

HOUSE RECORD

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Court**

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No. 16

HOUSE JOURNAL No. 5(cont.)

Thursday, February 6, 2003

Rep. Hess moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 6

Thursday, February 13, 2003

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.

Blessed and compassionate Creator of all who has graced us with gifts too numerous to count, bless the work of this honorable House today as it considers both the opportunities and necessities of using New Hampshire's resources for the benefit of every citizen, especially those who need a helping hand.

During these difficult and troubled days, help us to keep our communities strong, our values clear and our respect for the dignity of every human being unshaken.

As always, we especially ask Your protective blessing to be with those who serve in the armed forces, police and fire service, and their loved ones, who stand in harm's way today in the defense of our country and our beloved New Hampshire. Amen.

Rep. Janet Allen led the Pledge of Allegiance.

The National Anthem was played by violinist Sarah Stohrer.

LEAVES OF ABSENCE

Reps. Chabot, David Cote, Goulet, Grassie, Guay, Pepino, Ruffner and Katherine Taylor, the day, illness.

Reps. Balcom, Bartlett, Bleyler, Cail, Colcord, Corbin, Franklin, Furman, Bonnie Ham, Paul Harrington, Hopper, Introne, Musler, Priestley, Seldin and Soltani, the day, important business.

Rep. Brundige, the day, illness in the family.

INTRODUCTION OF GUESTS

Sharon and Mark Sykas, guests of Rep. Scamman. The Honorable Martha Fuller Clark, guest of Rep. Buckley. Brad Smith, guest of Rep. Boyce.

Sara Hemeon and students from Merrimack Valley High School with their teacher, Mrs. Gormley, granddaughter and guests of Reps. George and Phyllis Katsakiores. Deana Delucca, guest of Rep. Thomas

RESOLUTION

Reps. Hess and Burling offered the following:

RESOLVED, that the House inform the honorable Senate it is ready to meet in Joint Convention for the purpose of hearing Governor Craig Benson deliver his budget message.

Adopted.

SENATE MESSAGE

The Senate is now ready to meet with the honorable House of Representatives in Joint Convention for the purpose of hearing Governor Craig Benson deliver his budget message.

JOINT CONVENTION

(Speaker Chandler presiding)

Executive Councilors Spaulding, Griffin, Wieczorek and Wheeler joined the Joint Convention.

His Excellency, Governor Craig Benson, addressed the Joint Convention.

Mr. Speaker, Mr. President, Members of the House and Senate, Members of the Executive Council and other Honored Guests:

It is my pleasure to be here today to talk about New Hampshire's future. And no discussion about New Hampshire's future is complete unless that discussion includes our children. For 200 years every generation has insured that the younger generation has had more opportunity for success than they themselves have had. To do that, you need to make tough decisions and those decisions need to be based not on the next election but on the next generation. I'm pleased to be here today to use the tools that our children would be more comfortable using than we ourselves are. But, for our children's sake, I think it is time we begin to communicate as they do. And, for our children's sake, I believe we must embrace change.

I want to thank you, Mr. Speaker, for allowing me to use this hallowed Hall as a way to demonstrate the combination of tradition and technology. And as the constitution requires, I have brought my copy of the budget done in the traditional way, but I ask that we think more in terms of our children.

Our mission was made very clear last November when a record number of voters turned out and told us some simple things. They were tired of paying higher taxes, they wanted us to sit around government's kitchen table and make tough decisions, and they wanted us to act like they do – live within our own means. My opponent advocated higher taxes as a way to fix our problems, the voters have soundly rejected that with the following statement. No income tax, no sales tax, no new taxes, no higher taxes, no way.

So how do we proceed forward? Massachusetts, Maine, Connecticut are all facing similar problems to ours, in fact, theirs is even more dire than the situation here in New Hampshire. They have a sales tax, they have an income tax, and some even have gambling. So it proves the point. Taxes aren't the solution to the problem. They are the problem.

We as Americans have been through tough times before. Other generations have always unified for the sake of the younger generations. I can think of countless incidents where my parents sacrificed for my own future. I'm sure you can remember when your parents did the exact same thing. Sacrifice means making tough decisions. But we do it knowing that we love our children and want them to be more successful than even we could possibly be. It's time to stand up and make good decisions. No more ducking, dodging and deferring those tough decisions and passing them off to our children. Our parents didn't do that to us and it's about time that we take our responsibilities seriously too. If we are to reach the stars, then we will have to stand on the shoulders of giants that have come before us to make that goal occur. I look forward to working with you to do it.

New Hampshire's deficit is \$70 million in the biennium ending this June. It will reach \$230 million in the next biennium. We, frankly, have to stop spending more than we take in. Every New Hampshire family knows that. Prior administrations have drained our savings account and we face some tough challenges. Healthcare cap costs are going up. Employee costs are going up. Demand for social services in light of the weak economy is going up. Education costs are going up, too. Confronting these problems may be unique to government but it's not unique to organizations that have faced tough times. You need to work with people to maximize your resources and minimize your

disruptions. Tough times bring people together and I'm hopeful that that will happen in this very instance.

I brought with me today, and they are seated in the gallery, the various department heads that run all the agencies in the State of New Hampshire. They put forth a lot of work to make this budget happen and turn it into a reality for our future. And I would like to take one minute to recognize their efforts, and if I could, ask them to stand so they may be recognized by everybody. That, ladies and gentlemen, is the team that will ensure New Hampshire's future is a bright one.

Time was short to build this budget. I've only been in office five weeks but we have worked very, very hard to accommodate the needs we have in this state. One thing I didn't want to do is do what is being done in other states, and that is to pass our problems on to the local towns and cities throughout the State of New Hampshire. We created these problems, we need to solve these problems. We're not going to create new taxes or increase the rate of taxes. We're even going to be able to lower the rate of spending in state government even with significant costs drivers. I'm not going to stand here and tell you that there is no pain in this budget. I am going to tell you that we have started on a process of identifying the state's wants versus its needs and we will continue to drive that process throughout my administration.

Our children, our most valued assets, leave New Hampshire more than half the time to pursue their dreams someplace else after we provide them an education and make a significant investment in that education. To me that is just plain wrong. These are good kids and I want them to grow up here, but they need a great job to pursue their dreams in New Hampshire.

As I campaigned, I noticed that New Hampshire is dominated with old mill buildings that stand as testaments to companies that have come and gone many years ago. Who would have ever thought that these giant companies that could build these great mills could possibly ever disappear like dinosaurs? Well, in fact, not one of them is left occupying any of those mills throughout New Hampshire. It just goes to show that New Hampshire's economy is dynamic and changing and if we are to keep pace we must change too.

As such, I have hired a small business advocate in my office to work with small businesses to help ensure their success through government and by helping them with the resources we can deploy in state government. I would like to create a new program and announce it today called "Start-up New Hampshire." Take \$350,000 out of this biennium budget and give it to college students who graduate from New Hampshire colleges or universities and want to found a company right here in New Hampshire and want to grow it in New Hampshire. I think that is one way to spur our economy. We have also put forth another program called "Garage Grants" to start to fund startup incubators throughout the state of New Hampshire. These incubators will spawn great, new ideas and they will allow entrepreneurs to pursue their dreams. These entrepreneurs will create these new visions and like tiny acorns they will grow into great oak trees some day. The next fifty years will be dictated by what we do today. I look forward to being able to set the course for New Hampshire's future.

Tomorrow my daughter, Lauren, turns 18 years old (it's probably what I deserve more applause for than for anything else) and I look forward to her future being right here in New Hampshire along with all your children's future right here in New Hampshire, as well.

We've debated the cost of education far too long but we have not spoken of quality. Today that will change. These very tools I am using here today represent a huge change in the way we communicate but these tools are very familiar to our children. This is how they communicate. It's about time we start to communicate in their language. We made some tough choices in the Department of Education, university system and technical colleges. Our neighbors in the surrounding states have

done the exact same thing. I appreciate working with the administrations of the various departments to ensure that we don't miss a beat in spite of these changes we've had to make. To me, the core of education is locally controlled and that's why I've given slightly more money to cities and towns to ensure they keep providing great education to our New Hampshire children.

But we are not stopping there. Finally, we need to find a way to help cities and towns that are having trouble meeting their education obligations. I'm calling this program "No Community Left Behind." It will fund \$20 million in targeted aid to cities and towns that need it most in this biennium alone. That number will grow to \$62 and one-half million next biennium for targeted aid. That, ladies and gentlemen, is the way we will fix education once and for all.

Coupled with this targeted aid we will also find significant decreases in the statewide property tax. Fourteen percent in this biennium alone. In the next five years, we will reduce the statewide property tax by almost fifty percent, saving New Hampshire taxpayers close to a billion dollars cumulatively over the next five years. Competition is what built America. It's what made me sharper in business. It's what we need in education. So, today I am announcing a new program called "Choice Now"; \$4 million dollars targeted to development and startup of charter schools in the state of New Hampshire. We can finally make it a reality. We're not going to stop there. Home schooling is something we have talked about for a long period of time but we have done nothing to help those parents with the challenges they have with educating their own children. As part of this budget, we are developing a program called "School at Home." \$2 million over the biennium to help home schoolers defray some of the costs they incur with teaching their children in their own homes.

For too long we have put up with physical dropouts from our schools, but I have to tell you there's more children that mentally check-out from the schools than the physical ones we can count. It's time we challenge every student in every subject, in every school and accept nothing less. Today I'm announcing a program called "E-Ticket to Learning," Internet based course learning for which we will provide \$4 million to develop courseware to export to every schoolroom in this state because we will find a way to challenge every student in every subject and individualize that content so those children can be excited about going to school.

And, we're not going to stop there. I've hired an education reform mentor to work directly in my office. I've done something a little strange, I hired a teacher to do that. This teacher has not only been a teacher, she's also been a school board member, she's taught at the community technical colleges and she's an entrepreneur who started her own preschool. She will make a real difference in education and the future of New Hampshire.

This is a caring budget. Our Health and Human Services budget, as you know, is a sizable one. We've given Health and Human Services \$80 million over the biennium more than the guidelines for other departments. We're spending more than ever before on these services; however runaway costs make the job very, very tough. That means we have to make very wise investments. One of those investments we are going to make today is to reduce the disability waiting list. We're going to put \$3 million to ensure that the disability waiting list comes down in size. Will that remove the disability waiting list completely? Absolutely not. But it will set us off to a very good start.

We need to help find qualified professionals to work in some of the most challenging jobs in America – our nursing profession. So, today I'm announcing a new program called "Nurses Stat," \$2 million to help with tuition reimbursement for nurses who guarantee they will stay and practice their profession right here in the state of New Hampshire. It will augment other programs we already have in this state but it was a way to focus on a profession that we need to pay a lot of attention to for our future.

As part of my budget, we have asked providers of healthcare to take a five percent reduction in their payment levels. However, we are also going to work to pass, as part of this budget, sweeping medical malpractice reform. We are not going to let the courts dictate healthcare decisions anymore. That's between the patient and their healthcare provider, and I'm proud to say we are going to make this a big part of our budget and make it happen in New Hampshire, now.

We've had to make changes in our Medicaid programs throughout the state but despite these tough times and despite the changes that have been made throughout the country to Medicaid, the Healthy Kids Program has actually increased. We are very committed to making sure that Healthy Kids stays a part of New Hampshire's landscape.

I've also done something else a little bit crazy. I've decided that a healthcare advocate needs to be part of the governor's staff. If we are really going to get this done, let's drive it out of the governor's office. So, I've hired someone from the hospital business to come in and help me dictate what the policy changes are that we are needing throughout this state to make things occur in the healthcare industry. I know it's a little strange but it's time we listen to people who are providing local care to people in every single community throughout this state and make sure that any changes we make only positively effect the patients.

Government can't do it all, I know. I've had a great chance to go out and meet with so many different organizations that are providing many social services throughout this state on a local level. People who founded these organizations have a dream, a passion, a determination to make things happen. I call them community entrepreneurs. Their enterprises start in living rooms, soup kitchens, church basements, but they really make a difference in their local communities. Today, I want to start a program to leverage community entrepreneurship. We're going to call it "Community Entrepreneurship Grants." We're going to provide startup capital to social organizations dedicated to delivering services to the neediest people throughout the state and their local communities. As an entrepreneur, I know the challenges of a startup and they can be daunting. My program will fund those programs and fund those dreams.

Government reform is way overdue. We all know that, but reform takes a team and our team is 12,000 strong. Unlike other states that have chosen to balance their budgets on the backs of their most valuable assets, their state employees, we are not going to do that here. The changes we're making will be minimally disruptive to our employees and be focused on ensuring that we get to a place where we deliver services efficiently and effectively for our citizens. It won't be easy but it can be done. We will make cost cutting methods one of the priorities of this administration. Everybody needs to take part in that exercise for us to be successful long term. So, one of the ways in which we're going to do that is we're going to start with the Governor's Initiative Award, an award that takes my salary and gives it back to state employees willing to make changes. But, we're not going to stop there. We are also going to capture savings of \$30 million with new efficiency programs. We are going to make employees part of that change because they are the ones that are going to have to make those changes. I'm going to call this the "Can Do Incentive Program." Ten cents of every dollar we save as part of this initiative will go to the employees making those changes. Ninety cents will go back into the Rainy Day Fund, our state savings accounts that we robbed to balance this budget. We need to do that for our children's future.

Everyone knows that government can be more efficient and during this exercise we have found some instances of that, if you can believe it. We found that we're paying for utilities to the tune of \$150,000 to buildings that have been abandoned. We found numerous duplications between departments; and we found many, many paper reports (not the least is this one) that could be done electronically. The efficiency committee will help us find ways to do things, but my suggestion box both electronically and the one that sits outside my office has already captured some great ideas without the help of the efficiency committee. Today I would like to recognize some great state

employees that have provided us with some great suggestions and they are in the audience. Please recognize Patty Smith, Bill Simington and Michael Fitzgerald. Thank you for your efforts.

Government's front door should not only be accessed with a doorknob. We are the second most technology literate population in the entire country. Half of our population accesses the Internet on a daily basis. Their access to government should with a mouse. It's more time effective for our citizens and more cost effective for our government. Today I'd like to announce a new department, the Department of Technology Implementation. It will bring together all the different technology people and assets we have throughout the state under one roof, and finally provide us one communication platform, one look, one feel from the accountancy board to the youth development services organization. Doing this better will allow us to give our citizens a better government experience and allow us to use our resources more wisely than ever before. As part of this initiative, I am pleased to announce that the state has a new Chief Information Officer who will drive this process. He is Bob Anderson who has worked with me for over 13 years. He's not only a great listener but a fantastic doer and he joins us today. Bob, would you please stand.

I've also dedicated a person in my staff to be a government reform guru. If we are going to move to the 21st century, we have to drive it right out of the governor's office and I think it's in everybody's best interest that we do that. I also happen to think that you lead by example. My own governor's office has cut its budget from the predecessor's budget down to 90% of last year's level. My staff is about two-thirds the size of the former governor and my transition team did not spend all the money you kindly appropriated to me for my transition efforts; we're returning half that money to the state treasury for use in other places.

I'm really pleased to be here speaking to the House and the Senate because you are my partners. We must do this together and part of partnership is choice. So what I've put in my budget to help you have some choices about your priorities is \$15 million unallocated for you to put in the programs that you think merit some funding. I believe that is true partnership and no governor has done that before to my knowledge and I think it's the right way to move forward.

We started with taxes; we're going to end with taxes. This has been a tough budget, but no tougher than New Hampshire families are facing. Many of our New Hampshire families have plummeting 401Ks and have had to make many job shifts, sometimes at lower pay. These people have been hit by hard times and it's about time we understand their pain. The voters have spoken very clearly on our use of their resources. We need to begin today to be as effective as possible.

One thing I think taxpayers deserve, though, is a down payment on their past investments. So, we are going to deliver to them no new taxes, no new tax increases but some tax cuts. Nine million for funding of a senior property cut; almost a billion dollars in the next five years in property tax relief by cutting the statewide property tax rate almost in half; cuts to business taxes on property and additional funding in a net operating loss provision. While this is just a beginning, it's in sharp contrast to what other states are doing where they are raising taxes. I believe this sets us apart from the rest of the country. Living within our means means preserving the New Hampshire advantage for our children to partake in.

There is more to be done and this graph shows why we're in the situation we're in. The bottom green line reflects where government should have been spending, that's the rate of inflation. The top blue line is where we have been spending. We didn't control spending. We are spending more than we are taking in. Living in debt is not only in violation of the New Hampshire constitution, it's also morally wrong. And to ensure that we never get here again, I am proposing, as a separate initiative, the Taxpayer's Bill of Rights. A program by which we are growing the state of New Hampshire's government at the rate of inflation. By capping the rate of growth of inflation and making it much

harder to raise and create new taxes, we will ensure that government always lives within its means and doesn't pass these problems on to its children.

I am pleased to offer this budget and these real savings to New Hampshire taxpayers. There will be obstacles in the road, let me say that from the start, but we will get by those obstacles. There will be naysayers on the sidelines who try to condemn this process. Be wary of those who criticize without solutions as to how to make change, as these are the people who will try to disrupt the process and condemn our children's future hopes and dreams. That isn't what New Hampshire was built on. Do not encourage them to ruin New Hampshire's future. If we do the job well, we can build on the saying that former governor Meldrim Thomson said and we can boast that New Hampshire is what America ought to be.

My prayers are with all of you. God bless you and God bless the great state of New Hampshire.

Sen. Clegg and Rep. Hess moved that the Joint Convention arise.

Adopted.

house session

(Speaker Chandler in the Chair)

The Speaker reconvened the House session

RESOLUTION

Rep. Hess offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 48 and 52 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 48, exempting housing for older persons from certain age discrimination laws. (Commerce)

SB 52, relative to a voluntary certification program for police dogs and handlers. (Criminal Justice and Public Safety)

COMMITTEE REPORTS

CONSENT CALENDAR

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

HB 58, requiring the department of transportation to study and report on the advantages of constructing state-owned truck service centers, removed by Rep. Shultis.

HB 349, relative to establishment and enforcement of speed limits, removed by Rep. Vachon.

Consent Calendar adopted.

HB 159, relative to meetings of the directors of nondepository trust companies. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation simply reduces the required number of director meetings from nine to four for non-depository trust companies if they are rated by the New Hampshire Banking Department as either I (the highest) or II. If a non-depository trust company is rated III or lower, the NH Banking Department has absolute authority to require any number of additional meetings as justice may require until such time that they have attained a rating of I or II. Vote 16-0.

Amendment (0099h)

Amend the bill by replacing section 1 with the following:

1 Meetings; Records; Highly Rated Nondepository Trust Company Directors. Amend RSA 384:7 to read as follows:

384:7 Meetings; Records. The trustees or directors shall meet on a regular basis as often as necessary but not less than 9 times per year~~[-and]~~, ***except that the directors of a nondepository trust company that has a composite rating of at least 2 as a result of the most recent examination by the bank commissioner, shall meet on a regular basis as often as necessary but not less than 4 times per year.*** At such meetings the work for the preceding period of the investment committee, and of all other committees appointed by the trustees or directors, shall be submitted to the board for examination. A record of the meeting shall be kept, showing the names of the trustees or directors present. A majority of the board of trustees or directors shall be a quorum for the transaction of business. The board of trustees or directors shall adopt a policy providing standards for determining the number of absences by a director or trustee from meetings of the board or the committees which shall result in a declaration of dereliction of duty by the board and its removal of the director or trustee from office.

AMENDED ANALYSIS

This bill requires directors of nondepository trust companies to meet a minimum of 4 times a year.

Nondepository trust companies engage solely in trust activities for their customers. They do not accept deposits, make loans, or engage in regular banking business.

HB 334, establishing an international trade commission to investigate and report on the effects of international trade agreements on New Hampshire self-governance. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: Although the efforts of the sponsor are noble in setting up a commission to review prior treaties consummated by the United States Senate, or reviewing proposed treaties before they become a fact, the Commerce Committee was unanimous in agreeing that such a commission would not be effective. It is our opinion that contact with our congressional delegation would be a much more effective method of articulation of concerns rather than a commission, which would meet once a year. Vote 16-0.

HB 146-FN, relative to criminal penalties for child pornography offenses. **INEXPEDIENT TO LEGISLATE**

Rep. William V. Knowles for Criminal Justice and Public Safety: This legislation attempted to establish a one-year minimum mandatory sentence for child pornography. The current penalty for a first offense for child pornography is 3-1/2 to 7 years. Most judges use common sense in their sentencing applied to individual circumstances. This bill was the result of a judge's decision on a case where no jail time was assigned. The committee feels that judges should retain discretion in sentencing. Vote 19-0.

HB 155, relative to responses by law enforcement officers when traveling outside their jurisdictions. **INEXPEDIENT TO LEGISLATE**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: This bill would grant law enforcement officers traveling outside their jurisdiction the authority to take certain actions if he/she observes a crime or serious motor vehicle violation or life safety incident which may cause serious injury or death. Rep. Tholl extended the courtesy of introducing the bill; however, no one testified in support of same. The sub-committee felt that there was sufficient current law in effect to grant law enforcement officers the necessary authority to take such action. Vote 19-0.

HB 179, establishing a committee to study enhancement of laws relating to vehicle pursuits. **OUGHT TO PASS**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill establishes a committee to study enhancement of laws relating to vehicle pursuits. In particular, there was considerable testimony pertaining to problems that arise in interstate pursuits. Because this is a major concern for border communities, the Criminal Justice Committee unanimously supported the concept of the proposed legislation. It was envisioned that the committee established from this proposal would be able to look at interstate compacts and other matters that directly impact our border towns and cities. Vote 18-1.

HB 198, relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill as amended allows a law enforcement agency to request assistance from another law enforcement agency in a "mass critical incident". While there is current legislation that permits contiguous communities to enter into extended authority agreements, there is no procedure to account for widespread disasters where assistance is required from towns at some distance from the event. This legislation gives authority to the responding agency to make arrests and have full police power for the duration of the event. What this bill does not do is create any obligation on an agency to respond. Such response is, and should be, left to the responding agency. The amendment defines "mass critical incident" for the purpose of this bill. Vote 20-0.

Amendment (0203h)

Amend RSA 106-I:1 as inserted by section 1 of the bill by replacing it with the following:

106-I:1 Notwithstanding any law to the contrary, a law enforcement officer who responds to a mass critical incident in another jurisdiction, in response to a request by the highest ranking on-duty police officer of the requesting jurisdiction, shall have authority to make arrests and shall have full police powers for the duration of the incident, unless terminated by the law enforcement authority in the requesting jurisdiction. The request for assistance must be received directly from the highest ranking officer or indirectly through a law enforcement dispatch center. For purposes of this section, a mass critical incident includes such events as a natural disaster, riot, hazardous material incident, an act of terrorism, or widespread personal injury or loss of life.

AMENDED ANALYSIS

This bill grants the authority to make arrests and full police powers to any law enforcement officer who is requested by certain authorities to respond to a mass critical incident in a jurisdiction other than the jurisdiction which employs such law enforcement officer.

HB 206, relative to filing of complaints for violation-level offenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl for Criminal Justice and Public Safety: This bill allows the electronic filing of complaints without the requirement for it being filed under oath. It provides that a statement shall be provided stating that making false statements may result in criminal prosecution. It further amends RSA 641:3 to include electronic statements in the law. This will allow police officers to utilize the computers and available data transfer systems to file complaints with the Department of Safety and the courts. When the officer appears in court, he testifies under oath. Vote 20-0.

Amendment (0156h)

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

1 Jurisdiction and Procedure; Complaints; Filings for Violation-Level Offenses. Amend RSA 592-A:7 to read as follows:

592-A:7 Complaints. Criminal proceedings before a district [~~or municipal~~] court shall be begun by complaint, signed and under oath, addressed to such court, briefly setting forth, by name or description, the party accused and the offense [~~with which he is~~] charged, ***provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for a violation-level offense shall not require a signature or an oath. Any complaint filed electronically shall provide notice that making false statements on the complaint may result in criminal prosecution.***

2 Unsworn Falsification. Amend RSA 641:3 to read as follows:

641:3 Unsworn Falsification. A person is guilty of a misdemeanor if:

I. He ***or she*** makes a written false statement which he ***or she*** does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

II. With a purpose to deceive a public servant in the performance of his **or her** official function, he **or she**:

(a) Makes any written **or electronic** false statement which he **or she** does not believe to be true; or

(b) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(c) Submits or invites reliance on any writing which he **or she** knows to be lacking in authenticity; or

(d) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he **or she** knows to be false.

III. No person shall be guilty under this section if he **or she** retracts the falsification before it becomes manifest that the falsification was or would be exposed.

3 Effective Date. This act shall take effect January 1, 2004.

AMENDED ANALYSIS

This bill allows for the electronic filing of complaints for violation-level offenses without a police officer's signature or oath. The bill clarifies that the misdemeanor penalty for unsworn falsification applies to false electronic complaints.

HB 212, defining "terror" and "act of terrorism" for the purposes of criminal threatening. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: As stated in the analysis, this bill defines "terror" and "act of terrorism" as it applies to criminal threatening. During the hearings, the only opposition pertained to an irrelevant section of the original bill and that section was removed by the committee. Vote 19-0.

Amendment (0079h)

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

AN ACT defining "terrorize" for the purpose of criminal threatening.

Amend RSA 631:4, III as inserted by section 1 of the bill by replacing it with the following:

III.(a) As used in this section, "property" has the same meaning as in RSA 637:2, I; "property of another" has the same meaning as in RSA 637:2, IV.

(b) As used in this section, "terrorize" means to cause alarm, fright, or dread in a reasonable person; the state of mind induced by the apprehension of hurt from some hostile or threatening event or manifestation, or the fear caused by the appearance of danger.

AMENDED ANALYSIS

This bill defines "terrorize" for the purpose of criminal threatening.

HB 223, relative to the temporary removal of inmates. **OUGHT TO PASS**

Rep. John E. Tholl for Criminal Justice and Public Safety: This bill simply removes the requirement that the superior court be notified whenever an inmate is transferred for medical purposes for a period in excess of 24 hours unless the prisoner is not in custody of correctional officers. It further removes the requirement to obtain a superior court order for the inmate to be removed to attend court. Vote 20-0.

HB 278-FN, relative to certain acts of sexual assault. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen H. Nedeau for Criminal Justice and Public Safety: This bill provides for a class A misdemeanor sexual assault when the actor engages in sexual penetration with a person other than his legal spouse who is 13 years of age or older and under 16 years of age when the age difference is 4 years or less. The committee felt that they should remove the section on coercion, force or intimidation, because of date-rape drugs, or other drugs that would have or could have affected the person's state of mind. Vote 19-1.

Amendment (0165h)

Amend RSA 632-A:4, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) In the absence of any of the circumstances set forth in RSA 632-A:2, when the actor engages in sexual penetration with a person, other than the actor's legal spouse, who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is 4 years or less.

AMENDED ANALYSIS

This bill provides that an actor is guilty of class A misdemeanor sexual assault when, absent any act that would constitute aggravated felonious sexual assault, such actor engages in sexual penetration with a person other than a legal spouse who is 13 years of age or older and under 16 years of age where the age difference between the actor and the victim is 4 years or less.

HB 522-FN, relative to penalties for child pornography. **INEXPEDIENT TO LEGISLATE**

Rep. William V. Knowles for Criminal Justice and Public Safety: This legislation is identical to HB 146-FN which was recommended inexpedient to legislate. Vote 19-0.

HB 99, relative to absentee ballot requests. **OUGHT TO PASS WITH AMENDMENT**

Rep. Natalie S. Flanagan for Election Law: This bill, as amended, offers the voters the opportunity to request an absentee ballot by facsimile. It is just one more step in making the process of voting easier for our citizens. Vote 15-2.

Amendment (0032h)

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

1 Procedure for Absence, Religious Observance, and Disability and Overseas Voting;
Provisions for General Election; Facsimile Application. Amend RSA 657:12 to read as follows:

657:12 Provisions for General Election. Upon receipt of a properly executed application for an official absentee ballot, whether the form supplied by the secretary of state, the federal post card application form, or a written statement containing the information required by the appropriate paragraph of RSA 657:4, a town or city clerk shall forthwith ascertain if the applicant is on the checklist of the town or city. If the applicant is on the checklist, the clerk shall send the materials provided for in RSA 657:15; if not, [he] ***the clerk*** shall refuse to certify as provided in RSA 657:16. ***An application may be transmitted by facsimile to a town or city clerk.***

2 Procedure for Absence, Religious Observance, and Disability and Overseas Voting;
Provisions for State or Presidential Primary Elections; Facsimile Application. Amend RSA 657:13 to read as follows:

657:13 Provisions for State or Presidential Primary Elections. Upon receipt of a properly executed application for an official absentee ballot, whether the form supplied by the secretary of state or a written statement containing the information required by the appropriate paragraph of RSA 657:4, a town or city clerk shall forthwith ascertain if the person is on the checklist of the town or city and is properly registered as to party designation. If such person is found to be on the checklist and to be properly registered or if such person is found to be on the checklist but is not registered as a member of any party, but the information supplied states he ***or she*** is applying for a ballot of a political party, [he] ***the person*** shall be registered as a member of said party; and, in either case, the clerk shall send the materials provided for in RSA 657:15. If the person is not on the checklist or is registered as a member of a party different from the one whose ballot he ***or she*** is applying for, the clerk shall refuse to certify as provided in RSA 657:16. ***An application may be transmitted by facsimile to a town or city clerk.***

AMENDED ANALYSIS

This bill clarifies that an application for an absentee ballot may be transmitted by facsimile to a town or city clerk.

HB 246, relative to availability of absentee voting applicant lists. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mark S. Derby for Election Law: This legislation would require that signatures of candidates or requests for absentee voter lists be acknowledged before a notary public or justice of the peace. The committee felt that this legislation would provide local employees with an increased comfort level as to the persons to whom they provide absentee voter lists. This legislation would also limit the potential for misuse of these lists for illegal purposes including but not limited to victimizing voters who will be out of town. Vote 16-1.

Amendment (0072h)

Amend RSA 657:15 as inserted by section 1 of the bill by replacing it with the following:

657:15 Sending Absentee Ballots. When the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver or mail to the applicant the appropriate ballot and materials as described in RSA 657:7 through 657:9 or designate an assistant to deliver such materials to the applicant. The clerk may not designate as an assistant any person who is a candidate for nomination or office or who is working for such a

candidate. Any ballots sent pursuant to the provisions of this section shall be mailed or delivered only by officials from the city or town clerk's office and delivered only to the applicant. If the address to which the absent voter's ballot is sent is outside the United States or Canada, such papers shall be sent by air mail. Said clerks shall keep lists of the names and addresses, arranged by voting places, of all applicants to whom official absent voting ballots have been sent, and shall identify those official absent voting ballots which have been returned to the clerk. Candidates whose names appear on the ballot ***and persons bearing notarized requests or copies of notarized requests from candidates whose names appear on the ballot*** may obtain copies of such lists; the lists shall not be available for public inspection at any time without a court order.

AMENDED ANALYSIS

This bill permits persons bearing notarized requests or copies of notarized requests from candidates whose names appear on the ballot to obtain copies of absentee voter lists.

HB 247, relative to processing absentee ballots. **INEXPEDIENT TO LEGISLATE**

Rep. Harriet E. Cady for Election Law: The Election Law Committee has changed the time of processing absentee ballots three times. The committee believes a uniform time to open absentee ballots throughout the state is essential for those who want to be present for the processing of absentee ballots. Also it was noted that some towns do not open their polls until 11:00 a.m. and find a line of voters at the same time as necessary processing would take place. Vote 16-1.

HB 148-FN, requiring the notification of renewal prior to expiration to holders of professional licenses issued by state agencies. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: It was felt that the decision to send renewal notices should be up to the individual boards. From a policy standpoint, this should be a matter of personal responsibility of the license holder to act appropriately in renewing his/her own license. Vote 16-1.

HB 376, establishing a committee to study the feasibility of performing eye examinations or eye screenings on children prior to enrollment in a public elementary school, public preschool program, or Head Start program. **INEXPEDIENT TO LEGISLATE**

Rep. James P. Pilliod for Health, Human Services and Elderly Affairs: The concerns raised in the testimony regarding detection of visual and eye function and problems are very important, and apparently are being met by current extensive and frequent evaluations by medical personnel prior to and during school years. No legislative study was felt to be necessary at this time. Vote 16-0.

HB 393, extending the reporting dates for certain study committees. **OUGHT TO PASS**

Rep. Peter L. Batula for Health, Human Services and Elderly Affairs: This bill simply extends the final reporting date on two different health studies. The first part extends the education of deaf and hard of hearing study committee. They have been meeting on a constant basis but their work requires more time and this bill allows that. The second is a commission that is currently studying the relationship of health and the environment. Again this extension allows for the work to be completed. Vote 14-0.

HB 457, establishing a committee to study the transportation needs of certain of the state's citizens. **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: The committee felt this bill had merit and was sympathetic to its goals. However, the committee felt that public transportation concerns could be better addressed at the county level. Regional planning commissions historically, have taken an interest in public transportation issues including services for the disadvantaged. Public transportation services and needs vary significantly in different areas of the state and require unique solutions. The committee learned that there are efforts o the county level to coordinate services. In addition, it was felt that the various jurisdictions in the state could utilize the expertise available in the Department of Transportation. Vote 16-1.

HB 167, relative to complaints against judges. OUGHT TO PASS WITH AMENDMENT

Rep. Robert H. Rowe for Judiciary: This bill amends RSA 494-A by requiring that all complaints against a judge, marital master, or clerk of court who have allegedly breached the Judicial Code of Ethics be directed to the independent Judicial Conduct Commission rather than to the court established Judicial Conduct Committee. Last term, the legislature placed into law a citizen majority Judicial Conduct Commission to receive, investigate and rule on complaints involving members of the judiciary who had breached the Code of Ethics. At the time that this bill passed, the legislature requested that the court dissolve its committee. The court did not dissolve its committee. There are two bodies hearing complaints. The Judiciary Committee believes that it is more economical for all complaints to be heard by one body. Further, by the independent commission hearing all complaints, the court will be released of the public perception that it is the judges hearing complaints against judges. Monies now spent by the Judicial Conduct Committee (in the court budget) should be diverted legislatively to the Judicial Conduct Commission to adequately deal with the anticipated increased workload. Vote 16-1.

Amendment (0194h)

Amend RSA 494-A:1 as inserted by section 1 of the bill by replacing it with the following:

494-A:1 Judicial Conduct Commission Established. A judicial conduct commission is hereby established which shall be completely independent of the New Hampshire court system and other branches of government. ***All complaints made against judges, as defined in RSA 494-A:2, IV, and clerks, as defined in RSA 494-A:2, I, shall be directed to the commission.*** The commission shall be administered by an executive director, appointed under RSA 494-A:3.

AMENDED ANALYSIS

This bill clarifies the jurisdiction of the judicial conduct commission.

Referred to Finance.

HB 244, relative to landowner liability for snowmobile accidents. OUGHT TO PASS WITH AMENDMENT

Rep. Bette R. Lasky for Judiciary: This bill was originally written as a law to release a landowner allowing access for snowmobiles from liability. At the same time of the hearing, the sponsors introduced an amendment changing the bill to a study committee to explore the liability issues in a broader context. Vote 18-1.

Amendment (0132h)

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

AN ACT establishing a committee to study landowner liability for owners providing public access to snowmobile trails.

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

1 Committee Established. There is established a committee to study landowner liability for owners providing public access to snowmobile trails.

2 Membership and Compensation.

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

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

(b) Four members of the senate, appointed by the president of the senate.

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

3 Duties. The committee shall study landowner liability for owners providing public access to snowmobile trails. The committee shall seek input, advice, and recommendations from:

I. Representatives from the insurance industry.

II. The New Hampshire Snowmobile Association.

III. The Society for the Protection of New Hampshire Forests.

IV. Landowners providing access to trails for snowmobile use.

V. The office of the attorney general.

VI. The department of resources and economic development, division of parks and recreation, bureau of trails.

VII. Attorneys familiar with landowner liability/ immunity/ insurance issues.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2003.

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

AMENDED ANALYSIS

This bill establishes a study committee on landowner liability for owners providing public access to snowmobile trails

HB 249, 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. James E. Wheeler for Judiciary: Because the content of this bill has been combined by the sponsor into another one of his bills, he requested that this bill be voted inexpedient to legislate and the proposal be considered in his other bill. Vote 16-0.

HB 294, relative to notification of abutting communities of ridge-line or above developments. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: Currently under RSA 36:55, a Planning Board has guidance and a definition of what development may have "regional impact." Examples of some possible regional impacts are number of dwelling units, proximity to neighboring community, transportation networks, anticipated emissions, proximity to aquifers or surface waters and shared municipal facilities. This bill would add "buildings which will rise above a ridge line 500 or more feet of any adjacent valley" to the examples of possible regional impact. If a Planning Board determines that there is an impact, the possible affected communities are notified of the development. Testimony was received that this bill would affect all communities within eyesight of the proposed development since no distance or mileage limit was proposed. The implementation of this bill would severely limit the ability for a person to develop the land based on where the ridge line happened to be, may constitute a "taking" of land, and may decrease economic and residential development at the very time we need to encourage growth in New Hampshire. Vote 20-0.

HB 253, relative to the design build concept for certain projects. **OUGHT TO PASS WITH AMENDMENT**

Rep. John A. Graham for Public Works and Highways: This bill resulted from the recommendations of a study committee established by the previous legislature. The bill will enable the Department of Transportation to utilize the design-build concept for certain projects. The amendment limits the dollar amount of transportation improvement projects completed under this concept to \$1,000,000. Vote 19-0.

Amendment (0186h)

Amend RSA 228:4, I(g) as inserted by section 2 of the bill by replacing it with the following:

(g) Statewide transportation improvement program projects with a cost not to exceed \$1,000,000 and which are related to transportation enhancement, congestion mitigation and air quality, or intelligent transportation systems, may be developed and constructed utilizing the design build concept based on a request for proposal, provided that selection is based on an objective standard and measurable criteria for evaluation of the proposals.

AMENDED ANALYSIS

This bill allows the department of transportation to use the design build concept for certain projects provided that selection is based on an objective standard and measurable criteria for evaluation. Design build projects for the statewide transportation improvement program are limited to projects which do not exceed \$1,000,000.

This bill was requested by the department of transportation.

HB 272-FN, relative to a pilot study by the department of transportation restricting large truck traffic during hours of darkness on certain roads in Portsmouth. **INEXPEDIENT TO LEGISLATE**

Rep. Mark E. McConkey for Public Works and Highways: The committee sympathizes with the disruptive nature of tractor trailer activity on Ocean Road. The committee acknowledges the good work contained in the "Ocean Road Truck Routing Study" commissioned by the Rockingham Planning Commission. The consensus of the committee is that an additional study will conclude that less truck traffic is more desirable and therefore unnecessary. This problem is not unique to Ocean Road. Many communities would like to limit such traffic off state roads and away from their neighborhoods. In the past, towns have accepted state roads and then placed appropriate restrictions on those roads. This may be a remedy worth considering. Vote 15-3.

HB 419, establishing a committee to study issues related to the management of railroads operating with leases on state property. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Holland for Public Works and Highways: The original bill emphasized the need to look at and review policy regarding leasing railroad property owned by the state and other issues. The amendment changed the number of members on the committee. The committee heard compelling testimony from representatives of surrounding towns and the lessee in another railroad location in the state of New Hampshire, and is convinced that the local towns feel helpless in voicing their opinions and/or input. Vote 19-0.

Amendment (0197h)

Amend the bill by replacing paragraph I of section 2 with the following:

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

(a) Three members of the house of representatives, at least one of whom shall be a member of the public works committee and at least one of whom shall be a member of the ways and means committee, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2003.

HB 517-L, relative to Keene Road and Main Street in the town of Hillsborough. **OUGHT TO PASS**

Rep. Leon S. Kenison for Public Works and Highways: This bill memorializes the agreement previously reached between the town of Hillsborough and the New Hampshire Department of

Transportation, transferring two segments of NH Route 9 to town road status upon completion of the Hillsborough bypass (2002). It is expected both segments will primarily serve local traffic, thus appropriately will be added to the town highway system and be eligible for Block Grant Aid funding. Vote 16-0.

HJR 1, urging the department of transportation to provide sufficient time to resolve a dispute regarding certain portions of the Conway bypass project. **INEXPEDIENT TO LEGISLATE**

Rep. William E. Leber for Public Works and Highways: This Resolution urges the Department of Transportation to take no further action regarding parts of Phase 5A including but not limited to awarding construction and other contracts seeking modifications of any and all permits necessary to remove the widening and driveway limitation parts of Phase 5A from the Conway bypass project. The Conway bypass project has a long history of studies and hearings, dating back to the 1970s Route 16 studies, to improve the safe and efficient travel north from the Spaulding Turnpike through Conway to Berlin. The Conway bypass project was approved in 1993, and permits obtained after many compromises and adjustments. It appears no one got all they wanted in the final project. However, the project was approved by the Army Corps of Engineers, and all the environmental interests with the phase constructions and restrictions to require certain parts of the project to be constructed in the order approved before going on to the next phase. So it is with Phase 5A, the widening of a short section of Route 16 to improve 5/16th of a mile and four intersections that are considered failed in the south end of North Conway. The efforts and discussion to change the widening project has delayed the contract from September approval to January 2003, when the Governor and Council approved it. The contractor is now ready to gear up for an early spring construction. The Army Corps of Engineers has responded to the sponsors of this Resolution that their request to change the project was considered, and decided that the public interest would not be served by modifying the permit to allow the bypass to proceed before improvement to Route 16, known as 5A, are completed. It was the sense of the committee that although it understands the concerns of the sponsors and the citizens who testified, to delay or disrupt the total project would not be in the best interest and greater benefit to the region. The Conway bypass has been in planning for decades and should go forward without further delay. Vote 17-0.

HB 485, relative to the membership on the invasive species committee. **OUGHT TO PASS WITH AMENDMENT**

Rep. Henry A. L. Parkhurst for Resources, Recreation and Development: This bill increases the number of members on the Invasive Species Committee from 9 to 11 to include the director of UNH Cooperative Extension and one to represent livestock owners and feed growers. This was supported by the New Hampshire Farm Bureau Federation and the New Hampshire Plant Growers Association. The Commissioner of Agriculture had no objection. The invasive species committee comes under the direction of the Department of Agriculture. Vote 16-0.

Amendment (0212h)

Amend the bill by replacing section 1 with the following:

1 Invasive Species Committee. Amend RSA 430:54, I to read as follows:

I. The invasive species committee is hereby established to advise the commissioner on matters relating to invasive species in the state. It shall consist of the following [9] **11** members:

(a) The state entomologist.

- (b) The commissioner of environmental services, or designee.
- (c) The commissioner of resources and economic development, or designee.
- (d) The commissioner of transportation, or designee.
- (e) The executive director of fish and game, or designee.

(f) The dean of the college of life sciences and agriculture of the University of New Hampshire, or designee.

(g) *The director of the University of New Hampshire cooperative extension, or designee.*

~~[(g) Three]~~ **(h) *Four*** persons appointed by the governor with the advice and consent of the executive council who shall each serve for a term of 3 years. One shall represent horticultural interests, one shall represent environmental interests, ***one shall represent livestock owners' and feed growers' interests,*** and one shall represent the general public.

HB 502, establishing a committee to study options for reducing the impact of exhaust emissions from diesel engines in New Hampshire. **OUGHT TO PASS**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill establishes a committee to study New Hampshire's options for reducing exhaust emissions from diesel engines. The committee heard from the Department of Environmental Services and the trucking association. Air emissions from stationary sources have been dramatically reduced in the past several years. The committee agreed that a comprehensive review of remaining air pollution sources was an important step. Vote 14-0.

HB 132, relative to state scholarships for orphans of veterans. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter M. Sullivan for State-Federal Relations and Veterans Affairs: This bill expands eligibility for the veteran's orphan scholarship program to include veterans of the Persian Gulf War and other conflicts such as the invasion of Panama and Grenada. In addition, the bill makes technical changes to eligibility dates, bringing state law into agreement with federal law. Vote 13-0.

Amendment (0058h)

Amend RSA 193:19 as inserted by section 1 of the bill replacing it with the following:

193:19 Purpose of Appropriations. The sums appropriated under the provisions of this subdivision shall be used for the sole purpose of contributing to the payment of board, room rent, books and supplies, at college grade institutions, of children between the ages of 16 and 25 years, who are legal residents of the state at the time of application, whose fathers or mothers served in the armed services of the United States from April 6, 1917, to July 2, 1921; or from December 7, 1941, to December 31, 1946; or from June ~~[25]~~ **27**, 1950, to ~~[July 27, 1953]~~ **January 31, 1955**; or from ~~[the initiation of American involvement in the Southeast Asian conflict to the final date of American withdrawal from that area]~~ **February 28, 1961 to May 7, 1975; or from August 2, 1990 through a final date of the Gulf War conflict to be prescribed by Presidential proclamation or law; or in any operation not otherwise covered by this section for which the Armed Forces Expeditionary Medal has been awarded to the veteran,** having since died from service

connected disability so rated by the federal government and having been at time of death legal residents of the state.

AMENDED ANALYSIS

This bill corrects dates for the Korean conflict, establishes dates for the Southeast Asian conflict (Vietnam War), and makes the Persian Gulf conflict and certain service in other military operations eligible for purposes of the award by the postsecondary education commission of college scholarships to orphans of veterans.

HB 318, relative to trespassing on certain rail lines. INEXPEDIENT TO LEGISLATE

Rep. Brenda L. Ferland for Transportation: The intent of this bill was to post no trespassing signs every 300 yards along the railroad tracks where the speed limit is 45 miles per hour or greater. This involved about 30 to 35 miles of track not including where tourist train rides are held. The state owns 193 miles of line and none are greater than 45 miles per hour. This bill would place heavy fines on any hunter, snowmobiles, all terrain vehicle users and any person just enjoying our natural resources, who might just cross the railroad tracks. Let us not punish our citizens by fining them up to \$1,000.00 for simply crossing a railroad track. The committee suggests that the signage be done on a voluntary system and the state of New Hampshire and Guilford agreed saying that some signs have been placed, stolen and replaced. Vote 14-0.

HB 435, relative to certificates of registration upon transfer of a vehicle. OUGHT TO PASS

Rep. Robert J. Letourneau for Transportation: This bill requires that the person whose name is on the registration certificate retain that registration upon transfer of the vehicle. Currently, law requires the return of the certificate to the Department of Safety. Vote 14-0.

HB 497, relative to inactive status licenses. OUGHT TO PASS

Rep. Robert J. Letourneau for Transportation: Currently, if your license is suspended or revoked for a medical or physical condition, you are not legally allowed to participate in a driver rehabilitation course. This bill would allow our citizens the ability to legally participate in these programs by establishing inactive license status. This bill would help facilitate a quicker return of a person's independence when they are deemed capable of having a drivers license again. Vote 13-1.

HB 498, relative to 20-day vehicle registrations. OUGHT TO PASS

Rep. Robert J. Letourneau for Transportation: Currently, if you buy a car from a private person you may get a 20-day registration plate. It allows you time to get a permanent registration. You are only allowed one 20-day registration in a 12-month period. If you sell that car within a one year period, our current law states that vehicle cannot be given a 20-day plate with the new owner. This bill repeals that one sentence so that the new owner, if they wish, may obtain a 20-day plate. Vote 14-0.

HB 530, prohibiting the sale of motor vehicles equipped with certain automatic door locks. INEXPEDIENT TO LEGISLATE

Rep. Brenda L. Ferland for Transportation: This bill would have prohibited the sale of a new vehicle equipped with automatic door locks. These cars are governed by federal standards. Cars are not and could not be built for New Hampshire only. Automatic locking doors are an option on some new

vehicles. Automatic locking doors are easily unlocked by the touch of a button. Automatic door locks are a sense of security to most people who have them. Vote 14-0.

HB 169, establishing a committee to study the feasibility of imposing a luxury sales tax and an amusements tax. **INEXPEDIENT TO LEGISLATE**

Rep. Kurt J. Roessner for Ways and Means: The committee concluded that there was insufficient need to study the feasibility of imposing a luxury sales tax and an amusement tax. Public hearing speakers opposed to such a study included a representative from the Lakes Region Association, which represents 350 attraction-oriented businesses. The testimony was that many of its members are already collecting rooms and meals taxes, and that the additional burden of an amusement tax on their customers would place an extreme hardship on their businesses. The Retail Merchants Association of New Hampshire was also represented and stated that two-thirds of retail sales are in border communities and that many large ticket items are sold to out-of-state purchasers. The association believes that the adverse impacts of such a sales tax has already been thoroughly studied. No one, other than the sponsor, spoke in favor of the legislation. Vote 19-0.

COMMITTEE REPORTS

regular CALENDAR

HB 260, relative to checklists used on election day. **OUGHT TO PASS**

Rep. Andrew L. Dorsett for Election Law: This bill amends RSA 654:25, the statute related to the preparation of voter checklists, by allowing a municipality to omit a voter's mailing address and prepare a separate checklist for use at elections. The official checklist maintained by the supervisor's of the checklist of that municipality shall still include the voter's mailing address as well as the voter's place of residence. This amendment to the present law will allow a municipality to reduce the physical size of the checklist used at the polls. The majority of the committee believes that this would be helpful to cities and towns that have a large number of voters. Vote 9-6.

Adopted and ordered to third reading.

HB 305, relative to time allowed for voting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harriet E. Cady for Election Law: This bill, as amended, removes the time limit that a voter may occupy a voting booth. The original bill extended the present limit from ten (10) to twenty (20) minutes and from five (5) to ten (10) minutes if all the voting booths are occupied. The majority of the committee believes that no time limit should exist, but instead the time for occupying a voting booth should be left to the discretion of the moderator. Vote 12-5.

Amendment (0089h)

Amend the bill by replacing section 1 with the following:

1 Time Allowed for Voting. Amend RSA 659:25 to read as follows:

659:25 Time Allowed for Voting. The voter shall mark and deliver ~~his~~ **the** ballot without undue delay and shall leave the enclosed space within the guardrail as soon as he **or she** has

delivered ~~[his]~~ *the* ballot to the moderator. No voter shall be allowed to occupy a voting booth already occupied by another voter nor be allowed to remain within the enclosed space more than ~~[10 minutes]~~ *nor, if other voters are waiting to mark their ballots and all of the voting booths are occupied, be allowed to occupy a voting booth for more than 5 minutes]* *the time determined by the moderator.*

AMENDED ANALYSIS

This bill allows the moderator to determine the amount of time a voter is allowed to remain within the enclosed space.

Adopted.

Rep. Buckley spoke against.

Rep. Dickinson spoke in favor and yielded to questions.

On a division vote, 235 members having voted in the affirmative and 122 in the negative, the report was adopted.

HB 312, relative to designating county delegates on state election ballots. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY OUGHT TO PASS.**

Rep. Richard B. Drisko for the Majority of Election Law: The intent of this bill was to make the voters aware of the additional county responsibilities of the position of state representative by adding the "county delegate" title to the ballot. The committee felt that testimony showed that confusion would arise in the minds of the voters with this duplicate listing. Vote 12-4.

Rep. James R. Splaine for the Minority of Election Law: It is of value to the voters and the electoral process that the ballot clearly identify the offices for which candidates are running. It is also useful for the legislative process on the state and county levels for candidates and voters to know and understand the authority and obligations of the offices sought. This legislation is a win-win for all.

Rep. Splaine spoke against.

Rep. Stritch spoke in favor.

Rep. Weed spoke against and yielded to questions.

Rep. Drisko spoke in favor and yielded to questions.

Adopted.

HB 836, certifying that John Coughlin was elected as county attorney for Hillsborough County at the 2002 general election. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William J. Infantine for the Majority of Election Law: The majority of the committee is of the strong opinion that the power delegated to the General Court by Part 2, Article 71 allows the General Court to determine the manner in which elections for county officers are rectified. The General Court did so when it enacted RSA 665 which specifies which candidates may appeal to the New Hampshire Supreme Court from a ruling of the Ballot Law Commission. Candidates for county

offices are not included in the law. The majority believes that this legislation is essential to carry out the General Court's obligations under Part 2 Article 71 to ensure that the right of the voters are carried out. The defeated candidate exercised his statutory rights to a recount and a full and fair Ballot Law Commission hearing. That process is now complete. The defeated candidate has exhausted his remedies, having received due process under the applicable constitutional provision and the laws of the State of New Hampshire. Vote 15-5.

Rep. Jane A. Clemons for the Minority of Election Law: The minority believes that the best interest of the people of New Hampshire is not served by HB 836. Passage of this bill creates an unavoidable constitutional crisis. The 2002 election for Hillsborough County Attorney is properly and appropriately before the State Supreme Court in accordance with laws passed by this legislature in 1979. Passage of this bill would destroy the right of a candidate to complete an appeal process this legislature established in law. Professor Marcus Hern of Franklin Pierce Law Center has noted the legislature "has the right to establish the rules of election in advance, but it cannot change the results of an election by a statute once an election has occurred". We are bound to preserve the balance of power among the branches of government. This legislature created the right of appeal to the Supreme Court. One of our fellow citizens is now exercising his right under that law. We should never interfere with his employment of the right guaranteed to him pursuant to RSA 665:6. In conclusion, the minority believes that the Supreme Court would never have accepted this if they did not have the appropriate constitutional authority and jurisdiction. We doubt that the author of the New Hampshire Constitution intended to discriminate against all candidates for county office by denying them due process and a proper process appeal.

laid on the table

Rep. Stritch moved that **HB 836**, certifying that John Coughlin was elected as county attorney for Hillsborough County at the 2002 general election., be laid on the table.

Adopted.

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

HB 90-FN, relative to the costs incurred by the retirement system in evaluating proposed legislation. **INEXPEDIENT TO LEGISLATE**

Rep. Maurice E. Goulet for Executive Departments and Administration: Although well intended, and recommended by the retirement sub-committee, there was considerable discussion during the executive session. During the public hearing all persons who testified were opposed to the bill. One major stumbling block to this bill was the fact that determining the costs was not defined. Steps taken to determine costs in this type of legislation should have been spelled out more clearly. Vote 15-3.

Adopted.

HB 241, establishing a committee to study the creation of a separate board to regulate barbers. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: It was the feeling of the subcommittee that although we appreciate the concerns addressed by this bill, we feel that other options have not been exhausted. Further, we feel another consequence of the bill could be a

reduction in current licensing standards for barbers, which the committee can not support. Vote 15-2.

Adopted.

HB 375, establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in preschools, primary grades, and childcare centers. **INEXPEDIENT TO LEGISLATE**

Rep. Phyllis M. Katsakiores for Health, Human Services and Elderly Affairs: This committee has previously considered the subject of psychotropic drugs including Ritalin and considers it an important subject. However, the committee felt that fundamentally, how and why psychotropic medications are prescribed is a private, professional decision by a physician with the informed consent of the patient or his family. If more study is needed, it should be conducted by trained researchers who have expertise in psychopharmacology. One obvious place to conduct this research would be a medical school or similar facility. Further, the committee recognized that if psychotropic drugs are being inappropriately prescribed, those practitioners should be reported to the appropriate professional licensing boards for corrective action. Vote 15-2.

Adopted.

HB 463, adding certain health care providers to certain statutes. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Peter L. Batula for the Majority of Health, Human Services and Elderly Affairs: Each year the Health Committee receives bills requesting the legislature to expand the authority to various member groups in the medical field. House Bill 463 would extend the authority of physician assistants and licensed advance registered nurses, regarding the statutes on walking disability plates/placards, resuscitation orders and death records. Current law restricts these actions to physicians. The majority of the Health Committee has a strong belief that there exist a medical licensing board who has decided that the authority given to the physicians is based on their education and should not be expanded to other medical personnel via the legislature. The Health Committee has great respect for the licensed physician assistants and the registered nurses who are a vital role in the medical care profession, but we did not feel that we in the legislature should be determining the qualifications and should leave that accountability to those state boards qualified to make those important medical decisions. Vote 12-5.

Rep. Barbara C. French for the Minority of Health, Human Services and Elderly Affairs: Advanced registered nurse practitioners currently enjoy plenary authority to assess, diagnose and prescribe. They often serve as the primary care provider for their patients. This bill would update three statutes to permit ARNP's to authorize handicapped plates and placards, certify death certificates and sign a patient requested written do-not resuscitate order. ARNP's currently have the education, competency, and scope of practice to perform the necessary assessments. Presently these orders are often co-signed by a physician who has no independent knowledge of the patient. ARNP's serve a vital role in health care delivery in New Hampshire. Our laws need more accurately reflect actual current practice

Majority report adopted.

HB 78, relative to a landowner's liability for personal injury or property damage on sidewalks. **INEXPEDIENT TO LEGISLATE**

Rep. Bette R. Lasky for Judiciary: The committee was told that this bill was introduced in response to builders/developers who were reluctant to install sidewalks in developments because of liability issues. There was no other testimony addressing that point. Therefore, not only did the committee feel we should not legislate as a result of one circumstance, the committee felt the broader issue of limiting liability to all landowners with sidewalks on their property could jeopardize people's duty to maintain those sidewalks and create a worse situation. In addition, the committee felt the building of sidewalks is an issue that should be dealt with on the local level. Vote 16-4.

Adopted.

HB 129-FN, relative to registration fees for lobbying and lobbyists and requiring registration of employers of lobbyists. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Letourneau for Legislative Administration: This bill would change the registration fee for lobbyists who request solely to represent a non-profit entity. This bill would also add fees for the employers of a lobbyist. The committee researched the non-profit issue and found that many lobbyists represent "non-profits" and it is difficult at best to determine non-profit status between different employees. Each lobbyist is required to reveal who they are working for. While the fees have not increased recently, the majority of the committee did not feel this was a revenue bill, in fact an increase in fees would not be significant. With due respect to the sponsor we found this legislation ITL. Vote 12-2.

Adopted.

HB 519-FN-A, relative to the conservation number plate trust fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: This bill refines RSA 261:97 to allow the New Hampshire Department of Transportation to plant lilacs (which is not a native plant) with part of the funds allocated to native wildflowers plantings. It was noted that much of the area where DOT plants is not suitable for native wildflowers. The bill allocates \$1.00 per "moose" registration, to a maximum of \$50,000 for the department or resources and economic development to promote conservation license plates. The agencies that receive the funds all agreed that this would be a benefit to the program. Finally, it removes the administrative cost cap on the funds received by the state conservation commission. These latter two steps would allow leveling and some predictability of funding from year to year, as well as aiding in the continued growth in sale of the plates. The fiscal note indicates that there is less than a \$10,000 impact per year through 2007. The amendment clarifies that the \$1 allocated to DRED applies to renewals as well as to new plates issued. Vote 17-0.

Amendment (0196h)

Amend RSA 261:97-b, I as inserted by section 1 of the bill by replacing it with the following:

I. There is hereby established a conservation number plate trust fund under the administration of the state treasurer. The fund shall be used for the promotion, protection, and investment in the state's natural, cultural, and historic resources. The fund shall be nonlapsing. The state treasurer shall distribute the funds annually on July 1, except as provided in paragraph I- a, as follows: \$5,000 of every \$100,000 received, up to a total of \$50,000, shall be distributed to the department of transportation for the expanded wild flower establishment program for use in planting ***lilacs and native wild flowers; \$1 for every new, renewal, and transfer of registration, up to a total of \$50,000, shall be placed in a nonlapsing account for use by the***

department of resources and economic development to promote the conservation number plate program; the remainder shall be distributed equally among the department of cultural resources, the department of fish and game, the department of resources and economic development, the state conservation committee, and the New Hampshire land and community heritage investment authority.

AMENDED ANALYSIS

This bill:

I. Permits funds distributed from the conservation number plate trust fund to the department of transportation for the expanded wild flower establishment program to be used for planting lilacs.

II. Distributes from the conservation number plate trust fund \$1 for every conservation number plate registration, up to a total of \$50,000, to a nonlapsing account for use by the department of resources and economic development to promote the conservation number plate program.

III. Eliminates the grant administration cost cap on transfers from the conservation number plate trust fund to the state conservation committee.

Adopted.

Referred to Finance.

HCR 16, urging increased diplomacy to achieve a just, peaceful, and rapid resolution of the conflict between India and Pakistan relative to the state of Jammu and Kashmir. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Russell A. Albert for the Majority of State-Federal Relations and Veterans Affairs: The Kashmir Conflict has been a threat to the stability of Southeast Asia for 56 years. It is now a potential "flashpoint" for nuclear war, which was imminent in November 2002, and conditions are again escalating between India and Pakistan. This bi-partisan resolution asks (1) That the US House and Senate to open hearings into the issues attendant to the Kashmir Conflict; and, (2) that all parties to the conflict to abide by the UN Charter on Human Rights. Vote 12-3.

Rep. Peter M. Sullivan for the Minority of State-Federal Relations and Veterans Affairs: The minority is concerned that only one side of this tragic dispute was brought before the committee. Serious questions regarding the involvement of international terrorist organizations, including Al-Qaeda, in the Kashmir Conflict remain unaddressed. While sympathetic to the sponsor's concerns about human rights abuses, the minority believes it is inappropriate to side with one party to this conflict at this time.

Majority report adopted.

BILLS REMOVED FROM CONSENT CALENDAR

HB 58, requiring the department of transportation to study and report on the advantages of constructing state-owned truck service centers. **INEXPEDIENT TO LEGISLATE**

Rep. John A. Graham for Public Works and Highways: This bill would have required the Department of Transportation to study the availability of state-owned land along interstate highways, and the financial issues related to leasing state-owned service centers. It would also have, by inference, required a policy decision on whether or not the state should own service centers along our highways. Additionally, the bill would have required a study of any air pollution issues related to diesel engine exhaust. The majority of the committee felt that this study would not, even if the DOT and Department of Environmental Services could accomplish all the tasks set out in it, provide new information that would be useful to policy makers. Vote 11-7.

Rep. Shultis spoke against.

Rep. Kenison spoke in favor.

Adopted.

HB 349, relative to establishment and enforcement of speed limits. INEXPEDIENT TO LEGISLATE

Rep. Brenda L. Ferland for Transportation: This bill would establish a policy against the use of speed traps and the setting of speed limits by municipalities. The term "speed trap" sounds as though law enforcement is doing something unlawful. This bill would take away the measure of enforcement, unmarked police cars and aircraft enforcement. There are "professional speeders" and they use radar to keep ahead of law enforcement, thus, the use of aircraft. Enforcement by air resulted in 800 speeding tickets being issued with 221 of them being speeds greater than 80 miles per hour. For this reason the Department of Safety opposed the bill. Another concern of the prime sponsor was speed limits on roads where there are multiple speeds set by municipalities without the state standard of an engineered traffic investigation. The Municipal Association opposed the bill because in effect it would force towns to spend money they do not have for traffic studies to change a speed limit in an area that they deem to be a reasonable and prudent speed for the conditions of the roads. Thus, the committee will continue to support law enforcement and the municipalities to do what they deem to be necessary to ensure the safety of our driving public. Vote 14-0.

Rep. Vachon spoke against.

Rep. Packard spoke in favor.

Adopted.

RESOLUTION

Rep. Hess 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, February 20, 2003 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

HB 159, relative to meetings of the directors of nondepository trust companies.

HB 179, establishing a committee to study enhancement of laws relating to vehicle pursuits.

HB 198, relative to the police powers of law enforcement officers called to respond to incidents in other jurisdictions.

HB 206, relative to filing of complaints for violation-level offenses.

HB 212, defining "terrorize" for the purpose of criminal threatening.

HB 223, relative to the temporary removal of inmates.

HB 278-FN, relative to certain acts of sexual assault.

HB 99, relative to absentee ballot requests.

HB 246, relative to availability of absentee voting applicant lists.

HB 393, extending the reporting dates for certain study committees.

HB 244, establishing a committee to study landowner liability for owners providing public access to snowmobile trails.

HB 253, relative to the design build concept for certain projects.

HB 419, establishing a committee to study issues related to the management of railroads operating with leases on state property.

HB 517-L, relative to Keene Road and Main Street in the town of Hillsborough.

HB 485, relative to the membership on the invasive species committee.

HB 502, establishing a committee to study options for reducing the impact of exhaust emissions from diesel engines in New Hampshire.

HB 132, relative to state scholarships for orphans of veterans.

HB 435, relative to certificates of registration upon transfer of a vehicle.

HB 497, relative to inactive status licenses.

HB 498, relative to 20-day vehicle registrations.

HB 260, relative to checklists used on election day.

HB 305, relative to time allowed for voting.

HCR 16, urging increased diplomacy to achieve a just, peaceful, and rapid resolution of the conflict between India and Pakistan relative to the state of Jammu and Kashmir.

UNANIMOUS CONSENT

Rep. Robert J. LaFlam addressed the House.

Without objection, the Speaker ordered the remarks of Rep. Robert J. Laflam be entered into the Permanent Journal.

Thank you, Mr. Speaker. This past weekend, while attending a reunion with some old Army buddies I knew in the 50's in Germany, I turned on the television set to ABC's Wide World of Sports and the first thing I saw was a New Hampshire number plate. It was the world's skiing championships. In my past life in this legislature, I had the opportunity, with Sen. Patenaude, to present and write the "blurb" for the House calendar which established skiing as New Hampshire's winter sport. I proceeded to watch a young man named Bode Miller came from way behind and win a gold medal in the world's combined skiing championship. We've got a hero. The same kid that pulled it out on a wild run in the last Olympics came through again for our state and really put us on the map.

So I would like to recognize this young man (being a past skier myself) as today's hero here in the State of New Hampshire. Thank you.

The Speaker noted that Bode Miller just won the giant slalom yesterday.

RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills and receiving Senate messages only.

Adopted.

The House recessed at 12:00 p.m.

RECESS

(Speaker Chandler in the Chair)

COMMITTEE ASSIGNMENTS

Rep. Kevin L. Camm on Ways and Means.

RECESS