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No. 49

HOUSE JOURNAL No. 17(cont.)

Thursday, May 17, 2001

RECESS

(Rep. Calawa in the Chair)

RESOLUTION

Rep. Scanlan offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 30, 48 and 194, shall be by this resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

Adopted.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 30, relative to DNA testing of criminal offenders. (Criminal Justice and Public Safety)

SB 48, relative to the rental of shared living facilities. (Judiciary)

SB 194-FN, relative to retirement allowances for certain surviving spouses of group II retirement system members. (Executive Departments and Administration)

senate messages

concurrences

HB 120, relative to the membership of the department of youth development advisory board.

HB 189-FN, increasing the facility funding limits under the oil discharge and disposal cleanup fund.

HB 255, establishing a committee to study the practice of "body works."

HB 376, allowing county commissioners serving 4-year terms to vote at state party conventions.

HB 482, relative to airport zoning.

HB 727, making certain changes concerning the authority and operation of the port authority.

HCR 10, a resolution supporting the electoral college.

nonconcurrence

HB 630, establishing a committee to study the need for the regulation of professions which are alternative or complementary to existing regulated health professions.

enrolled bill amendment

HB 377, permitting the state of New Hampshire to file petitions with the probate court seeking review of actions by a power of attorney.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect January 1, 2002.

Adopted.

RECESS

Rep. Scanlan moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 18

Thursday, May 24, 2001

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

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

Prayer was offered by Rep. Sid Lovett from Holderness.

O thou who art the source of life, in whom each of us live and move and have our being, we give thanks for the heritage which has been accorded us as we work in this legislature to balance the claims of freedom and justice. Grant to this body wisdom and compassion, delivering us from woodsheds of the mind and heart. Uphold our Governor and the Speaker of the House in the performance of their responsibilities and may the needs of our citizens lay their rightful claim upon our endeavors. Amen.

Rep. Cynthia Dokmo led the Pledge of Allegiance.

Rachael Guerdet, Janice Zylak, Abby Gagnon and Michelle Villaume, students from Concord Christian School, sang our National Anthem.

LEAVES OF ABSENCE

Reps. Balcom, Cardin, Furman, Jane Kelley, Lyman, Martel, Pepino, Irene Pratt, Rodd, and Ronald Russell, the day, illness.

Reps. Dewhirst, Dunne, Flora, Feuerstein, Gabler, Hill, Hughes, Karen Hutchinson, Itse, Rogers Johnson, Langone, Messier, Musler, Nowe, Marsha Pelletier, Perkins, Neil Reardon, Rosen, Splaine, Tate and Torressen, the day, important business.

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

INTRODUCTION OF GUESTS

Laurie Chrysostom Lockwood, guest of Rep. Lockwood. Mary Linares, guest of Reps. Sandra and Joseph Harris. David Holden and his Spanish class from Mascenic Regional High School, guests of Rep. Dunlap. Rebecca Foss and Sarah Pawlek, guest and daughter of Rep. Pawlek. Henry Olson, father of Clerk of the House, Karen Wadsworth.

special guest

Ambassador of Cyprus, Dr. Erato Kozakou-Marcoullis, guest of the House.

Rep. Buckley moved that the remarks made by Ambassador Marcoullis be printed in the Journal.

Adopted.

remarks

Ambassador: Marcoullis: Thank you. Mr. Speaker, Honorable Representatives of the House of Representatives of the State of New Hampshire. Greetings to the Granite State from the Copper Island, Cyprus. It is a great honor for me to address today the House of Representatives of the State of New Hampshire, the third largest parliamentary body in the English speaking world. I wish to express my profound gratitude for this invitation, which I consider an expression of support to my country and to the people of Cyprus.

I wish to express the profound gratitude of the government and the people of Cyprus for the adoption of House Concurrent Resolution No. 9, urging the President of the United States to increase the administration's efforts to mediate a peaceful resolution of the dispute in Cyprus between Turkey and the Republic of Cyprus. Our deep appreciation goes to the main sponsors of the resolution, Reps. Salts, Pappas, Tsiros, Pantelakos and Panagopoulos for their initiative and to each and every representative of this august body for unanimously endorsing it.

The adoption of this resolution clearly registers your concern for an ongoing injustice that violates the very principles for which this great country, the United States of America, stands for: human rights, unity, freedom justice and the rule of law. It also registers your support for the need to find a just and viable solution to a longstanding problem that has kept the island of Cyprus and its people forcibly divided for far too long.

During this crucial period for my country, it gives us great strength and hope to know that such a prominent body as the House of Representatives of the State of New Hampshire not only cares but, moreover, it chooses to associate itself with the efforts to promote the cause of freedom and justice.

This support is all the more important in view of the fact that for over a quarter of a century the unacceptable status quo in Cyprus remains unchanged. It remains a scar and an ugly wound in the body of Europe. It remains an anachronism in the anticipated new hopeful environment of the 21st century.

Turkey's illegal occupation of one third of Cyprus' territory persists; the 200,000 uprooted Greek Cypriots continue to be forcibly prevented from returning to their homes; the fate of the missing persons (including 4 American citizens of Cypriot descent) has still to be ascertained; the few remaining enclaved Greek Cypriots in the occupied area continue to live under appalling conditions; Turkish settlers now outnumber the Turkish Cypriots and our 10,000 year old cultural heritage continues to be plundered and destroyed.

The United States, which maintains vital interests and influence in the region, has a most important role to play in impressing upon Turkey to solve this problem and cooperate in the efforts of finding a solution based on the internationally endorsed parameters of a bizonal and bicomunal federation. Turkey's compliance with the numerous United Nation resolutions calling for the withdrawal of the Turkish troops, the return of the refugees to their homes and respect for their human rights is long overdue.

These same principles that have provided the basis for the solution of other problems and primarily the need to respect the rule of law and international legality, should be consistently applied in all cases where the same abominable policies of ethnic cleansing have resulted in the expulsion of people and the massive violation of their human rights.

The recently adopted Judgment of the European Court of Human Rights in the Fourth Interstate application of Cyprus v Turkey, by which the court reaffirmed the view that the government of the Republic of Cyprus remains the sole legitimate government in Cyprus and which found that Turkey has violated and continues to violate in Cyprus numerous Articles of the European convention on Human Rights pertaining to the issues of the missing persons, the displaced Greek Cypriots and the enclaved, is a historic decision of the highest judicial authority of the council of Europe, that has vindicated the struggle of the people of Cyprus. Turkey, as a member of the Council of Europe has the unquestionable responsibility to implement the Judgment and to redress the human rights violations that affect thousands of people, as a direct result of her continuing aggression against the Republic of Cyprus.

This judgment provides a unique opportunity for the international community in general and the United States in particular, to use their influence on Turkey so that we may finally see concrete results on the basis of the United Nation resolution on Cyprus. Turkey has to receive the clear message that violating the rule of law and flouting the international community's decisions can no longer be tolerated. While deeply appreciating the United States' repeated expressions of interest in finding a solution, we believe that the time has come for actions to speak louder than words.

To achieve this goal, we continue to depend on the active support of our friends. I am confident that with your support, coupled with the support of our many friend on Capitol Hill, we can succeed in further energizing the efforts to reunite Cyprus.

Now is the time for a leadership role on the part of the United States. Now is the time for a strong message to be conveyed to the Turkish side. A message that would emphasize that its unacceptable conduct and intransigent attitude is neither in line with the international community's and United States' wishes, nor with the established parameters for a bizonal, bicommunal federation.

My government is firmly committed and is cooperating in good faith with all those who exert efforts towards such a settlement. What is absent is the cooperation of the Turkish side. This is a project that the United States is in the best position to realize and your resolution urging the President of the United States to increase the administration's efforts for a peaceful solution is very timely.

Cyprus is moving fast towards membership to the European Union, presently leading the group of candidate countries. We hold in common with the European Union and the United States some important values and policies. We are a democratic nation. We extend the full range of political rights and civil liberties to our citizens. We have developed a strong economy based on free trade and open markets.

Although a solution is not a precondition for our accessions, we strongly believe that reunification of our country and membership to the European Union could be a win-win situation not only for all our people, Greek and Turkish Cypriots, but also for relations between NATO allies Greece and Turkey, for United States interests in the region and for Turkey itself in as far as the realization of her own aspiration for membership to the European Union.

Our dream is to see our country and our people reunited in a multicultural, democratic and prosperous society, member of the European Union. With the optimism and euphoria that is embodied in the new millenium, we hope that this dream will soon became a reality. For this to happen, United States' resolute action and engagement, especially in the direction of Turkey, remains an urgent priority. We shall then all rejoice that justice at last prevailed. Thank you.

senate messages

requests concurrence with amendments

HB 569, establishing a committee to study the information, training, and support needs of family caregivers in New Hampshire. (Amendment printed SJ 13, 5/17/01)

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

Adopted.

HB 532, establishing a committee to study the adequacy of funding for the continued universal distribution of children's vaccines.

Rep. Batula moved that the House concur and spoke in favor. (Amendment printed SJ 9, 4/12/01)

Adopted.

HB 203, allowing a psychiatric/mental health nurse practitioner employed under contract with the department of corrections to be indemnified and defended by the state under the same conditions as psychiatrists. (Amendment printed SJ 13, 5/17/01)

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

Adopted.

HB 166, requiring the gas utility restructuring oversight committee to study gas and hazardous substance pipeline safety. (Amendment printed SJ 13, 5/17/01)

Rep. Jeb Bradley moved that the House concur and spoke in favor.

Adopted.

committee reports

consent calendar

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

HB 550-FN, relative to remedies under the right-to-know law, removed by Rep. John Pratt.

SB 122-FN, relative to the license to carry a weapon, removed by Rep. Wendelboe.

Consent Calendar adopted.

SB 55, creating a commission to study the need for and location of architecturally secure facilities and community shelter care facilities to service juveniles. **OUGHT TO PASS**

Rep. Laura C. Pantelakos for Children and Family Law: This bill will set up a commission to study the need for and location of architecturally secure facilities and community shelter care facilities to serve juveniles. Vote 17-0.

SB 123, establishing a committee to study how information regarding private individuals is obtained, maintained, and employed by the division of children, youth and families. **OUGHT TO PASS**

Rep. Gary C. Greenberg for Children and Family Law: The committee feels that a study committee would help on finding out how information regarding private individuals known as the Central Registry is obtained and maintained by the Division of Children, Youth and Families. Vote 17-0.

SB 136, establishing a committee to study the use of multi-disciplinary team investigations of child abuse and neglect allegations. **OUGHT TO PASS**

Rep. Mary Stuart Gile for Children and Family Law: This bill proposes a committee to study the usefulness of multi-disciplinary team investigations into allegations of child abuse and neglect. Successful models have been implemented in other states and the committee agreed that results from such a study might yield important information for New Hampshire. Vote 15-1.

SB 103, changing the qualification requirements for charitable organizations that conduct bingo or lucky 7. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen G. Avery for Commerce: The amendment to SB 103 adds 501(c)(7)'s (social clubs) to the bill. The bill as presented would have grandfathered a dozen or so social clubs and not allowed any new ones to get bingo licenses. The committee felt that would be unfair so we included tax exempt social clubs and eliminated the grandfather clause. This bill will allow the Miss America Pageant to raise money through the playing of bingo. Vote 12-0.

Amendment (1183h)

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

1 Bingo and Lucky 7; Definitions; Charitable Organization. Amend RSA 287-E:1, V to read as follows:

V. "Charitable organization" means any bona fide religious, charitable, civic, veterans or fraternal organization which shall have been **registered with the secretary of state for at least 2 years and** in existence and organized under the laws of this state for at least 2 years in a town or city **in this state**, and ~~[to which contributions are exempt from federal income tax]~~ **which possesses a tax exempt status under Internal Revenue Code 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) or is covered under a group ruling issued by the Internal Revenue Service under authority of those sections.** To be eligible for licensure under this chapter, a charitable organization shall do all of the following:

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

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

(c) Register *with the secretary of state and*, if required under RSA 7:19-32-a, with the director of charitable trusts.

(d) Maintain a current list of bona fide members.

(e) Document that the organization has tax exempt status under Internal Revenue Code 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) or is covered under a group ruling issued by the Internal Revenue service under authority of those sections.

A charitable organization shall not include auxiliary units, committees or other entities organized under the auspices of a charitable organization eligible for licensure under this chapter, when such auxiliary unit, committee, or other entity is organized for the primary purpose of conducting bingo games.

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

SB 131-FN-A, establishing a study committee relative to charitable bingo operations. **OUGHT TO PASS**

Rep. Stephen G. Avery for Commerce: This bill establishes a study committee on charitable bingo operations. The committee will look at all laws related to charitable bingo operations, the use of volunteers, and a comparison of commercial bingo operations. The committee will also consider expenses charged to the charities, prize limits, and ways to enhance revenue for charities, including forms of electronic bingo. The committee will report their findings by November 1, 2001. Vote 14-0.

SB 59, relative to the inclusion of a signature declaration and verification statement on teacher certification applications. **OUGHT TO PASS**

Rep. John R. Alger for Education: This bill simply puts the notary process into law, whereby a teacher applying for a certification verifies their name and their statement of qualifications with the possibility of criminal prosecution if there is willful misrepresentation or omission of facts. Vote 18-0.

SB 78-FN-L, relative to the distribution of special education records to certain educationally disabled pupils. **INEXPEDIENT TO LEGISLATE**

Rep. Claire D. Clarke for Education: The committee found that this bill, requested by the Dept. of Education, was covered by federal legislation and was not necessary. The Department of Education concurred and suggested that this legislation be found inexpedient to legislate. Vote 17-1.

SB 117, relative to extended school year services for educationally disabled children. **INEXPEDIENT TO LEGISLATE**

Rep. Brien L. Ward for Education: The committee voted ITL because this bill, if enacted, would remove the standard of proof (preponderance of evidence) used by the local, individualized educational program team to evaluate the appropriateness of an extended year's program for an educationally disabled child. All parties, which participate in establishing programs for educationally disabled children, benefit from having a uniform standard of proof. Vote 17-1.

SB 17-FN, relative to accidental disability retirement benefits upon the death of a retired group II member. **INEXPEDIENT TO LEGISLATE**

Rep. William R. Zolla for Executive Departments and Administration: At the present time, upon the death of a retirement group II member who retired prior to April 1, 1987, a lump sum payment of \$3600.00 is made to the surviving beneficiary along with the member's pre-designated spousal benefit. If the deceased member was in receipt of an accidental disability retirement allowance at the time of death, then the surviving spouse had the option of receiving 50% of the deceased member's disability benefit for life or until remarriage or the lump sum payment. This bill would have granted both the disability benefit and the lump sum payment to the deceased disabled members spouse at an additional cost to the special account of \$310,000.00. The committee felt that this expenditure was not necessary at this time especially at the exclusion of other groups of retirees. Vote 13-3.

SB 71, establishing a study committee relative to the regulation and compensation of persons licensed under the real estate practice act. **OUGHT TO PASS**

Rep. David G. Poulin for Executive Departments and Administration: This bill establishes a committee to study regulation and compensation of persons licensed under the real estate practice act. The committee shall assess problems relating to agents and agencies and shall recommend any possible solutions. Vote 12-1.

SB 111-FN, extending the term for the payment of group health insurance premiums for certain retired members of the retirement system. **OUGHT TO PASS WITH AMENDMENT**

Rep. William R. Zolla for Executive Departments and Administration: This bill will extend and terminally fund the health insurance premium subsidy to certain teacher and employee members of political subdivisions. Those eligible include members and spouses (or beneficiaries including disabled children) who retire on a service or disability retirement on or before July 1, 2008 at age 60, with at least 20 years of creditable service, or at age 55 through 59, with at least 30 years of creditable service. The amendment to this bill recognizes retirees with qualifying service that leaves service before reaching retirement age to be eligible for medical benefits upon reaching the age of 60. Vote 15-0.

Amendment (1112h)

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

AN ACT extending the payment of group health insurance premiums for certain retired members of the retirement system.

Amend RSA 100-A:52-a, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Any person ~~[who has completed no less than 20 years of group I creditable service, but]~~ who for reasons other than retirement or death ~~[ceased]~~ **ceases** to be a group I teacher ~~[member]~~ or political subdivision employee ~~[member]~~ prior to attaining the age of 60, and who, as of July 1, ~~[2004]~~ **2008**, receives a vested deferred retirement allowance and who **has completed no less than 20 years of group I creditable service and** subsequently attains the age of 60, **or who has completed no less than 30 years of group I creditable service and subsequently attains the age of 55.**

AMENDED ANALYSIS

This bills extends the time period for the payment for group health insurance premiums for teacher and political subdivision member retirees in the retirement system. The bill also extends the payment of health insurance premiums to certain vested deferred retirees.

Referred to Finance.

SB 125-FN, relative to election of optional allowances by retirement system members granted disability retirement and relative to an exception to the 120-day requirement for payment of compensation. **OUGHT TO PASS**

Rep. William R. Zolla for Executive Departments and Administration: This bill would give the option to the retirement system to extend the 120 days allowed after the decision to grant disability benefits for inclusion of compensable earnings in retirement benefits provided the additional time is required through no fault of the recipient of the benefits. At the present time, earnable compensation shall not include compensation paid in any form paid later than 120 days after the member's termination of employment from a retirement eligible position. The rule still holds true for non-disabled retirees. Vote 15-0.

Referred to Finance.

SB 157, relative to state government information dissemination and access. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert K. Dodge for Executive Departments and Administration: This bill which creates a system of dissemination of information and access to state government will allow increased citizen involvement in state policies and empower citizens to participate in state policy decision making. The amendment rectified drafting errors in the legislation and addressed technical agency concerns. Vote 14-0.

Amendment (1088h)

Amend the bill by replacing section 3 with the following:

3 Department of Cultural Resources; Rulemaking Authority Amend RSA 21-K:8, VII to read as follows:

VII. *New Hampshire state government information access* libraries and retention schedules for state publications ***as provided in RSA 202-B.***

Amend RSA 202-B:2, VI as inserted by section 4 of the bill by replacing it with the following:

VI. "State government information product" means a state publication or other discrete compilation of state government information of general public interest, either conveyed in a tangible physical format including electronic media, or disseminated via a state government electronic information service.

Amend the section heading and paragraph I of RSA 202-B:4 as inserted by section 4 of the bill by replacing it with the following:

202-B:4 Copies of State Government Information Products.

I. Each agency component of state government shall produce 25 copies of its tangible state government information products for deposit with the state librarian. The state librarian shall make tangible products available through distribution to program libraries and shall ensure

program libraries and general public access to state information products available via state electronic information services as soon as practicable.

SB 190, dedicating the I-93 causeway at Moore Dam and the Cottage Street Bridge in Littleton.
OUGHT TO PASS WITH AMENDMENT

Rep. William E. Leber for Public Works and Highways: This bill dedicates the causeway at Moore Dam on I-93 as the "Curran/McAvoy Causeway" in honor of Ken Curran and George McAvoy who researched, designed and proposed a causeway rather than a bridge in the original design to cross the Connecticut River. This proposal was adopted by the United States and New Hampshire Departments of Transportation and reportedly saved \$20,000,000.00 in construction cost. In addition, this bill dedicates the Cottage Street Bridge in Littleton as the "Veterans' Memorial Bridge". Testimony in support indicated there are no bridges north of the Notch named in honor of veterans. An additional amendment would rename the "Smith Bridge" in Plymouth as the "Smith Millennium Bridge". It is a recently rebuilt covered bridge and since it is dedicated in the new millennium, thus the name. The bridge was originally named after Jacob Smith, an early settler that lived next to the original covered bridge. The committee strongly supports Ought to Pass as Amended. Vote 14-0.

Amendment (1074h)

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

AN ACT dedicating the I-93 causeway at Moore Dam, the Cottage Street Bridge in Littleton, and the Smith Bridge in Plymouth.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4 to read as 4-5, respectively:

3 The Smith Millennium Bridge. Pursuant to RSA 4:43, the Smith Bridge in Plymouth is hereby dedicated as the "Smith Millennium Bridge."

Amend the bill by replacing section 4 with the following:

4 Signage. The cost of design, construction, maintenance, and installation of any signage, replacement signage, or other markers required under sections 1-3 of this act shall not be a charge to the state. However, the design, construction, and installation of any signage or other markers required under this act shall be approved by the department of transportation.

AMENDED ANALYSIS

This bill dedicates the I-93 causeway at Moore Dam as the "Curran/McAvoy Causeway," the Cottage Street Bridge as the "Veterans' Memorial Bridge," and the Smith Bridge as the "Smith Millennium Bridge."

SB 45, relative to the legislative oversight committee on electric utility restructuring. **OUGHT TO PASS WITH AMENDMENT**

Rep. John H. Thomas for Science, Technology and Energy: This bill updates the membership and duties of the Legislative Oversight Committee on electric utility restructuring. The bill also limits the changes that the Public Utilities Commission (PUC) may make to approved special contracts for

the six ski areas in the New Hampshire Electric Cooperative (NHEC) service territory. The committee found that any changes to existing special contracts in the NHEC service territory would be detrimental to other NHEC customers. The NHEC could lose all revenue from the six ski areas which representatives of the NHEC testified would increase rates to all other NHEC customers. This bill also restores equity between ski areas in the NHEC service territory and ski areas in the Public Service of New Hampshire (PSNH) Service territory. Vote 15-0.

Amendment (1078h)

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

AN ACT relative to the legislative oversight committee on electric utility restructuring and relative to service from a rural electric cooperative under special contracts.

Amend the bill by replacing all after section 3 with the following:

4 Purpose and Findings. The general court finds that restructuring of the electric utility industry should not result in changes in the total rates of customers taking service under special contracts with a rural electric cooperative for the duration of those contracts, consistent with the general court's determination with respect to special contract customers of Public Service Company of New Hampshire in RSA 369-B:3, IV(b)(10).

5 New Section; Rural Electrification Associations; Special Contracts. Amend RSA 301 by inserting after section 61 the following new section:

301:62 Special Contracts. The commission shall not order changes in the total rates or impose stranded cost, system benefits, or other restructuring charges under RSA 374-F if the result would be to cause changes in the total rates charged to, or the accounting for revenue received from customers taking service from a rural electric cooperative under special contracts approved pursuant to RSA 378:18 for the duration of those special contracts in effect as of May 1, 2000.

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

AMENDED ANALYSIS

This bill updates the membership and duties of the legislative oversight committee on electric utility restructuring. This bill also limits the changes that the public utilities commission may make to certain approved special contracts for service from a rural electric cooperative.

SB 93, establishing a committee to study the public health and environmental benefit of requiring stationary and mobile sources that burn virgin petroleum products or coal to comply with the requirements of the air toxic control act. **OUGHT TO PASS**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill establishes a limited two-year committee that will study the public health and environmental impact related to the burning of virgin petroleum products or coal. The Science, Energy and Technology Committee agrees with the need to review our requirements of the Toxic Air Control Act and to determine any compliance issues that we may need to correct. Vote 15-0.

SB 189-FN-A, establishing a gasoline remediation and elimination of ethers fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeb E. Bradley for Science, Technology and Energy: The bill as passed by the Senate creates a separate remediation fund for groundwater supplies contaminated by MtBE and other ethers. Gasoline taxes are not increased. Rather the 1.5 cent per gallon tax which funds the Oil Discharge and Disposal (ODD) Cleanup Fund, will have ¼ cent of the per gallon tax transferred into the new remediation fund. Testimony indicated the ODD Fund would not be adversely affected. With the new remediation fund, MtBE ground water contamination can be better treated. There was universal support for the bill. The committee amendment makes technical changes to the bill to allow efficient implementation of the remediation fund. There is language in the bill authorizing the Attorney General's Office to seek reimbursement from parties responsible for spills. Vote 14-0.

Amendment (1209h)

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

1 Oil Discharge and Disposal Cleanup Fund; Purpose. Amend RSA 146-D:1 to read as follows:

146-D:1 Purpose. The general court finds that gasoline and diesel fuel, due to their extreme fluidity and suspected carcinogenic qualities, comprise a sufficiently distinct class of property which represents a potential serious health and safety problem to the citizens of New Hampshire. In particular, gasoline and diesel fuel present a potential threat to the quality of New Hampshire's groundwater and environment because of the speed with which these products are able to flow into, and contaminate, valuable groundwater supplies. The purpose of this chapter is to establish financial responsibility for the cleanup of oil discharge and disposal, and to establish a fund to be used in addressing the costs incurred by the owners of underground storage facilities and bulk storage facilities for the cleanup of oil discharge and disposal, to protect groundwater, and for reimbursement for third party damages. ***An additional purpose is to provide a funding source for cleanup and reimbursement for discharges of gasoline ethers pursuant to RSA 146-G.*** The fund established under this chapter shall be in addition to the oil pollution control fund established pursuant to RSA 146-A:11-a, ***and the gasoline remediation and elimination of ethers fund established under RSA 146-G.***

2 New Paragraphs; Definitions. Amend RSA 146-D:2 by inserting after paragraph VII the following new paragraphs:

VIII. "Gasoline" means all products commonly or commercially known or sold as gasoline, including casinghead and absorption of natural gasoline, regardless of their classification or uses, and any liquid prepared, advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (ASTM Designation D-86) show not less than 10 percent distilled (recovered) below 347 degrees Fahrenheit (175 degrees Centigrade) and not less than 95 percent distilled (recovered) below 464 degrees Fahrenheit (240 degrees Centigrade); provided that the term gasoline shall not include commercial solvents or naphthas which distill by ASTM method D-86 not more than 9 percent at 176 degrees Fahrenheit and which have a distillation range of 150 degrees Fahrenheit or less, or liquefied gases which would not exist as liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

IX. "Diesel fuel" means a liquid hydrocarbon fuel used in internal combustion high speed engines that operate with a diesel thermodynamic cycle.

3 Fund Established. RSA 146-D:3, VI is repealed and reenacted to read as follows:

VI. The fee collected on motor fuels shall be deposited in the oil discharge and disposal cleanup fund, except as provided in subparagraph (b), and divided as follows:

(a) For each gallon of diesel fuel for which a fee is assessed, \$.014 shall be placed in an account for reimbursement of owners of eligible underground storage facilities and \$.001 shall be placed in an account to be used for reimbursement of owners of eligible bulk storage facilities.

(b) For each gallon of gasoline for which a fee is assessed, \$.0115 shall be placed in the underground storage facilities account, \$.001 shall be placed in the bulk storage facilities account and \$.0025 shall be placed in the gasoline remediation and elimination of ethers fund established under RSA 146-G.

(c) For all fees assessed on gasoline during the period from January 1, 2001 to July 1, 2001 and deposited in the account for reimbursement of owners of eligible underground storage facilities, 18 percent of those fees shall be transferred to gasoline remediation and elimination of ethers fund established under RSA 146-G.

4 New Chapter; Gasoline Remediation and Elimination of Ethers Fund. Amend RSA by inserting after chapter 146-F the following new chapter:

CHAPTER 146-G

GASOLINE REMEDIATION AND ELIMINATION OF ETHERS FUND

146-G:1 Purpose.

I. In recognition of its fiduciary responsibility to minimize the contamination of our citizens' drinking water and the water sources of the state, the general court finds that ethers contained in gasoline, due to their extreme fluidity, recalcitrance to natural degradation, low taste and odor thresholds, and probable carcinogenic qualities, comprise a sufficiently distinct class of property which represent a particular, present, and rapidly escalating threat to the quality of all the water of the state and, thereby, to our citizens. The general court also finds that potentially serious health, safety, and environmental problems are evidenced due to the speed with which ethers are able to flow into, contaminate, and accumulate in invaluable groundwater supplies.

II. The purpose of this chapter is to provide procedures that will expedite the cleanup of gasoline ether spillage, mitigate the adverse affects of gasoline ether discharges, encourage preventive measures, impose a fee upon importers of neat gasoline ethers into the state and establish a fund for the remediation of groundwater and surface water contaminated by gasoline ethers. The fund may also be used to provide financial reimbursement to owners of public and private water supplies for the treatment and removal of gasoline ethers and associated contaminants from those supplies. The fund established under this chapter shall be in addition to the oil pollution control fund established pursuant to RSA 146-A:11-a and is separate from the oil discharge and disposal cleanup fund established pursuant to RSA 146-D:3.

146-G:2 Definitions. In this chapter:

I. "Discharge" or "spillage" means the release or addition of any gasoline containing ethers to land, groundwater, or surface water.

II. "Distributor" means any person, wherever resident or located, who imports or causes to be imported neat gasoline ethers, as defined in this section, into the state; provided, however, that bringing gasoline into the state in the fuel supply tank attached to the engine of a vehicle or aircraft shall not be considered importing. "Distributor" does not mean a spill cleanup organization or other person acting to contain, remove, clean up, restore, or take other remedial or corrective action or measures with regard to the spillage or discharge of gasoline or neat gasoline ethers, or threatened spillage or discharge of gasoline or neat gasoline ethers.

III. "Ethers" means organic compounds formed by the treatment of an alcohol with a dehydrating agent resulting in 2 organic radicals joined by an oxygen atom.

IV. "Facility" means a location, including structures or land, at which gasoline is subjected to treatment, storage, processing, refining, pumping, transfer, or collection.

V. "Gasoline" means all products commonly or commercially known or sold as gasoline, including casinghead and absorption of natural gasoline, regardless of their classification or uses, and any liquid prepared, advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (ASTM Designation D-86) show not less than 10 percent distilled (recovered) below 347 degrees Fahrenheit (175 degrees Centigrade) and not less than 95 percent distilled (recovered) below 464 degrees Fahrenheit (240 degrees Centigrade); provided that the term gasoline shall not include commercial solvents or naphthas which distill by ASTM method D-86 not more than 9 percent at 176 degrees Fahrenheit and which have a distillation range of 150 degrees Fahrenheit or less, or liquefied gases which would not exist as liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

VI. "Gasoline ethers" means any ether added to gasoline to improve or increase octane or to increase gasoline oxygen content, and their by-products, including, but not limited to, methyl tertiary butyl ether (MtBE), tertiary amyl methyl ether (TAME), di-isopropyl ether (DIPE), and ethyl tertiary butyl ether (EtBE). "Gasoline ethers" shall not include prepackaged goods intended for retail consumer use including, but not limited to, starting fluid and octane booster.

VII. "Gasoline remediation and elimination of ethers fund" means the fund established pursuant to RSA 146-G:4.

VIII. "Gasoline terminal facility" means any facility of any kind and its related appurtenances located within the boundaries of this state that is used or capable of being used for pumping, handling, transferring, processing, refining, or storing gasoline.

IX. "Groundwater" means subsurface water that occurs beneath the water table in soils and geologic formations.

X. "Neat gasoline ethers" mean ethers intended for blending with gasoline prior to sale to the public which are imported into the state with little or no admixtures or dilution. Neat gasoline ethers shall contain a minimum of 92.1 percent by volume ether, including its impurities.

XI. "Removal costs" means the costs of containment, removal, cleanup, restoration, and remedial or corrective action or measures that are incurred after a spillage or discharge of gasoline has occurred or, in any case in which there is a threat of a spillage or discharge of gasoline, the cost to prevent, minimize, or mitigate gasoline pollution from such an incident.

XII. "Surface water" means streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, watercourses, and other bodies of water, natural or artificial.

XIII. "Vessel" includes every description of watercraft or other contrivance used, or capable of being used as a means of transportation on water or land whether self-propelled or otherwise and shall include barges, tanker trucks, and railroad cars.

146-G:3 Recovery by State. Recovery of costs of containment cleanup, removal, or corrective measures expended under this chapter shall be in accordance with RSA 146-A:9.

146-G:4 Fund Established.

I. There is hereby established the gasoline remediation and elimination of ethers fund. This nonlapsing, revolving fund shall be used to pay the costs to implement the provisions of this chapter which include, but are not limited to, the salaries and expenses of personnel, as approved by the legislature, to the extent that such salaries and expenses are incurred in implementing the provisions of this chapter, testing and monitoring activities, and other costs of treatment or removal or corrective measures deemed necessary by the department of environmental services as a result of an actual or potential discharge of gasoline ethers into or onto the surface water or groundwater of the state. Moneys from the fund shall be used to mitigate the adverse affects of gasoline ether discharges including, but not limited to, provision of emergency water supplies to persons affected by such pollution, and, where necessary as determined by the department of environmental services, the establishment of an acceptable source of potable water to injured parties. Not more than \$150,000 shall be allocated annually for research programs dedicated to the development and improvement of preventive and cleanup measures concerning such gasoline ether discharges. The waste management council shall approve any agreements entered into by the department for purposes of conducting research. Income derived from the fund shall only be used for those administrative costs needed to implement this chapter.

II. Moneys in the fund not currently needed to meet the obligations of the department of environmental services under this chapter shall be deposited with the state treasurer to the credit of the fund and shall be invested as provided by law. Interest received on such investment shall also be credited to the fund. If the fund's balance becomes greater than \$2,500,000, the transfer of moneys into the fund as established in RSA 146-D:3 shall be discontinued and only re-established when the fund's balance is below \$1,000,000. Those fees normally transferred to the gasoline remediation and elimination of ethers fund shall accumulate instead in the account for reimbursement of owners of eligible underground storage facilities under RSA 146-D:3, VI.

III. All moneys paid to the state to reimburse costs paid out of the gasoline remediation and elimination of ethers fund by any person strictly liable to the state under RSA 146-A:3-a shall be placed in the gasoline remediation and elimination of ethers fund.

146-G:5 Competitive Bidding Required.

I. Except as provided in paragraph II, the commissioner of environmental services shall enter into the competitive bidding process for any project undertaken by the department of environmental services under the authority of this chapter with an estimated cost of \$10,000 or more. The commissioner may enter the competitive bidding process for any such project with an estimated cost of less than \$10,000.

II. When procuring professional services from engineers, architects, and surveyors associated with the investigation or cleanup of contamination from gasoline ethers, the commissioner of environmental services shall procure those services in accordance with the procedures contained in RSA 21-I:22.

146-G:6 Corrective Measures Authorized. Corrective measures authorized by this chapter shall include but not be limited to:

I. Provision of interim water supplies to residents whose water supplies have been contaminated due to the presence of gasoline ethers above standards set by the department of environmental services or a condition related to gasoline ethers determined to be hazardous by the office of community and public health and the state forensic toxicologist. This may include the supply of bottled water and the installation and operation of water supply treatment systems, approved or provided by the department.

II. The establishment of an acceptable source of potable water to injured parties, where necessary, as determined by the department of environmental services. This may include but not be limited to a proportioned share of the costs of construction of the extension of public water mains and appurtenances, the installation of replacement water supply wells and appurtenances, or the installation of water treatment processes for new or existing water supplies. The extent of reimbursement shall be determined based upon criteria established by rules adopted by the department of environmental services. Such rules shall consider the overall need for the capital investment to address contamination or threatened contamination of water supplies by gasoline ethers. Operation and maintenance costs or annual user fees for new or upgraded public water supply main extensions or treatment processes shall not be eligible expenses under this paragraph.

146-G:7 License Required; Fee.

I. Any distributor who imports or causes to be imported neat gasoline ethers into the state shall be licensed by the department of safety under this chapter. The annual fee for the license shall be \$0.10 per gallon of neat gasoline ethers imported into this state for the purpose of being mixed or blended with gasoline prior to sale to the public. The fee shall be paid monthly by such person to the department of safety and deposited by the department of safety into the gasoline remediation and elimination of ethers fund. Imposition of the fee shall be based on the records of the person and certified as accurate to the department of safety.

II. Every distributor who imports or causes to be imported neat gasoline ethers into the state shall file a monthly report for the preceding month and shall include all fees due for that reporting period with the department of safety on or before the twentieth day of the following calendar month. Failure to file by the required date or to enclose fees due shall result in the assessment of a 10 percent penalty to be added to the amount of fees due for that month. If no fees are due, a penalty of \$10 per day shall be assessed. Such penalty shall immediately accrue and thereafter the overdue fees and the penalty shall bear interest at the rate established by the Internal Revenue Service effective on the first business day of the calendar year. To this rate shall be added 2 percent. In determining the monthly rate, that figure shall be rounded off to the nearest quarter percent. The department of environmental services may waive all or any portion of penalties or interest for good cause. Such cause and incident shall be recorded in the records of the gasoline remediation and elimination of ethers fund.

III. No distributor licensed under this section shall import neat gasoline ethers into this state without paying the fee required by this section.

IV. Unless otherwise provided, any distributor who violates any provision of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

146-G:8 Administrative Costs. Notwithstanding any other provision of law, if the expenditure of additional funds is necessary for the costs of administration of the collection process established in RSA 146-D:3 and RSA 146-G:7 for funding the gasoline remediation and elimination of ethers fund, the commissioner of safety, with the prior approval of the governor and council, may draw upon the gasoline remediation and elimination of ethers fund for such purposes.

146-G:9 Reporting by Department of Environmental Services. The department of environmental services shall file annual reports of the status of the gasoline remediation and elimination of ethers fund no later than October 1, to the speaker of the house and president of the senate. The first such report shall be submitted no later than October 1, 2002. The department of environmental services shall also file interim reports on the activities of the gasoline remediation and elimination of ethers fund, including expenditures and reimbursements, and enforcement and remediation activities under RSA 146-G, by October 1, 2005 and by October 1, 2009 to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the house and senate committees having jurisdiction over water quality policy, the governor, and the state library. The department shall file a final report on the activities of the fund and enforcement and remediation activities by October 1, 2010 to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the house and senate committees having jurisdiction over water quality policy, the governor, and the state library.

146-G:10 Review and Report. Upon issuance of the interim report by the department of environmental services required by RSA 146-G:9, the members of house and senate committees having jurisdiction over water quality policy shall constitute a joint committee for purposes of reviewing the effectiveness of the program implemented by this chapter. The joint committee shall review the effectiveness of the program implemented by this act, and shall report the joint committee's findings and recommendations to the full senate and house.

146-G:11 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the allocation of funds from the gasoline remediation and elimination of ethers fund authorized under this chapter. Construction costs due to contamination from gasoline ethers incurred by operators of public water supplies between May 4, 2000 and the effective date of department rules may be considered for compensation on a case-by-case basis subject to approval of the waste management council.

5 Date Changed. Amend 1993, 294:1 as amended by 1995, 247:9 to read as follows:

294:1 Funds Transferred to Oil Pollution Control Fund. The oil discharge and disposal cleanup fund established in RSA 146-D:3, I shall lapse on [January 1, 2005] July 1, 2010. Any moneys remaining in the fund at that time shall be transferred to the oil pollution control fund established in RSA 146-A:11-a.

6 Effective Date of Repeal Changed. Amend 1988, 271:11, I as amended by 1993, 294:14 and 1995, 247:10 to read as follows:

I. Paragraphs VIII and IX of section 9 of this act shall take effect [January 1, 2005] July 1, 2010.

7 Repeal.

I. RSA 146-G, excluding RSA 146-G:9, relative to the gasoline remediation and elimination of ethers fund, is repealed.

II. RSA 146-G:9, relative to reporting on the gasoline remediation and elimination of ethers fund, is repealed.

8 Funds Transferred to Oil Pollution Control Fund. The gasoline remediation and elimination of ethers fund established in RSA 146-G:4, I shall lapse on July 1, 2010. Any moneys remaining in the fund at that time shall be transferred to the oil pollution control fund established in RSA 146-A:11-a.

9 Effective Date.

I. Section 7, paragraph I of this act shall take effect July 1, 2010.

II. Section 7, paragraph II of this act shall take effect October 1, 2010.

III. The remainder of this act shall take effect July 1, 2001.

Referred to Finance.

SB 67-FN, relative to costs of locating and apprehending persons improperly at large for driving-related offenses. **OUGHT TO PASS**

Rep. Robert J. Letourneau for Transportation: Each year the state has to deal with approximately \$1,000,000.00 in default fines from violations of highway laws. State and local police departments are faced with strains on their financial resources. Many scofflaws escape paying fines unless stopped for other reasons. This bill would help with this issue by hiring a full time person to review and follow up the default cases. The money for the position would come from the bench warrant fund. From testimony received by the committee, we can expect to recoup up to \$700,000.00 a year of these fines. Vote 14-0.

Referred to Finance.

SB 84, relative to funeral processions. **OUGHT TO PASS WITH AMENDMENT**

Rep. Brenda L. Ferland for Transportation: I thought there were laws now to regulate funeral processions? Why do we need them? What could you possibly regulate? These were some of the questions that came up when this bill came to the House committee for a hearing. The bill then went to a subcommittee to clarify the language. The amended version requires that the lead vehicle shall use and be equipped with a purple flashing or emergency light. Each vehicle in the procession shall be marked by funeral flags or windshield signage. Headlights, taillights, and if so equipped with hazard flashers should be on. Automatic headlights started a problem in lines because you couldn't tell who was part of a procession. Operators of vehicles not part of a funeral procession shall not join them for the purpose of getting the right-of-way, they cannot pass on a two-lane highway, and they cannot proceed through a green lighted intersection unless they can do so without crossing the path of the funeral procession. Violations of these laws will be considered a moving violation under our motor vehicle code. Emergency vehicles still have the right-of-way governed by current RSAs that pertain to them. This bill will take effect January 2002, and that allows time for funeral directors to take the necessary steps to comply with the law. Vote 13-0.

Amendment (1060h)

Amend RSA 265:156, II as inserted by section 1 of the bill by replacing it with the following:

II. All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe. Each vehicle of the funeral procession shall be appropriately marked by having funeral flags or windshield signage, and headlights, taillights, and, if so equipped, hazard flasher on. A funeral escort or funeral lead vehicle shall use and be equipped with a purple flashing or emergency light.

Amend RSA 265:157, II-IV as inserted by section 1 of the bill by replacing them with the following:

II. Operators of vehicles not part of a funeral processional shall not join a funeral procession for the purpose of securing the right-of-way granted in RSA 265:156, I.

III. An operator of a vehicle not in a funeral procession shall not attempt to pass vehicles in a funeral procession on a 2-lane highway or roadway.

IV. When a funeral procession is proceeding through a red signal as permitted by RSA 265:156, I, a vehicle that is not in the funeral procession may not enter the intersection, even if the vehicle is facing a green signal, unless it can do so without crossing the path of the funeral procession.

SB 156, relative to the suspension of drivers licenses of persons under 20 years of age. **OUGHT TO PASS**

Rep. John W. Flanders for Transportation: This bill is the result of a study committee in the year 2000 to define the meaning of "misconduct, misuse or abuse" in RSA 263:14, III for those individuals under 20 years of age. This bill defines that language for suspensions of original licenses. Vote 14-0.

SB 184, relative to review of fees for the removal and impoundment of motor vehicles. **OUGHT TO PASS WITH AMENDMENT**

Rep. Brenda L. Ferland for Transportation: This bill came about as a result of a truck driver being charged a total of \$5,200.00 for a towing incident. Upon further examination and an outcry from the trucking company, the bill was reduced to \$3,300.00, and further reduced to \$1,200.00. What this resulted in was the examination of the way towing fees are assessed. With this bill the owner or other person entitled to possession of the vehicle may challenge the reasonableness of the fee charged. After paying the fees, that person, within 15 days, can request in writing a review by the Commissioner of Safety. The Commissioner will review the charges and decide if a hearing is necessary and the hearing will be held within 30 days, and then the extent of removal and storage fees will be determined within another 30 days. The amendment was simply changing the number of a provision of the bill. Vote 10-1.

Amendment (1061h)

Amend RSA 262:35-a, I as inserted by section 1 of the bill by replacing it with the following:

I. All fees charged for the removal and storage of any vehicle caused to be removed by an authorized official pursuant to RSA 262:32 or RSA 262:40-a shall be reasonable, and may reflect market variables, including, but not limited to, distance traveled to and from the storage facility,

vehicle size and weight, the amount of time needed to remove and store the vehicle, and personnel costs. If the owner or other person lawfully entitled to possession of the vehicle wishes to challenge the reasonableness of the fee charged, the owner or other person may pay over to the custodian of the vehicle an amount equal to the towing and storage charges to secure the release of the vehicle, and, within 15 days of the release of the vehicle, request in writing a review by the commissioner of safety. The commissioner of safety shall review the towing and storage charge and determine if there are sufficient grounds to conduct a hearing to determine whether the charge was reasonable. If the commissioner determines that a hearing is necessary, the hearing shall be held within 30 days after review by the commissioner, at which time the extent of removal and storage fees shall be determined. The commissioner shall issue a decision within 30 days after holding a hearing. Notwithstanding RSA 262:25, any person aggrieved by a decision of the commissioner under this section may appeal the decision to the superior court in the same manner as that prescribed in RSA 263:75, II and III. If no request for review is filed within the 15 day period, the owner or other person lawfully entitled to possession of the vehicle shall be deemed to have waived all rights to review under this section and shall be liable for the total amount billed.

regular calendar

SB 13, relative to the duties of a school nurse and relative to school food and nutrition programs. **OUGHT TO PASS**

Rep. John R. Alger for Education: This bill eliminates mandatory testing for tuberculosis as recommended by the American Lung Association, while leaving such testing as a local option. The bill also provides that a school nurse may administer oxygen in a medical emergency, recommended by testimony from the Dept. of Safety, stating that on most occasions when EMS is dispatched to a school it is for asthma or other relief with oxygen. Finally, the bill relieves clerical work of districts, relative to yearly statistics for each student. Vote 10-2.

Report adopted and ordered to third reading.

SB 68, relative to school district placements of children living in foster homes. **OUGHT TO PASS WITH AMENDMENT**

Rep. John R. Alger for Education: This bill simply authorizes a child placed by the court to remain in the school of prior attendance before placement, if it is in the best interest of the child, according to agreement between the parent or guardian and the superintendent or school board. Vote 13-5.

Amendment (1176h)

Amend the bill by replacing section 2 with the following:

2 Education of Children Placed in Homes for Children, Health Care Facilities, or State Institutions; Right of Attendance. Amend RSA 193:28 to read as follows:

193:28 Right of Attendance. Whenever any child is placed and cared for in any home for children, or is placed by the department of health and human services in the home of a relative or friend of such child pursuant to RSA 169-B, RSA 169-C, RSA 169-D, or RSA 463, such child, if of school age, shall be entitled to attend:

I. The public schools of the school district that the child attended prior to placement, if continuing in the same school district is in the best interest of the child as determined by the parent or guardian and the school superintendent or school board, if the home is within a reasonable distance of the school to be attended, and if suitable transportation can be arranged without imposing additional transportation costs on a school district or the department of health and human services; or

II. The public schools of the school district in which said home is located, unless such placement was solely for the purpose of enabling a child residing outside said district to attend such schools, provided that the school district for a child placed in a group home, as defined in RSA 170-E:25, II(b), within a cooperative school district, shall be the cooperative school district, not the pre-existing district within the cooperative.

AMENDED ANALYSIS

This bill allows children in court-ordered placements to continue attending the school that they attended prior to the placement if continuing in the same school is in their best interest as determined by the parent and school, if the home is within a reasonable distance of the school, and if suitable transportation arrangements can be made.

Adopted.

Report adopted and ordered to third reading.

SB 135-FN-L, relative to kindergarten funding. **OUGHT TO PASS**

Rep. J. D. Colcord for Education: This bill amends RSA 198 to include new kindergarten programs implemented on or after July 1, 1999 in the Education Adequacy Grant Payment Program, at the rate as currently specified by law. This brings all public kindergarten programs to the same funding level, i.e. one-half of the adequacy grant.

Report adopted.

Referred to Finance.

SB 64-FN-A, establishing a fund to pay mediators in the probate courts. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. James W. Craig for the Majority of Judiciary: This bill establishes a Probate Court mediation fund which is continually appropriated to the Probate Court for payment of mediators. The bill requires the sum of \$5.00 to be added to each Probate Court entry fee to be deposited into the fund. Mediation is not mandatory and the record of unsuccessful mediations shall not be released to judges or other court officers who later hear the case. Mediators shall be paid the sum of \$300 per case and they will deal with all forms of family issues which require special expertise. It is expected that money paid into the fund will be more than offset by court costs and attorneys' fees saved, as well as the family resentments and bitterness which will be diffused by mediation. Vote 13-3.

Rep. Larry G. Elliott for the Minority of Judiciary: The minority, being unable to agree with the majority, find SB 64-FN-A should be Inexpedient to Legislate. This bill adversely affects the middle class by adding an additional \$5.00 filing fee to their Probate Court matters, for which they may receive no benefit. In addition to that, this bill creates a fund to establish mediation which has a

limited amount of resources so some persons seeking mediation will be denied because there are no funds available for mediation. Yet, they are still required to pay \$5.00 to go toward someone else's mediation. Furthermore, this bill sets out no guidelines, no qualifications, and no direction other than it is voluntary to the courts. This bill as written allows the Probate Court to establish a program without direction from the legislature as to the program's design and shape. In conclusion, this creates an inequity between the Superior Court and the Probate Court because currently the Superior Court provides a mediation program for free to users of the court and charges no additional fee to file a petition before the Superior Court. To be clear here, the mediators at the Superior Court level are unpaid, whereas mediators at the Probate Court level would receive as much as \$300 for their services.

Majority Amendment (1207h)

Amend RSA 490:27, II as inserted by section 2 of the bill by replacing it with the following:

II.(a) There is established in the office of the state treasurer a separate fund to be known as the probate court mediation fund. The sum of \$5 shall be added to each entry fee collected in the probate courts and shall be deposited in the fund for paid mediation in the probate courts. Costs of probate court mediators may be paid from this fund, provided that:

(1) Participation in the mediation sessions is not mandated by the court; and

(2) Mediation reports shall not be released to any judge or other officer of the court who may later decide or rule on the case without the written consent of all parties participating in the mediation.

(b) Moneys in the fund shall be continually appropriated to the probate court and used to pay probate court mediators subject to the conditions under subparagraph (a) and as recommended and approved by the administrative justice of the probate court.

AMENDED ANALYSIS

This bill establishes a probate court mediation fund, which is continually appropriated to the probate court for payment of mediators. The sum of \$5 shall be added to each entry fee collected in the probate courts and shall be deposited in this fund. This bill also prevents court-ordered mediation.

Adopted.

Report adopted and referred to Ways and Means.

HB 550-FN, relative to remedies under the right-to-know law. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: HB 550 was referred to the Criminal Justice & Public Safety committee on March 29, 2001 after being passed by the House on a voice vote. After the hearing a subcommittee was appointed and met on April 25, 2001. The main concern expressed was that a civil statute, NHRSA 91-A, should not contain a criminal penalty. The

Criminal Justice Committee agreed and amended HB 550 to place the destruction of information that had been requested under 91-A in the appropriate criminal statute, RSA 641:7, Tampering with Public Records or Information. This amendment has the full support of the bill's sponsor as well as the two members of the Judiciary committee who worked with the Criminal Justice committee. Vote 12-0.

Amendment (1105h)

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

AN ACT relative to destruction of information.

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

1 New Paragraph; Destruction of Certain Information Prohibited. Amend RSA 641:7 by inserting after paragraph III the following new paragraph:

IV. Knowingly and purposely destroys any information, electronic or written, which is requested for inspection pursuant to RSA 91-A prior to such inspection. If a request for inspection is denied on the grounds that the information is exempt from RSA 91-A, the requested material shall be preserved for 90 days or while any lawsuit pursuant to RSA 91-A:7-8 is pending.

2 Effective Date. This act shall take effect January 1, 2002.

AMENDED ANALYSIS

This bill declares that any information requested pursuant to the right-to-know law shall not be destroyed prior to such inspection. This bill provides a procedure for when inspection is denied. Under this bill, any person who purposely and knowingly violates this provision shall be guilty of a misdemeanor.

Rep. John Pratt spoke to the bill.

Adopted.

Report adopted and ordered to third reading.

SB 122-FN, relative to the license to carry a weapon. **INEXPEDIENT TO LEGISLATE**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: This bill extends the expiration period for a license to carry a loaded and concealed weapon from four to ten years and requires notification of the expiration of said license. At the present time RSA 159:6, entitled "License to Carry" provides that a "suitable person" will be issued a permit to carry a loaded and concealed pistol or revolver on their person or in a motor vehicle. The permit expires upon the fourth anniversary of the applicant's date of birth following the date of issue. An application for renewal shall be approved providing that the status of a "suitable person" has been maintained during the prior four years. Legislation has determined that a person's "suitability and residency" are easily subject to changes within a four-year period. For that reason, the Criminal Justice and Public Safety committee felt strongly that to extend the life of this permit beyond four years was to diminish the value of any background investigation that determined that person's suitability to hold a permit. This bill also obligates the issuing agency (the local police chief), to remind the permit holder, via first-class mail, that his/her

permit is about to expire. Because of the staggered expiration of the permits, the committee felt this would place a burden of finance and time on police departments, and should be the responsibility of the permit holder to monitor its expiration. It is the opinion of the committee that this provision would violate Part I, Art 28-a, which prohibits unfunded mandates. Members of the NH Chief's of Police Association appeared in opposition to this bill. Vote 12-1.

Rep. Wendelboe spoke against.

Reps Kennedy and Welch spoke in favor.

Rep. Tholl spoke in favor and yielded to questions.

On a division vote, 305 members having voted in the affirmative and 35 in the negative, the report was adopted.

suspension of rules

Reps. Scanlan and Burling moved that the Rules be so far suspended to permit the deadline of Wednesday, May 30, 2001, the last day to report all Senate bills for action in the first-year session and the last day for committees to report list of retained Senate bills, to be moved to Thursday, May 31, 2001.

Rep. Herman spoke in favor.

Adopted by the necessary two-thirds vote.

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 31, 2001 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 55, creating a commission to study the need for and location of architecturally secure facilities and community shelter care facilities to service juveniles.

SB 123, establishing a committee to study how information regarding private individuals is obtained, maintained, and employed by the division of children, youth and families.

SB 136, establishing a committee to study the use of multi-disciplinary team investigations of child abuse and neglect allegations.

SB 103, changing the qualification requirements for charitable organizations that conduct bingo or lucky 7.

SB 131-FN-A, establishing a study committee relative to charitable bingo operations.

SB 59, relative to the inclusion of a signature declaration and verification statement on teacher certification applications.

SB 71-FN, establishing a study committee relative to the regulation and compensation of persons licensed under the real estate practice act.

SB 157, relative to state government information dissemination and access.

SB 190, dedicating the I-93 causeway at Moore Dam and the Cottage Street Bridge in Littleton.

SB 45, relative to the legislative oversight committee on electric utility restructuring.

SB 93, establishing a committee to study the public health and environmental benefit of requiring stationary and mobile sources that burn virgin petroleum products or coal to comply with the requirements of the air toxic control act.

SB 84, relative to funeral processions.

SB 156, relative to the suspension of drivers licenses of persons under 20 years of age.

SB 184, relative to review of fees for the removal and impoundment of motor vehicles.

SB 13, relative to the duties of a school nurse and relative to school food and nutrition programs.

SB 68, relative to school district placements of children living in foster homes.

HB 550-FN, relative to destruction of information.

unanimous consent

Reps. Rozek and Loren Jean addressed the House.

Rep. Avery moved that the remarks made by Reps. Rozek and Loren Jean be printed in the Journal. Without objection, the Speaker so ordered.

Rep. Rozek: Thank you, Mr. Speaker. Honored members of the House, another Memorial Day is almost upon us and the Speaker has reminded me of the three minute rule. I answered, "Yes, sir, Mr. Speaker, six minutes, please." And for those members who may know this story, please bear with me. Hardly a day passes for me in this legislature without hearing something mentioned about the PDA (Pease Development Authority). Pease Tradeport. So, what do the Pease Tradeport, Plymouth,

New Hampshire, World War II, a B-17 Flying Fortress and the Congressional Medal of Honor have in common?

Thirteen million men and women served our country during World War II. Only 433 received our country's highest award for valor, the Congressional Medal of Honor. Three were from New Hampshire. I would like to share this interesting story with you about one of these individuals, Captain Harl Pease, a native from Plymouth, New Hampshire, born on April 10, 1917.

Captain Pease had many friends. They were drawn to him by the warmth of his personality. He was a born leader of men, very energetic and dedicated to help win the war. After receiving his pilot's license in 1940, he was called to active duty. During 1941, he was assigned to join the first mass flight of B-17s over the Pacific earning his Air Medal Award. In the early part of 1942, he flew numerous rescue missions to Java and Corregidor which earned him the Distinguished Service Air Medal.

Captain Pease always volunteered for whatever type of mission was needed: evacuations, bombing runs, strafing or reconnaissance. His navigational and mechanical skills served him well. Stationed at Port Moresby, New Guinea, scheduled for a bombing mission against Japanese forces at Lae, New Guinea on August 5, 1942, his B-17 took off and soon developed an engine failure. Since there were no facilities and equipment available at Port Moresby for repairs, as squadron commander, he opted to fly to Townsville, Queensland, Australia. There, Captain Pease learned that his B-17 could not be repaired. He and his crew voluntarily selected and worked over one of the several grounded B-17s in order to complete their mission. Once the B-17 was made "so called" air worthy, they were not able to participate in the Lae mission. Undaunted, at approximately 11:00 p.m. Captain Pease and crew arrived back at Port Moresby where they rested for a few hours until approximately 1:00 a.m. when they rejoined their squadron for the bombing of the Japanese airdrome at Rabaul on August 7th.

Throughout the long flight to the target on New Britain Island, Captain Pease managed to keep the worn out B-17 in formation. Less than 11 miles from the target, Japanese Zeros jumped the flight of bombers. Captain Pease's B-17 took tremendous fire from the enemy fighters. However, his gunners managed to shoot down three Japanese Zeros. Captain Pease stayed in formation throughout the bombing run, dropping his bombs on target.

With the Zeros still chasing the B-17s back towards Port Moresby, Captain Pease's B-17 was seen to take fire on the bomb-bay fuel tank. Over the island of New Britain, Captain Pease was last seen to drop a flaming bomb-bay fuel tank when the other B-17s lost sight of him.

Captain Pease and his crew never returned to Port Moresby.

For years it was suspected that Captain Pease and crew perished with their aircraft. In the mid 1980's, it was discovered by John Mitchell, while visiting the Air Museum in Papua, New Guinea, that two Air Force officers had been shot down on August 7th and taken prisoner on the island of New Britain near Rabaul. The final piece of the puzzle was provided by a Catholic priest, Father George Lepping, who was interned at a Japanese prison camp near Rabaul in September, 1942. He found Captain Pease there along with three other American fliers. Everyone respected him, Father Lepping stated, including some of the Japanese guards. Captain Pease was a natural born leader without trying to be one. The Japanese looked up to Captain Pease because they were in awe of the Boeing B-17 Flying Fortress and to have the captain of a "Boeing" as the Japanese called them. The younger Japanese guards would refer to Captain Harl Pease in broken English as "You, you Captain Boeing?"

Sadly, Father Lepping confirmed that on October 8, 1942, the 26 year old Captain Harl Pease from Plymouth, New Hampshire and three other Americans and two Australians were given picks and shovels and taken into the jungle by their Japanese captors to dig their own graves. The six unarmed prisoners were then subsequently executed by the sword.

On December 2, 1942, the parents of MIA Captain Harl Pease, on behalf of their son, received the Congressional Medal of Honor from President Franklin D. Roosevelt.

Pease Air Force Base was dedicated to Captain Harl Pease on September 7, 1957.

To this day, the remains of this brave and honored native of Plymouth, New Hampshire are buried somewhere in the humid jungle near Rabaul on the island of New Britain.

Rep. Loren Jean: The topic is going to be the same – Memorial Day. Memorial Day is the only national holiday that's celebrated while we are in session. However, there are two others, Independence Day on July 4th and Veterans' Day that have the same theme and that is veterans, armed forces, fighting men and women. Memorial Day memorializes those that have fallen and those that are deceased that served in the armed forces of the United States. Later on this year, December 7th, will be the 60th anniversary of the attack on Pearl Harbor, the attack that thrust United States into World War II.

Now, the average age a few years ago in this House was 59 years old and I think we are getting younger. So, probably, for most members in this House, they don't have a working recollection or memory of World War II. Those that served in World War II or those that have a working memory of World War II, they have perspective. That is what's lost on those, they have absolutely no idea of the monumental task that faced this country where ships were sunk in the tens of thousands, aircraft were lost in the hundreds of thousands and the human toll was in the scores of millions. We heard people say that they had gone through World War II unscathed. Nobody goes through war unscathed. Because you take a peace loving people from their farms, their factories, their homes, their hearths and you teach them to kill and destroy which is counter to human nature. So, on this Memorial Day weekend, I want you to think of these other holidays. I want you to think of the Fourth of July where people assembled a rag tag army and took on the world's superpower. They had no idea they were going to win. Yet, they defeated the largest army, the largest navy at the time. We are not in session Veterans' Day, so I want you to disperse a little intensity of your fervor on this Memorial Day to those other two holidays while you are in this room. It is with intense pride that I serve with members of the armed forces that served in World War II that are present in this House, and with your permission, Mr. Speaker, would I ask them to rise, please.

Speaker: Would those members who are veterans who are in the House, please stand.

Rep. Jean: Now, I did not intend to slight any other veteran of any other conflict or any other veteran, period. Whether you serve in peace or war, when you don the uniform of the United States, you say to your brethren, your countrymen, that "I am now a member of the warrior profession, do with me as you will and I will serve honorably." So, this Memorial Day weekend, I urge you, please have the intensity of pride that those people who wore the uniform had when they decided to serve their country and if there is a Memorial Day function in your town, attend it. If there is no Memorial Day function in your town, you have to be there when there is a parade, fold your hand over your heart and salute the flag in memory of all these people. Thank you.

RECESS MOTION

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

Adopted.

The House recessed at 11:25 a.m.

RECESS