owned or leased by the authority acting through the division, with such operating firm having the exclusive right to operate the business of a port terminal operator and stevedore, including but not limited to the handling of cargo, the collection of fees from wharfage and dockage and other marine terminal operations, the maintenance and security of the premises, and the promotion, encouragement, and solicitation of business for such port facility or facilities. Such contract with an operating firm shall include the following provisions:

(a) Said firm shall file with the division for its approval a tariff clearly defining the terms "wharfage" and "dockage" and the charges to be made therefor;

(b) The amount of minimum payments per year satisfactory to the authority to be paid to it for the exclusive right to operate upon the marine terminal, as described in the contract, the business of a port terminal operator and stevedore;

(c) The amount retained by said firm from all fees for which it is accountable, said amount being a percentage to cover administrative costs of collection;

(d) Said firm to supply a ship's manifest for every vessel using said facilities;

(e) Said firm to provide a performance bond in an amount and form acceptable to the authority, as well as insurance in amounts acceptable to the authority for fire and extended coverage, public liability, property damage, and other risks as required by the authority, the insurance company or companies to be licensed to do business in New Hampshire and to be acceptable to the authority;

(f) Said firm to file quarterly reports with the division indicating the amount of all fees for which it is accountable to the authority, the amounts collected, and the amounts retained, with a certified audit prepared by a certified public accountant submitted annually;

(g) Such other appropriate provisions which in the opinion of the attorney general will carry out the intent of this section and best protect the interest of the authority and of the state.

V. Set and collect fees for mooring and slip permits and waiting lists for such permits. The authority shall establish fees for slips in harbors and tidal rivers that are equal to or proportional to the fees for moorings in harbors. Fees shall not be charged for slips at industrial piers along the Piscataqua River or at state-owned piers in harbors. The fees for slips shall be paid into the harbor dredging and pier maintenance fund established under RSA 12-G:46.

VI. Install and continually maintain a uniform system for marking the intercoastal waters of the state including the state ports, harbors, and navigable tidal rivers not presently marked by the United States Coast Guard, using funds collected from the fees required under RSA 270-E:3, III, and any other funds so appropriated. Said marking system shall be installed on an incremental basis and maintained as necessary.

VII. Have the responsibility for and jurisdiction over the state-owned commercial fishing piers and facilities at Portsmouth, Rye Harbor, and Hampton Harbor except as provided in RSA 12-A:7-a.

VIII. Adopt rules, pursuant to RSA 541-A, relative to:

(a) Port captains, pilots, and pilotage.

(b) Harbors and harbor masters.

(c) Setting and collecting fees for moorings, slips, waiting lists, and pilotage. A table of such fees shall be attached to the commission of each pilot.

(d) Setting and collecting fees authorized in the foreign trade zone and free port areas.

(e) Civil and criminal penalties for violations of the rules of the division.

(f) Any matter necessary for the proper administration of the division.

IX. Encourage any contractor bidding on a division project at the port of Portsmouth which is funded through the division or the state of New Hampshire, to employ the maximum possible number of New Hampshire residents. For the purposes of this paragraph, "resident" shall mean any person maintaining a dwelling within the state of New Hampshire who has a present intent to remain within the state for a period of time.

12-G:43 Division of Ports and Harbors.

I. There is established within the authority a division of ports and harbors. The division of ports and harbors shall:

(a) Plan for the maintenance and development of the ports, harbors, and navigable tidal rivers of the state of New Hampshire from the head of navigation to the seaward limits within the jurisdiction of the state, in order to foster and stimulate commerce and the shipment of freight through the state's ports and, as an agency of the state, to assist shipping, and commercial and industrial interests that may depend on the sea for transport of products, including such interests as may be desirous of locating in tidewater areas of the state; as well as to encourage the establishment of accommodations for the boat traveler, the area boat owners, the pleasure fishermen, and others who pass up and down our coast line or in its tributaries.

(b) Aid in the development of salt water fisheries and associated industries.

(c) Cooperate with any agencies or departments of the federal government in planning the maintenance, development, and use of the state ports, harbors, and navigable tidal rivers.

(d) Plan, develop, maintain, use, and operate a heliport facility on property owned or controlled by the division. The division shall cooperate with departments, agencies, authorities, or commissions of the federal, state, or local governments and accept grants, aid, or services from such agencies in the carrying out of this purpose. Such authorization relating to heliport facilities shall include and be governed by all other provisions of this chapter.

(e) Maintain at all times a complete inventory of division property and port projects.

(f) Perform such other duties and functions relating to the administration, management, and operation of division property and division projects as are assigned to division by the authority.

II. The board shall appoint a director of the division of ports and harbors, who shall be the administrative officer of the division and who shall have general and active supervision and direction over the day-to-day business and affairs of the division and its employees, subject, however, to the direction and control of the board and the executive director. The division director shall perform all such other duties as from time to time may be assigned by the board or the executive director. The division director shall hold office for an indefinite term at the pleasure of the board. The division director shall also be the secretary of the division of ports and harbors advisory council, shall keep a record of the proceedings of the council, and shall be the custodian of all books, documents, and papers filed with the division or the ports and harbors advisory council. The division director shall have the power to cause copies to be made of all minutes and other records and documents of the council and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the division or authority may rely upon such certificates. In addition to the classified employees of the division, the division director, with the concurrence of the executive director, may employ such assistants and clerical and administrative staff as are within the limits of funds available for that purpose. The salary of the division director shall be established by the board.

12-G:44 Division of Ports and Harbors Advisory Council.

I. There is hereby established a division of ports and harbors advisory council consisting of 8 members, 6 of whom shall be appointed by the governor, with the advice and consent of the council. At least 3 of said appointive members shall be residents of the cities and towns of the seacoast region or tidal waters and at least one appointive member shall be a commercial fisherman engaged in that industry on the seacoast, and each shall serve for a term of 5 years. Said members shall serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members shall be filled by the governor and council for the unexpired term. In addition to the 6 appointive members, the commissioner of the department of resources and economic development and the mayor of the city of Portsmouth shall be, by virtue of their offices, members of the council.

II. The council shall elect one of its members as a chairman, one as a vice-chairman, and one as a treasurer. The members of the council shall receive no compensation for their services; but their reasonable expenses, incurred in the performance of their duties, shall be paid by the state.

The council shall have the right to establish bylaws for the management of its affairs within the meaning of this chapter and the laws of the state. The division shall provide the council with the administrative support necessary to carry out its responsibilities under this chapter.

III. The council shall consult with and advise the division director with respect to the policy, programs, and goals of the division, the operation of the port, the selection of harbor masters and assistant harbor masters, and the procurement of services of a port terminal operating firm. In order to accomplish said purposes, the council shall meet with the division director no less frequently than quarterly, or at the call of the chairman or 3 council members. All potential conflicts of interest shall be adequately disclosed. The council shall file annually a report of its deliberations and recommendations with the board and the executive director.

IV. The division director shall present all rules proposed to be implemented by the authority under RSA 12-G:42, VIII to the council for consideration prior to filing a notice of proposed rule under RSA 541-A:6. The council shall present any objections to the proposed rule to the division director and to the board in writing within 15 days of submission to the council by the division director. The authority may adopt a rule to which the council has objected only after presenting a written reply to the council detailing the reasons for adopting the rule over the objections of the council.

12-G:45 Dredge Management in Tidal Waters. The division, subject to the supervision of the authority and in consultation with the division of ports and harbors advisory council, shall be responsible for managing harbor and channel dredging activities within the tidal waters of the state. The division shall:

I. Assess the existing dredge permitting process with state and federal permitting agencies for the purposes of identifying an improved review process.

II. Establish and implement a process to ensure that dredging projects are completed in a timely and cost effective manner, recognizing the need to:

(a) Coordinate with and utilize the services of the local and private sector to establish a reliable program; and

(b) Work in conjunction with other state and federal agencies to ensure uniform and timely compliance with other laws, regulations, and rules, including, but not limited to, permitting in accordance with RSA 482-A and RSA 485-A and to ensure that a certificate of consistency is obtained from the coastal zone management program; and

(c) Develop a long-range plan and schedule to serve as a guide for individual dredging activities.

III. Initiate and implement dredging projects, which may include dredging performed by the authority, to maintain and improve channels and harbors in accordance with the long-range plan and schedule.

IV. Submit an annual report to the senate president, the speaker of the house of representatives, and the governor and council on the status of current dredging projects and the projection of future dredging projects and costs.

12-G:46 Harbor Dredging and Pier Maintenance Fund Established.

I. There is hereby established a harbor dredging and pier maintenance fund to be used by the authority acting through the division to meet its obligation to initiate and implement dredging projects to maintain channels and harbors, and to initiate projects to maintain public piers in safe and efficient condition.

II. The fund shall be nonlapsing and continually appropriated for the purposes of initiating and implementing harbor dredging projects and maintaining public piers. The authority shall, in each biennium, request annual appropriations to the fund in an amount sufficient to provide for the funding of the authority's periodic harbor dredging and pier maintenance efforts. The state treasurer shall invest the moneys deposited in the fund as provided by law. Interest earned on moneys deposited in the fund shall be deposited into the fund.

III. The authority shall not encumber, obligate, or expend any funds from the harbor dredging and pier maintenance fund without the prior approval of the capital budget overview committee.

Pilots and Harbor Masters

12-G:47 Pilots. The authority, in consultation with the division director and the division of ports and harbors advisory council, may adopt rules prescribing the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure; and it shall take from them such security, by bond or otherwise, as it may deem proper.

12-G:48 Authority of Pilot. Any pilot appointed by the authority, who has given security for the faithful discharge of his or her duties, may take charge of any vessel, except pleasure or fishing vessels, or a vessel of 150 registered or enrolled tons and under, and shall pilot such vessel into and out of the river and harbor of the Piscataqua, first showing to the master thereof the pilot's appointment if requested.

12-G:49 Pilots Required. All vessels (except pleasure or fishing vessels, or vessels of 150 registered or enrolled tons or under, and U.S. flag coastwise vessels with a Federal pilot aboard) are required to be piloted by a pilot appointed by the authority into and out of the Piscataqua River and harbor from a point designated by the authority.

12-G:50 Chief Harbor Master.

I. Subject to the supervision of the authority and the division director, the chief harbor master's duties shall include but not be limited to the following:

- 12-G:42, VIII.
- (a) Enforcement of authority directives and rules adopted pursuant to RSA
 - (b) Management of the assignment and placement of moorings.
 - (c) Designation of anchorage areas.
 - (d) Management of navigation aides outside of the federal channel.
 - (e) Management of the movement of traffic, as necessary.

- (f) Direction of the removal or movement of vessels during emergencies.
- (g) Overseeing the dredge management program.
- (h) Overseeing the harbor management program.
- (i) Inquiring into and prosecuting all offenses occurring within the chief harbor master's jurisdiction.
- (j) Any other duties assigned by the authority or the division director.

II. The assistant harbor masters shall assist the chief harbor master in the performance of the chief harbor master's duties.

12-G:51 Power of Arrest. The chief harbor master shall have all of the powers of a police officer to make arrests for violations of the provisions of this chapter and rules adopted under the provisions of RSA 12-G:42, VIII.

12-G:52 Penalty. Whoever violates any of the rules of the authority adopted under the authority of RSA 12-G:42, VIII, or refuses or neglects to obey the lawful and reasonable orders of the chief harbor master, or resists the chief harbor master in the execution of the chief harbor master's duties, shall be guilty of a class B misdemeanor.

Construction and Effect of Other Laws

12-G:53 Construction and Effect of Other Laws.

I. All actions and proceedings of the authority shall be governed by the provisions of RSA 91-A.

II. Purchases and contracts of the authority may be made or let without regard to any provision of law relating to public purchases or contracts.

III. Except for rules adopted pursuant to RSA 12-G:42, VIII, the authority shall be exempt from the provisions of RSA 541-A and may adopt rules and bylaws in accordance with its own procedures. Except for rules adopted pursuant to RSA 12-G:42, VIII, the authority shall file in the office of legislative services a copy of all rules and bylaws adopted, amended, or repealed by the authority. All such rules and bylaws shall be filed in the office of legislative services within 7 days of such adoption, amendment, or repeal.

IV. Any rule adopted by the authority pursuant to RSA 12-G:42, VIII or RSA 12-G:47 shall be adopted in accordance with the provisions of RSA 541-A.

V. The provisions of this chapter shall be liberally construed in order to effect its purpose.

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

Amend the bill by deleting sections 7-9 and renumbering the original sections 10-22 to read as 7-19, respectively.

Amend the bill by replacing section 7 with the following:

7 Compensation of Certain State Officers; Group L Reference Deleted. Amend RSA 94:1-a, I by deleting in Group L:

Director, port authority

Amend the bill by replacing section 15 with the following:

15 Shoreland Exemptions; Reference Changed. Amend RSA 483-B:12, IV to read as follows:

IV. The ~~[state port authority]~~ **Pease development authority, division of ports and harbors** may request an exemption under this section for all or a portion of any land purchased, leased, or otherwise acquired by it pursuant to RSA ~~[271-A]~~ **12-G:39**.

Amend the bill by inserting after section 17 the following and renumbering the original sections 18-19 to read as 19-20, respectively:

18 Applicability; Appointments and Terms.

I. The appointments and terms of office of the members on the effective date of this act of the Pease development authority board of directors shall not be affected by the provisions of this act.

II. The members on the effective date of this act of the port authority board shall constitute the initial members of the division of ports and harbors advisory council pursuant to RSA 12-G:44. Such members appointed by the governor shall serve until such time as their respective terms were scheduled to expire pursuant to RSA 271-A:1.

III. The director of the port authority on the effective date of this act shall serve as the initial director of the division of ports and harbors pursuant to RSA 12-G:43, II until such time as the Pease development authority board of directors appoints a successor.

Adopted.

Rep. Bowles spoke against.

Rep. Leber spoke in favor and yielded to questions.

Rep. Shultis requested a roll call; sufficiently seconded.

The question being the adoption of the committee report.

YEAS 220 NAYS 98

YEAS 220

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Dewhirst, Glenn
Flanders, Donald	Lawton, David	Millham, Alida	Nedeau, Stephen
Pilliod, James	Rice, Thomas Jr	Rosen, Ralph	Russell, David
Thomas, John	Wendelboe, Fran		

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Lyman, L Randy	Mock, Henry	Patten, Betsey	Philbrick, Donald
Stevens, Stanley	Sullivan, P Judith		

CHESHIRE

Avery, Stephen	Dexter, Judson	Emerson, Susan	Fairbanks, Chandler
Hunt, John	Manning, Joseph	Meader, David	Roberts, William
Royce, H Charles	Zerba, Roger		

COOS

Davis, Perley	Gallus, John	Guay, Lawrence	Horton, Lynn
Pratt, Leighton	Rozek, Michael	Stohl, Eric	Tholl, John Jr
Woodward, David			

GRAFTON

Akins, Ralph	Alger, John	Benn, Bernard	Cobb, John
Dudley, Terri	Gabler, William	Gilman, G Michael	Giuda, Robert
Lovett, Sid	Marshall, Gene	Mirski, Paul	Pawlek, Marion
Scanlan, David	Sova, Charles	Teschner, Douglass	Ward, Brien
Williams, Burton			

HILLSBOROUGH

Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael	Batula, Peter
Bellavance, Paul	Bergeron, Jean-Guy	Bergin, Peter	Bouchard, David
Brundige, Robert	Bruno, Pierre	Calawa, Leon Jr	Chabot, Robert

Christensen, D L Chris	Christiansen, Lars	Clegg, Robert Jr	Cote, Peter
Dokmo, Cynthia	Dyer, Merton	Eaton, Richard	Elliott, Larry
Emerton, Lawrence Sr	Fields, Dennis	Fletcher, Richard	Ford, Nancy
Furman, Christine	Gargas, Carolyn	Golding, William	Goulet, Maurice
Graham, John	Greenberg, Gary	Guinta, Frank	Hall, Charles
Herman, Keith	Holden, Randolph	Hopper, Gary	Jean, Loren
Johnson, Lionel	Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul
LaRose, Richard	Leach, Edward	Lefebvre, Roland	Lessard, Rudy
McHugh, Claire	McRae, Karen	Mercer, Robert	Messier, Irene
Milligan, Robert	Moran, Edward	O'Connell, Timothy	Pappas, Marc
Pepino, Leo	Reeves, Sandra	Rowe, Robert	Salts, Greg
Sargent, Maxwell	Seibel, Christopher	Souza, Kathleen	Spiess, Paul
Tahir, Saghir	Thompson, Rob	Thulander, O Alan	Vaillancourt, Steve
Wheeler, Robert	White, Donald		

MERRIMACK

Anderson, Eric	Bouchard, Candace	Brewster, Richard	Colcord, J D
Cummings, Raymond	Davis, Frank	Dunne, Christopher	Feuerstein, Martin
Fraser, Leo Jr	Hager, Elizabeth	Hess, David	Hutchinson, John
Jacobson, Alf	Kennedy, Richard	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Poulin, David	Swindlehurst, John
Whalley, Michael	Whittemore, James	Winter, Steven	

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Camm, Kevin	Carson, Sharon
Chalbeck, Kevin	Clark, Vivian	Corbin, Corey	Cox, Russell
Dalrymple, Janeen	Dearborn, Bruce	DiFruscia, Anthony	Dodge, Robert
Dowling, Patricia	Downing, Michael	Fesh, Bob	Flanagan, Natalie
Flanders, John Sr	Francoeur, Sheila	Gilbert, Karl	Giordano, Ronald
Gleason, John	Hamel, Albert	Hill, Jonathan	Holland, James Jr
Hutchinson, Karen	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kelley, William	Kobel, Rudolph
Langone, John	Letourneau, Robert	Major, Norman	McKinney, Betsy
Nowe, Ronald	Packard, Sherman	Palermo, Diane	Power, Lucille

Putnam, Ed II	Rausch, James	Robertson, Carl	Ruffner, Walter
Sapareto, Frank	Sloan, Stephen	Stone, Joseph	Stritch, C Donald
Varrell, Thomas	Welch, David	Weyler, Kenneth	Whittier, John
Woekel, Ralph	Zolla, William		

STRAFFORD

Berube, Roger	Bickford, David	Brown, Julie	Cossette, Larry
Dunlap, Patricia	Harrington, Michael	Knowles, William	Lent, Donald
McCarthy, Gerald	Reid, Christopher	Twombly, James	Woods, Phyllis

SULLIVAN

Flint, Gordon Sr	Jones, Constance	Leone, Richard	Odell, Bob
Rodeschin, Beverly			

NAYS 98

BELKNAP

Holbrook, Robert	Johnson, William	Wood, Jane
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CARROLL

None

CHESHIRE

Allen, Peter	Burnham, Daniel	Espieffs, Peter	Mitchell, McKim
Richardson, Barbara			

COOS

Bradley, Paula	Landers, Dana	Mears, Edgar	Rodrigue, Robert
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GRAFTON

Almy, Susan	Cooney, Mary	Naro, Debra	Nordgren, Sharon
Scovner, Nancy			

HILLSBOROUGH

Andosca, Mary	Balcom, John	Baroody, Benjamin	Buckley, Raymond
Carlson, Donald	Clayton, William	Coughlin, Pamela	Craig, James
Daigle, Robert	Drabinowicz, A Theresa	Drisko, Richard	Duval, Jeffrey
Foster, Linda	Ginsburg, Ruth	Goley, Jeffrey	Gorman, Mary
Hall, Betty	Kacavas, John	Konys, Christine	Lasky, Bette
Lynde, Harold	McDonough-Wallace, Alice	Melcher, Harold	Movsesian, Lori
Palangas, Eric	Panagopoulos, Nicholas	Schulze, Joan	Shaw, Barbara
Sweeney, Cynthia	Williams, Carol		

MERRIMACK

Clarke, Claire	Daneault, Gabriel	Fraser, Marilyn	French, Barbara
Gile, Mary	Greco, Vincent	Moore, Carol	Perkins, Randy
Potter, Frances	Rodd, Beth	Rush, Deanna	Seldin, Gloria
Wallner, Mary Jane	Yeaton, Charles		

ROCKINGHAM

Blanchard, MaryAnn	Bowles, Raimond	Clark, Martha Fuller	Coes, Betsy
Henderson, Warren	Kane, Cecelia	Langley, Jane	McGuire, Robert
Micklon, Stephanie	Norelli, Terie	Pitts, Jacqueline	Quandt, Marshall
Quandt, Matthew	Shultis, Elizabeth	Splaine, James	Trueman, Raymond
Weatherspoon, Jacquelyne			

STRAFFORD

Brennan, William	Callaghan, Frank	Estabrook, Iris	Grassie, Anne
Hughes, Christopher	Johnson, Nancy	Pelletier, Arthur	Pelletier, Marsha
Rollo, Michael	Smith, Marjorie	Snyder, Clair	Taylor, Kathleen
Wall, Janet	Woodill, Rodney		

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Franklin, Peter
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Harris, Joseph

Phinizy, James

and the report was adopted.

Ordered to third reading.

HB 715-FN, relative to the New Hampshire port authority. **INEXPEDIENT TO LEGISLATE**

Rep. Michael J. Rozek for Public Works and Highways: The committee studied this bill, and as the bill is proposed, this would increase the state owned New Hampshire Port Authority appointed board of director members from eight to eleven. As this bill is worded, seven or more of these members could be directly from the city of Portsmouth. All of the issues concerning the Port Authority were not addressed with this bill. In addition, the committee agreed that this bill would not address or correct the main areas of concern with the Port Authority. The main issues of concern with the Port Authority were included in HB 543-FN, which was approved by this committee with a vote of 17-2, therefore, this bill was not needed. Vote 14-5.

Adopted.

suspension of rules

Reps. Scanlan and Burling moved that the Rules be so far suspended as to permit the deadline for the House to act on all House FN bills and budgets and for committees to report lists of retained House bills to be Thursday, May 3, 2001.

Adopted.

RESOLUTION

Rep. Scanlan 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 3, 2001 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

HB 393-FN, relative to plant nurseries and nursery stock.

HB 610, allowing the sale of raw milk cheese and unpasteurized apple cider in New Hampshire.

HB 676-L, establishing a committee to study the creation of a regional program for collection and marketing certain components of the municipal solid waste stream.

HB 105-FN-A, establishing an agricultural nutrient management program and making an appropriation therefor.

HB 177-FN-A, relative to the purchase of a wheelchair van for the veterans' home in Tilton and making an appropriation therefor.

HB 270-FN, increasing the mileage reimbursement rate for members of the legislature.

HB 276-FN-A, relative to reimbursement of legal fees of supreme court employees who were subpoenaed and incurred legal fees during the impeachment proceedings regarding chief justice David A. Brock and making an appropriation therefor.

HB 279-FN-A-L, relative to the payment of certain unfunded accrued liability of the retirement system and making an appropriation therefor.

HB 295-FN, relative to medicaid recoveries from third party settlements.

HB 328-FN-L, relative to fees of sheriffs and deputy sheriffs.

HB 350-FN, relative to persons with disabilities participating in the work incentive program.

HB 354-FN-A-L, extending the kindergarten construction program.

HB 603-FN-A, providing the commissioner of administrative services an option to self-fund the state employee health plan and requiring a reserve fund therefor.

HB 152, relative to expanding the legal methods of taking deer.

HB 720, relative to permitting the use of certain firearms for hunting deer

HB 760-FN, relative to use of silencing devices for taking game.

HB 463-FN, relative to protective services to adults.

CACR 5, relating to the rulemaking authority of the supreme court. Providing that supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule.

HB 252, relative to rules promulgated by the supreme court.

HB 450, relative to certain work product under the right-to-know law.

HB 452, establishing a committee to study the reimbursement for expenses of legislators.

HB 574, establishing a committee to study the recodification of laws relating to the joint committee on legislative facilities and the application of the right-to-know law.

HB 543-FN, establishing the division of ports and harbors within the Pease development authority and transferring all functions, powers, and duties of the New Hampshire state port authority

reconsideration

Having voted on the prevailing side, Rep. Dickinson moved that the House reconsider its action whereby it found ***HB 469-FN-L***, relative to the applicable minimum wage for hourly employees Inexpedient to Legislate.

RECESS MOTION

Rep. Scanlan moved that the House stand in recess for the purpose of introduction of bills, Senate messages, enrolled bill amendments and enrolled bill reports only.

Adopted.

The House recessed at 5:10 p.m.

RECESS