

HOUSE RECORD

First Year of the 158th Session of the General Court Calendar and Journal of the 2003 Session

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Thursday, May 15, 2003

No. 42

HOUSE JOURNAL No. 16 (cont.)

Thursday, May 8, 2003

RECESS

(Rep. Welch in the Chair)

SENATE MESSAGE CONCURRENCE

HB 153-FN, relative to grounds for termination of parental rights.

HB 192, relative to disposal of controlled drugs in possession of law enforcement officers.

HB 208, relative to name changes for inmates and parolees.

HB 211, relative to town clerk fee deposit requirements.

HB 218, relative to the definition of beneficially interested person.

HB 225, extending the task force on deafness and hearing loss and changing the task force's membership and duties.

HB 231, requiring the department of education to develop a plan to address and reduce the number of persons awaiting vocational rehabilitation transition services.

HB 269-FN, relative to claims arising from clinical services provided to the department of health and human services.

HB 368, making technical corrections to the statutory list of dedicated funds.

HB 394, relative to incompatible offices.

HB 423, relative to safe deposit boxes.

HB 497, relative to inactive status licenses.

HB 506, relative to health club membership initiation fees and renewal practices.

HB 515, excluding certain agreements between fish and game licensees and landowners from the right-to-know law.

HB 529, relative to the New Hampshire seed law.

HB 561, repealing the Uniform Aircraft Financial Responsibility Act.

HB 658-FN, relative to impersonation of candidates.

HB 661-FN-L, relative to Westport Village Road in the town of Swanzey.

HB 766, relative to the information required for a license to carry a pistol or revolver.

HB 808, relative to proof of residency and resident tax payment for receiving resident fish and game licenses.

HCR 5, a resolution urging Congress to permit satellite television subscribers to select in-state broadcast signals.

NONCONCURRENCE

HB 149, relative to patient rights and disclosures.
HB 180, relative to proceedings for termination of parental rights.
HB 196, establishing a commission to study means to integrate services for people with co-occurring disorders.
HB 206, relative to filing of complaints for violation-level offenses.
HB 228, relative to conduct after an accident.
HB 487, relative to protective custody of a person impaired by drugs.
HB 745, relative to voters presenting identification to obtain a ballot.
HB 791-FN-A, establishing a rest area and state liquor store retail opportunities commission.
HB 828-FN-A-L, establishing a committee to study the effect of alternative transportation on state revenues.

RE-REFERRED TO COMMITTEE

HB 121, relative to grounds for modification of a permanent child custody order.
HB 258, relative to the community-technical college system.

RECESS

Rep. Hess moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 17

Thursday, May 15, 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 Creator of all, today we wish to give thanks for this honorable House, for all the Representatives and for the House staff who carry on their part of the work and responsibility of governing the free people of our beloved New Hampshire. We thank You for their passion to serve, for their wisdom in serving and for their loved ones who care for them in the midst of the demands and struggles that come with the joy of democracy. May Your blessing be upon them, especially when emotions are heightened and debate is heated. Be with them also in the long and quiet hours of committee work and in service to their constituents that often goes unnoticed and unappreciated. At the end of their day may they feel the satisfaction of service, may they rest peacefully and awaken refreshed to serve again in a new day.

As always we ask for Your protective hand to be upon those who serve in the armed forces, law enforcement, emergency medical services and in the fire service as they protect and defend our country, our homes, our lives and our communities. Amen.

Rep. Kurt Roessner led the Pledge of Allegiance.

The National Anthem was sung by Kellie Cavagnaro, a senior at Bishop Brady High School.

LEAVES OF ABSENCE

Reps. Cernota, Vivian Clark, Peter Cote, Dennis Fields, Flanagan, Hagan, Kenison, Robert Laflam, Solomon and Weldy, the day, illness.

Reps. Timothy Allen, David Bouchard, Bridle, Jeffrey Carter, Dearborn, Gonzalez, Bonnie Ham, Hamel, Kopka, Lawrence, Lessard, Musler, Palangas, Reardon, Reeves, Herbert Richardson, Rollo, Shultis, Slack, Paul Smith, Peter Sullivan, Katherine Taylor, Tufts, Wendelboe and Williams, the day, important business.

Reps. Clemons and Guay, the day, illness in the family.

INTRODUCTION OF GUESTS

Shannon Kulakowski, guest of Rep. Donald Smith. Bruce and Ashley Pratt, Alex and Tori Pratt, and Lynn Cornell, son and daughter-in-law, grandchildren and guest of Rep. Leighton Pratt. Richard Close and Jack Roche, guests of Rep. Scott. Anja Zschau, guest of Rep. Owen. 4th Grade class from Marston School in Hampton and Trevor Popachristos, great-grandson and guests of Rep. Jane Kelley.

INTRODUCTION OF SPECIAL GUEST

United States Marine Corps Lance Corporal James Riordan, Jr. serving with the Marine Tactical Electronic Warfare and Reconnaissance Group recently stationed in Saudi Arabia, accompanied by his parents, James and Donna Riordan, guests of the Raymond delegation.

INTRODUCTION OF SPECIAL GUEST

Stacy Stapleton, 5th grade science teacher at Washington Elementary School, recipient of the 2002 Presidential Award for Excellence in Math and Science Teaching given by the National Science Foundation, guest of the House.

INTRODUCTION OF SPECIAL GUESTS

David Nielsen, Official Caretaker of the Old Man of the Mountain, and the following volunteers of the Old Man of the Mountain Restoration Crew: Deb Nielsen, George Clough, Joel Dinsmoor, Ronald Mitchell, Bradley Lawrence, Robert Potter, Mark Goddard, Kenneth Colburn, Michael Nielsen, Rep. John Thomas, Rep. Robert L'Heureux, Brenda Mento, Laurie Sortevik and Carla Clough. They were accompanied by Richard McLeod, Director of the Division of Parks and Recreation. All were guests of the House.

INTRODUCTION OF SPECIAL GUEST

Mary Sytek, who received the 2002-2003 Education Scholarship Award presented by the New Hampshire Order of Women Legislators, guest of the House.

ENROLLED BILL AMENDMENTS

SB 34, relative to independent living retirement communities. (Amendment printed SJ 5/15/03)
Adopted.

SB 36-FN, relative to protective custody of a person impaired by drugs and establishing a committee to study the issue of the applicability of the administrative license suspension laws to driving while under the influence of controlled drugs and ways to address the speed with which such cases are adjudicated in the district court. (Amendment printed SJ 5/15/03)
Adopted.

SB 79-FN-L, relative to penalties for the exhibition of fighting animals. (Amendment printed SJ 5/15/03)
Adopted.

SENATE MESSAGES
REQUESTS CONCURRENCE WITH AMENDMENTS

HB 711-FN, relative to the regulation of retail installment sales of motor vehicles. (Amendment printed SJ 5/08/03)

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

HB 215, relative to expungement of records contained in the DNA database. (Amendment printed SJ 5/08/03)

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

HB 593-FN-L, relative to solid waste facilities in small towns. . (Amendment printed SJ 5/08/03)

Rep. Babson moved that the House concur and spoke in favor.
Adopted.

HB 320, relative to permitting additional contributions in the city of Manchester employees contributory retirement system. . (Amendment printed SJ 5/08/03)

Rep. O'Neil moved that the House concur and spoke in favor.
Adopted.

HB 185, relative to pretermitted heirs. (Amendment printed SJ 4/24/03)

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

Rep. John Pratt spoke against.

On a division vote, 120 members having voted in the affirmative and 222 in the negative, the motion failed.

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

The Speaker appointed Reps. Rowe, John Pratt, Haytayan and Sorg.

HB 343, establishing a boundary commission to determine the boundary between New Hampshire and Maine. (Amendment printed SJ 5/08/03)

Rep. Patten moved that the House concur and spoke in favor.
Adopted

HB 434-L, relative to junkyards and motor vehicle recycling yards. (Amendment printed SJ 4/24/03)

Rep. Patten moved that the House concur and spoke in favor.
Adopted

HB 560, relative to penalties for operating an aircraft while under the influence of alcohol or drugs and making a technical correction. (Amendment printed SJ 5/08/03)

Rep. Edwin Smith moved that the House concur, spoke in favor and yielded to questions.

Rep. Giuda spoke against.

On a division vote, 189 members having voted in the affirmative and 159 in the negative, the motion was adopted.

HCR 3, calling on the President and the Congress to fully fund the federal government's share of special education services in public elementary and secondary schools in the United States under the Individuals with Disabilities Education Act. (Amendment printed SJ 5/08/03)

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

Adopted

HB 379, relative to penalties for OHRV violations by underage operators. (Amendment printed SJ 5/08/03)

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

Adopted.

HB 402, relative to child passenger restraints. (Amendment printed SJ 5/08/03)

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

Adopted.

HB 477, establishing certain speed limits. (Amendment printed SJ 5/08/03)

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

Adopted.

HB 699-FN, relative to abandoned vehicles. (Amendment printed SJ 5/08/03)

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

Adopted.

HB 770-FN-A, : establishing a committee to study using tax policy to create incentives to encourage employers to hire disabled persons. (Amendment printed SJ 5/08/03)

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

Adopted

HB 481, establishing a committee to study the pricing of milk products. (Amendments printed SJ 4/24/03 & 5/08/03)

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

Adopted.

The Speaker appointed Reps. Hunt, Quandt, Holden and Meader.

HB 195, prohibiting all part-time district court judges and district court clerks from practicing law in the district courts. (Amendment printed SJ 5/08/03)

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

Adopted.

The Speaker appointed Reps. Rowe, John Pratt, Wall and Haytayan.

HB 811, relative to limiting the liability of manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from misuse. (Amendment printed SJ 5/08/03)

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

Adopted.

The Speaker appointed Reps. Rowe, James Wheeler, Dudley and Haytayan.

HB 768, establishing a committee to study the flow in the Connecticut River and the effect of the flow on water levels in Lake Francis and the Connecticut Lakes, and to study the use of certain state-owned property along the Baker River. (Amendment printed SJ 5/08/03)

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

Adopted.

The Speaker appointed Reps. Lawton, Chris Christensen, Charles Laflamme and Brueggeman.

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.

SB 72, relative to the regulation of small loans, title loans, and payday loans, removed by Rep. Kurk.

SB 40, relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification, removed by Rep. Marple.

SB 59-FN, relative to administrative license suspension hearings, removed by Rep. Marple.

SB 16-FN, establishing the governor's incentive and reward program, removed by Rep. O'Neil.

SB 53, establishing an advisory board to the labor commissioner and relative to the terms of the members of the compensation appeals board, removed by Rep. Espieffs.

SB 82-FN, relative to awards of fees and interest under workers' compensation, removed by Rep. Espieffs.

SB 157, establishing a committee to study the vesting of development rights, removed by Rep. Patten.

Consent Calendar adopted.

SB 86-FN, relative to disclosure of certain information about child fatalities and near fatalities resulting from abuse and neglect, and relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janet F. Allen for Children and Family Law: This bill will require the Division of Children, Youth and Families to report fatal and near fatal incidents happening to children in the home. The amendment extends accountability to all out of home court ordered placements and includes suicide along with near fatal incidents. Current law preserves confidentiality at the discretion of the commissioner using current best interest standards; the amendment would require written reasons for the same. This bill also requires an annual report of what it would take for DCYF's child protection services to achieve national accreditation. The bill extends the reporting date of the Grafton County Court Pilot Project to 2004. Vote 13-0.

Amendment (1495h)

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

AN ACT relative to the disclosure of information about child fatalities resulting from abuse and neglect; relative to accreditation of the department of health and human services by the Council on Accreditation for Children and Family Services; and extending the reporting date for the pilot project relative to abuse and neglect hearings in Grafton county court.

Amend RSA 126-A:5, XII(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Notwithstanding any other provision of law to the contrary, the commissioner ~~[may]~~ **shall**, upon request, publicly disclose ~~[certain case specific information]~~ **the information in subparagraphs (c)(3)–(c)(12)** regarding the abuse or neglect of a child, as set forth in this paragraph, ~~[and the investigation of such abuse or neglect and any services related thereto,]~~ **if there has been a fatality or near fatality resulting from abuse or neglect of a child. Information included in subparagraphs (c)(1) and (c)(2) shall also be disclosed** if it is determined that such disclosure shall not be contrary to the best interests of the child, the child's siblings or other children in the household and there has been a fatality or near fatality resulting from abuse or neglect of a child. **In addition, the same disclosure shall be made when there has been a fatality, to include suicide, or near fatality of a child under the legal supervision or legal custody of the department.** In determining whether disclosure will be contrary to the best interests of the

child, the child's siblings, or other children in the household, the commissioner shall consider the privacy interests of the child and the child's family and the effects which disclosure may have on efforts to reunite and provide services for the family. ~~[In evaluating the request for disclosure, the commissioner shall consider the source of the request, and whether the disclosure will promote public accountability of the department.]~~ ***If the commissioner determines not to release the information, the commissioner shall provide written findings in support of the decision to the requestor.*** As used in this section, "near fatality" means an act or event that places a child in serious or critical condition as certified by a physician.

Amend RSA 126-A:5, XII(c)(2) as inserted by section 3 of the bill by replacing it with the following:

(2) The name of the parent or other person legally responsible for the child ***or the foster family home, group home, child care institution, or child placing agency where the child is placed.***

Amend RSA 126-A:5, XII(c)(11) as inserted by section 3 of the bill by replacing it with the following:

~~[(4)]~~ ***(11)*** Identification of services and actions taken, if any, by the department regarding the child named in the report and his or her family ***or substitute caregiver*** as a result of any such report or reports.

Amend RSA 170-G:4, XX as inserted by section 4 of the bill by replacing it with the following:

XX. Submit a plan for the department to achieve accreditation by the Council on Accreditation for Children and Family Services, Inc. no later than July 1, 2007. The plan shall contain staffing requirements, a timetable for achieving those requirements, projected budgets for achieving those requirements and any other costs associated with achieving accreditation. The plan shall be submitted no later than 90 days after passage of this paragraph to the governor; the president of the senate; the chairs of the finance committee and of the public institutions, health and human services committee of the senate; the speaker of the house of representatives; the chairs of the children and family law committee and finance committee of the house of representatives; the legislative budget assistant; the advisory board established in RSA 170-G:6; and the New Hampshire child fatality review committee. Annually thereafter, on or before September 1 of each year, the department shall submit an updated plan, which includes the current status of the original plan, and any changes necessary to achieve accreditation on or before July 1, 2007. Reports from the Council on Accreditation shall be public documents. Copies shall be submitted to the president of the senate; the chairs of the finance committee and of the public institutions, health and human services committee of the senate; the speaker of the house of representatives; the chairs of the children and family law committee and finance committee of the house of representatives; the legislative budget assistant; the advisory board established in RSA 170-G:6; and the New Hampshire Child Fatality Review Committee.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 Pilot Project Relative to Abuse and Neglect Hearings in the Grafton County Court; Report by Supervisory Judge of Family Court in Grafton County. Amend 2002, 243:2, III to read as follows:

III. The ~~[administrative judge of the district courts]~~ ***supervisory judge of the family court in Grafton county*** shall prepare a report on the findings and recommendations of the Grafton county court relative to opening hearings in child abuse and neglect cases under the terms established by the pilot project. The ~~[administrative judge of the district courts]~~ ***supervisory judge of the family court in Grafton county*** shall provide the report to the governor, the speaker of the house of representatives, the senate president, the legislative oversight committee, the senate clerk, the house clerk, and the commissioner of the department of health and human services on or before September 1, ~~[2003]~~ ***2004.***

7 Pilot Project Relative to Abuse and Neglect Hearings in the Grafton County Court; Legislative Oversight Committee Report Date Extended. Amend 2002, 243:3, IV to read as follows:

IV. 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]~~ **2004**.

AMENDED ANALYSIS

This bill:

I. Requires the department of health and human services to publicly disclose certain information regarding abuse and neglect cases if the disclosure would not be contrary to the best interests of the child and if there has been a fatality or near fatality resulting from abuse or neglect.

II. Requires the department of health and human services to submit a plan to obtain accreditation by the Council on Accreditation for Children and Family Services by July 1, 2007.

III. Extends the reporting date for the pilot project relative to abuse and neglect hearings in Grafton county.
Referred to Finance.

SB 71-FN-A, establishing a committee to study improving access, affordability, and alternatives in health insurance for New Hampshire consumers. **INEXPEDIENT TO LEGISLATE**

Rep. Stella Scamman for Commerce: The committee found this legislation unnecessary, as there have been numerous other efforts to deal with health insurance. This study committee is redundant to other on-going efforts and would not provide more insight into this matter. Vote 14-1.

SB 122, relative to the regulation of first mortgage brokers. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: This bill, as passed by the Senate, would require a licensed mortgage broker to make sure that each licensed office has a supervisor on premise with at least three (3) years experience in mortgage lending or mortgage brokering. While the committee believes that the issue of competency is important, years of experience does not define or guarantee competency. Further, it is not appropriate for the state to prescribe business practices beyond the parameters of the licensed activity. In the absence of a reliable competency testing procedure, the committee voted not to support the proposed legislation. Vote 13-2.

SB 131, establishing a committee to study the system of health care safety net providers in New Hampshire, and options for improving access to primary and preventive care for the uninsured and underinsured. **INEXPEDIENT TO LEGISLATE**

Rep. Matthew J. Quandt for Commerce: The intent of the bill was already being dealt with by the Hospital Association's "NH Health Access," so the bill is unnecessary. Vote 14-0.

SB 135, relative to hotel keeper liability for personal care services. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald D. Flanders for Commerce: The bill exempts hotelkeepers or innkeepers from liability for losses of goods or property or other damages based on a guest's or visitor's use of a child care services provider whose name is furnished by the hotelkeeper or innkeeper, provided the hotelkeeper or innkeeper does not know of any adverse information about the person or persons providing the child care services, receives no compensation for providing the information or services and gives written notice that the child care service providers have

not been evaluated by the hotelkeeper or innkeeper. It also allows the hotelkeeper or innkeeper to provide the name of an employee if the hotelkeeper or innkeeper receives no compensation and the employee is acting outside of the scope of his or her employment when providing the child care services. Vote 14-0.

Amendment (1465h)

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

AN ACT relative to hotelkeeper or innkeeper liability for personal child care services.

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

1 New Section; Child Care Referrals. Amend RSA 353 by inserting after section 353:2 the following new section:

353:2-a Child Care Referrals. No hotelkeeper or innkeeper shall be liable for losses of goods or property or other damages sustained by a guest or other visitor based solely upon the furnishing by the hotelkeeper or innkeeper of a name or names of persons available to provide child care services for such guest or other visitor provided the hotelkeeper or innkeeper has no knowledge of any adverse information relating to the person or persons providing the child care services, the hotelkeeper or innkeeper receives no compensation for furnishing the information or the services provided, and the hotelkeeper or innkeeper has given written notice to the guest or visitor that the child care service providers have not been evaluated by the hotelkeeper or innkeeper. No such liability shall arise from furnishing the name of an employee of the hotelkeeper or innkeeper provided the hotelkeeper or innkeeper does not recommend or compensate any such employee for the provision of such child care services and the employee is not acting within the scope of employment for the hotelkeeper or innkeeper when providing such child care services.

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

AMENDED ANALYSIS

This bill exempts hotelkeepers or innkeepers from liability for losses of goods or property or other damages based on a guests or visitor's use of a child care services provider whose name is furnished by the hotelkeeper or innkeeper provided the hotelkeeper or innkeeper does not know of any adverse information about the person or persons providing the child care services, receives no compensation for providing the information or services and gives written notice that the child care service providers have not been evaluated by the hotelkeeper or innkeeper. It also allows the hotelkeeper or innkeeper to provide the name of an employee if the hotelkeeper or innkeeper receives no compensation and the employee is acting outside of the scope of his or her employment when providing the child care services.

SB 69-FN-A, combining the career incentive program and the nursing leveraged scholarship loan program within the department of postsecondary education, and establishing a workforce incentive program within the department of postsecondary education, and making an appropriation therefor. **OUGHT TO PASS**

Rep. Deanna P. Rush for Education: This bill provides an incentive to study in shortage areas such as nursing and education. It consolidates the career incentive loan program and the nursing leveraged scholarship loan program into the workforce incentive program, which contains a forgivable loan component, and a loan repayment program for individuals who work in designated shortage areas. This bill includes a fiscal note of \$1.00, thus allowing for grants and other fund transfers. Vote 15-0.

Referred to Finance.

SB 80, relative to vocational education and the automotive technology curriculum. **OUGHT TO PASS**

Rep. Richard Leone for Education: This bill was introduced to update and improve the high school automotive technology programs in New Hampshire. It establishes an automotive technology and advisory council in the Department of Education. Not only will these

programs meet the standards of the National Automotive Technicians Education Foundation (NATEF), but they will greatly enhance New Hampshire's opportunity for Federal funding in this area. Vote 17-0.
Referred to Finance.

SB 23-FN, allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces. **OUGHT TO PASS WITH AMENDMENT**
Rep. William R. Zolla for Executive Departments and Administration: The amendment for this bill allows for the purchase of up to three years of additional service credit in the retirement system. The amendment reduced the time to three years rather than five years so that all military personnel were put on the same playing field regardless of time served in that the subsequent minimum time of enlistment following the demise of the draft became three years. This benefit is only available to active members of the retirement system with ten years of in state service and must be paid in accordance with the actuarial determination of the cost. This cost shall include both the employer and employee contribution for the time purchased and shall be the responsibility of the purchaser. The other changes made by the amendment to the original bill were to clarify in all sections of RSA 100 that the military time purchased under this bill shall not be used as creditable service eligibility for retirement or for the purpose of eligibility for medical and surgical benefits as a retired employee under RSA 21-I:30, RSA 100-A:52, RSA 100-A:52-a or RSA 100-A:52-b. Vote 15-1.

Amendment (1498h)

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Creditable Service for Military Service. Amend RSA 100-A:4 by inserting after paragraph V the following new paragraph:

VI.(a) Notwithstanding any other provision of this section, a member in active service in the retirement system who has completed 10 years of creditable service in the state, shall be entitled to receive credit, upon payment by the member of the cost of such credit and upon approval of the board, for not more than 3 years of additional creditable service for active service in the armed forces of the United States, subject to the following:

(1) The member is not receiving military retirement benefits at the time of application for such credit, other than disability allowances.

(2) The member is honorably discharged or is an officer honorably separated from the military service of the United States, or is in active status in the New Hampshire national guard or organized reserve. A member on active status in the New Hampshire national guard or organized reserve may apply such service time on a ratio of 5 years active national guard or reserve service to one year of available additional creditable service under this paragraph.

(3) The member is not at the time of application for credit receiving any retirement benefits under this chapter or under any predecessor system.

(b) Credit for active service in the armed services shall not be made until the member has paid either in lump sum or, if permitted by the board of trustees, by installment deductions from pay from an employer. The actuary's statement shall be the product of the member's annual rate of compensation at the time of buy-in, multiplied by the sum of the member and employer contribution rates in effect with respect to the member at the time of buy-in, multiplied by the number of years of prior service credit bought.

(c) Additional creditable service purchased under this paragraph shall not be used as creditable service for the purpose of determining service retirement eligibility or for purpose of eligibility for medical and surgical benefits as a retired employee under RSA 21-I:30, RSA 100-A:52, RSA 100-A:52-a, or RSA 100-A:52-b.
Referred to Finance.

SB 43, relative to archives and records management. **OUGHT TO PASS**

Rep. Judson K. Dexter for Executive Departments and Administration: This bill updates the name of the division of records management and archives to the division of archives and records management which conforms with the rest of the country. Additionally, it gives the Secretary of State, Governor and Executive Council greater flexibility in selecting the director. Vote 16-0.

SB 143, establishing a commission to study and review the regulation of the building trades.
INEXPEDIENT TO LEGISLATE

Rep. Judson K. Dexter for Executive Departments and Administration: In 2001-2002, we established a statewide universal building code, which covers every aspect of building from foundation to finish, including heating and plumbing. This was created after two years of study. Therefore, this legislation is not needed at this time. Vote 15-0.

SB 179-FN-A, relative to positions in the banking department. **OUGHT TO PASS**

Rep. Peter F. Bergin for Executive Departments and Administration: The banking commissioner and the sponsors testified that currently there are not enough bank examiners to audit the ever-growing mortgage and consumer loan industry. This bill will enable the banking department to add additional personnel to audit the industry. There will be no cost to the state as each company audited is billed by the state. Vote 15-0.
Referred to Finance.

SB 210, relative to the administrative procedures of the real estate commission.
INEXPEDIENT TO LEGISLATE

Rep. William R. Zolla for Executive Departments and Administration: This bill would require the commission to hold a formal hearing on all complaints regardless of the severity of the violation. The bill also removes the authority of the commission to negotiate a settlement prior to a hearing under RSA 541-A:31, the administrative procedures act. The committee felt that this bill would hamstring the commission in its work to the detriment of the public that the commission was established to serve. Vote 15-0.

SB 146, relative to eligible costs for training grants in the job training program for economic growth. **INEXPEDIENT TO LEGISLATE**

Rep. Clifford A. Newton for Labor, Industrial and Rehabilitative Services: The committee realizes this is a good program. However, funding will not be available for this program until late 2006. There are also several issues and concerns to be worked out between the Department of Employment Security and the provider of administration of the grant-funded program. By voting this bill ITL, the Advisory Council will have time to work out these issues and come forward with proper legislation next session. Vote 13-0.

SB 174, relative to scheduled permanent impairment awards and remedial care under workers' compensation. **OUGHT TO PASS WITH AMENDMENT**

Rep. Franklin C. Bishop for Labor, Industrial and Rehabilitative Services: This bill clarifies the wage to be used when calculating permanent impairment awards under workers compensation. The amendment makes minor technical changes. Vote 13-0.

Amendment (1433h)

Amend RSA 281-A:15, I as inserted by section 1 of the bill by replacing it with the following:

I. Except as provided in paragraphs II and III *of this section and of RSA 281-A:32* and subject to RSA 281-A:28, 281-A:28-a and RSA 281-A:31-a, an average weekly wage shall be computed by using the method in subparagraph (a) or (b), or (c) that yields the result more favorable to the injured employee:

Amend RSA 281-A:23, II as inserted by section 3 of the bill by replacing it with the following:

II. The employer, or the employer's insurance carrier, shall pay the cost of artificial limbs, eyes, teeth, orthopedic appliances, and physical and surgical aids made necessary by such injury; shall pay the cost of replacement or repair when such is made necessary by wear and tear or by physical change in the person; and shall pay compensation for disability resulting from the replacement or repair, based on the employee's average wages at the time of the original injury. Notwithstanding RSA 281-A:48, I, a party may petition the commissioner for payment of such compensation at any time, if the disability results solely from the replacement or repair. If an employee by accident arising out of and in the ~~[cause]~~ **course** of the employment has suffered the loss of glasses, false teeth, an artificial member, or hearing aid, the employer **or the employer's insurance carrier** shall pay the employee an amount equal to the value of the property so lost.

SB 32, relative to municipal budget recommendations. **OUGHT TO PASS**

Rep. Nancy K. Johnson for Municipal and County Government: The main duty of town budget committees is to "prepare the budget as provided for in RSA 32:5 for submission to each annual or special meeting of the voters of a municipality, and, if the municipality is a town, the budgets of any school district wholly within the town." There has been some controversy about which budget goes on the warrant – the school board's or the budget committee's if there is one. RSA 32 clarifies that the "budget" submitted to the voters is to be that of the budget committee, or the governing body if there is no budget committee. Vote 13-1.

SB 130-FN-L, relative to county departments of corrections. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert W. Brundige for Municipal and County Government: The original bill is a combination of housekeeping changes concerning the way the county department of corrections operates as well as clarifying changes in what is the responsibility of the sentencing court and what is the responsibility of the superintendent for inmate care and management.

The amendment clarifies and aligns the approval process used by the sentencing court to order the committal of an inmate to the county correctional facility for rehabilitation based on the rules and regulations of the specific county correctional facility in RSA 30-B:20. RSA 262:23 deals with motor vehicle habitual offenders and the amendment again aligns the process used by the sentencing court to order the committal of an inmate to rehabilitation based on the rules and regulations of the county correctional facility where the sentence is to be served. We amended the minimum mandatory term for the offender from eight consecutive weekends to 14 consecutive days prior to eligibility for a home confinement program.

RSA 651:17 deals with the time limit for a sentence to a county correctional facility and Section II is amended to state that the offender must be confined to the county correctional facility in the county where the crime was committed.

RSA 651:19 deals with release for gainful employment, rehabilitation or home confinement. As previously stated in RSA 262:23, the amendment basically aligns the approval process used by the sentencing court to order the inmate to home confinement, provided the county correctional facility has a home confinement program. It also allows the superintendent to have discretion in determining who is eligible for the home confinement program. If the superintendent deems an inmate inappropriate for the home confinement program, the superintendent is to notify the sentencing court, and, at the request of the defendant, a hearing may be scheduled to hear the defendant's grievance. The amendment also requires that the defendant must serve 14 consecutive days prior to the eligibility for the home confinement program. The amendment also contains some housekeeping measures that clarify the terms of home confinement. Vote 13-0.

Amendment (1539h)

Amend the bill by inserting after section 8 the following and renumbering the original sections 9-10 to read as 13-14, respectively:

9 Employment of Offenders; Work Release. Amend RSA 30-B:20 to read as follows:

30-B:20 Work Release. ~~[Any]~~ **A sentencing court may order that any** person sentenced to imprisonment in a county department of corrections facility may be released therefrom by the **superintendent with the approval of the** sentencing court at the time of sentence, or at any time during the term of sentence ~~[, by the court for such purpose as the court may deem conducive to his rehabilitation]~~ **based on the rules and regulations of the county correctional facility for such purposes as the superintendent may deem conducive to his or her rehabilitation.** Such release shall be for such terms or intervals of time and under such terms and conditions as ~~[the court may order the superintendent to impose]~~ **may be permitted by the facility's rules and regulations.** Any part of a day spent in the free community under such a release order shall be counted as a full day toward the serving of the sentence unless otherwise provided by the **sentencing** court. ~~[If a person violates the terms and conditions laid down for his conduct, custody, or employment, the court may require that the balance of the person's sentence be spent in actual confinement and may cancel any earned reduction of his term. If the superintendent refuses to permit a person confined, who is otherwise eligible for a work release program, to participate in such program, that person shall have the right to petition the court for a hearing on the matter, and the decision of the court shall be conclusive.]~~

10 Motor Vehicles; Habitual Offenders. Amend RSA 262:23, I to read as follows:

I. It shall be unlawful for any person to drive any motor vehicle on the ways of this state while an order of the director or the court prohibiting such driving remains in effect. If any person found to be an habitual offender under the provisions of this chapter is convicted of driving a motor vehicle on the ways of this state while an order of the director or the court prohibiting such operation is in effect, he or she shall be guilty of a felony and sentenced, notwithstanding the provisions of RSA title LXII, to imprisonment for not less than one year nor more than 5 years. No portion of the minimum mandatory sentence shall be suspended, and no case brought to enforce this chapter shall be continued for sentencing; provided, however, that any sentence or part thereof imposed pursuant to this section may be suspended in cases in which the driving of a motor vehicle was necessitated by situations of apparent extreme emergency which required such operation to save life or limb. Any sentence of one year or less imposed pursuant to this paragraph shall be served in a county correctional facility ~~[and the]~~. **The sentencing** court may order that any such offender may serve his or her sentence under home confinement pursuant to RSA 651:19 ~~[on such terms and conditions as the court may order,]~~ **based on the rules and regulations of the county correctional facility where the sentence is to be served** for the minimum mandatory term or any portion thereof, provided the offender first serves ~~[8 consecutive weekends or]~~ 14 consecutive days of imprisonment prior to eligibility for home confinement. Habitual offenders shall only be eligible for the home confinement ~~[sentencing option]~~ **program** once per lifetime. Any sentence of more than one year imposed pursuant to this paragraph shall be served in the state prison.

11 Sentence to County Correctional Facility; Year or Less. Amend RSA 651:17, II to read as follows:

II. The sentence shall be that the offender be confined to hard labor, for the term ordered by the court, in the county correctional facility ~~[, except where otherwise expressly provided]~~ **of the county in which the crime was committed.**

12 Discretionary Sentences; Release for Purpose of Gainful Employment. Amend RSA 651:19 to read as follows:

651:19 Release for Purpose of Gainful Employment, Rehabilitation or Home Confinement. ~~[Any]~~ **A sentencing court may order any** person who has been committed to a ~~[penal]~~ **correctional** institution other than state prison under a criminal sentence may be

released therefrom ~~[by the sentencing court at the time of sentence or at any time during the term of sentence,]~~ for the purpose of obtaining and working at gainful employment, for the performance of uncompensated public service as provided in RSA 651:68-70, or to serve the sentence under home confinement, provided the ~~[offender first serves 8 consecutive weekends or]~~ **correctional facility has a home confinement program. If the superintendent determines the person is inappropriate for the home confinement program, the court shall be notified and, at the request of the defendant, a hearing may be scheduled. In any case, the defendant shall first serve** 14 consecutive days prior to eligibility for home confinement, or for such other purpose as the court may deem conducive to his or her rehabilitation, for such times or intervals of time and under such terms and conditions as the ~~[court may order]~~ **rules and regulations of the correctional facility may allow.** Any part of a day spent in the free community, or in home confinement, under such a release order shall be counted as a full day toward the serving of the sentence unless otherwise provided by the court. If a person violates the terms and conditions laid down for his or her conduct, custody and employment, he or she shall be returned to the ~~[sentencing court]~~ **correctional facility.** The ~~[court]~~ **superintendent** may then require that the balance of the person's sentence be spent in actual confinement ~~[and may cancel any earned reduction of his or her term].~~

Referred to Criminal Justice and Public Safety.

SB 47-FN, relative to refunds for tolls paid on account of shrinkage or loss by evaporation of motor fuel. **OUGHT TO PASS WITH AMENDMENT**

Rep. Sandra B. Keans for Public Works and Highways: This legislation changes the rate from 1 cent to $\frac{3}{4}$ cent per gallon that can be refunded to gasoline dealers for shrinkage. All parties agree that shrinkage does occur but with new technology, such as new tanks and pumps, much less is lost. Vote 17-1.

Amendment (1363h)

Amend the bill by replacing section 1 with the following:

1 Road Tolls; Retail Dealers; Refund Rate. Amend RSA 260:48, I to read as follows:

I. The amount of refund shall be computed at the rate of ***3/4 of*** one percent of the toll paid on gross purchases.

AMENDED ANALYSIS

This bill reduces the rate used to calculate refunds to retail dealers for road tolls paid on account of shrinkage or loss by evaporation of motor fuel.

Referred to Finance.

SJR 1, approving certain uses of Weeks state park. **OUGHT TO PASS**

Rep. David M. Lawton for Resources, Recreation and Development: This legislation encourages the Division of Parks and Recreation to enter into a lease agreement with a cellular communications provider. The agreement would allow for the installation of cellular communications equipment entirely within the existing stone structure of the Weeks State Park in Lancaster, New Hampshire. After careful consideration, and further consultation with the Attorney General's office, the committee endorses this resolution and strongly believes that the proposed use is in keeping with the stipulated deed restrictions of the Weeks' Estate. Further, the committee agreed that the contract will hopefully make the state park self-funded and the enhanced communications will improve both the safety and economic vitality in this rural region of the state. Vote 16-2.

SB 58-FN-A, relative to the net operating loss under the business profits tax. **OUGHT TO PASS WITH AMENDMENT**

Rep. Vivian R. Clark for Ways and Means: As passed by the Senate, this bill failed to accomplish the stated purpose of eliminating net operating loss carry-back requirements.

The amendment is a technical correction that restores a date reference in the statute and thereby does effect the desired result. The change will not alter FY '04 or FY '05 business profits tax revenues, but will cause a \$2 million reduction in the Business Profits Tax in FY '06 and thereafter. Vote 15-0.

Amendment (1301h)

Amend the introductory paragraph of RSA 77-A:4, XIII as inserted by section 1 of the bill by replacing it with the following:

XIII. A deduction for the amount of the net operating loss carryover determined under section 172 of the United States Internal Revenue Code in effect on December 31, 1996 ~~[provided, however, that in calculating such net operating loss carryover, the election permitted under section 172(b)(3) of the United States Internal Revenue Code in effect on December 31, 1996, shall not be allowed]~~. A net operating loss shall be apportioned in the year incurred according to RSA 77-A:3. Net operating losses may only be carried forward for the 10 years following the loss year. For taxable periods ending:
Referred to Finance.

SB 139, relative to exhibition fees charged by the boxing and wrestling commission.

OUGHT TO PASS WITH AMENDMENT

Rep. Daniel M. Hughes for Ways and Means: This bill allows the commission to waive boxing and wrestling exhibition fees, in its sole discretion, for amateur boxing and wrestling events to the extent that the proceeds are used for charitable purposes and that the sponsor is a 501(c) (3) entity. Vote 13-1.

Amendment (1466h)

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

1 New Paragraph; Permit and License Fees; Nonprofit Organizations. Amend RSA 285:13 by inserting after paragraph II the following new paragraph:

III. The commission in its sole discretion, may waive fees for amateur boxing and wrestling exhibitions to the extent that the proceeds are to be distributed for charitable purposes to organizations which are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.

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

AMENDED ANALYSIS

This bill allows the commission to waive amateur boxing and wrestling exhibition fees for nonprofit organizations.

REGULAR CALENDAR

SB 98-FN, prohibiting telemarketers from contacting customers on a federal do-not-call registry. **OUGHT TO PASS WITH AMENDMENT**

Rep. John B. Hunt for Commerce: This bill, as it arrived from the Senate, had two controversial provisions that were exemptions to the telemarketing do-not-call list. The first one was that "on behalf of a newspaper to build its own circulation provided the telemarketer making such call has used and observed with respect to such call the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc., Farmingdale, NY, or its successor organization." The second controversial provision says, "In which the sale of goods or services is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller." This exception stirred much discussion because of the perception that some small businesses need to make a sales call to everyone whether the consumer is on the do-not-call list or not. Clearly, if your name and phone number is not on the list your are fair game, but the majority of the committee was uncomfortable creating an exemption that would free realtors and any other small or large business from having to check the national-do-not call list

simply because they are only making an appointment. The committee felt that the exemption was so broad as to help not only small businesses but also large businesses such as Sears which makes calls for appointments to sell siding and windows. This bill, as amended, is essentially the same as HB 109 that came out of the Science & Technology Committee except that the federal law that this bill mirrors is a little broader as related to computer generated calls and includes "safe harbor language" for unintentional errors. Vote 13-2.

Amendment (1406h)

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

3 New Subdivision; Telemarketing Sales Calls. Amend RSA 359-E by inserting after section 6 the following new subdivision:
Telemarketing Sales Calls

359-E:7 Prohibited Telemarketing Sales Calls. Any person who is required to comply with the Federal Trade Commission Telemarketing Sales Rule, 16 C.F.R. part 310, as amended, shall also comply with the provisions of the Federal Trade Commission Telemarketing Sales Rule for telemarketing sales calls made within the state of New Hampshire. This section shall also apply to any person who would be required to comply with the Federal Trade Commission Telemarketing Sales Rule, if such person were making interstate telemarketing sales calls.

359-E:8 Violations; Penalties.

I. A violation of RSA 359-E:7 shall result in a civil penalty of \$11,000 per violation.

II. A violation of RSA 359-E:7 shall also constitute an unfair or deceptive act or practice. Any person injured by another's violation of this chapter may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act or practice was a willful or knowing violation of this subdivision, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this subdivision without bond, subject to the discretion of the court. Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleadings to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

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

AMENDED ANALYSIS

This bill requires telemarketers to comply with the Federal Trade Commission's Telemarketing Sales Rule for telemarketing sales calls made within the state.

Adopted.

Report adopted and ordered to third reading.

SB 121-FN, relative to mortgage originator registration. OUGHT TO PASS WITH AMENDMENT

Rep. Paul D. Spiess for Commerce: The intent of this bill, as passed by the Senate, would require that any person engaged in the business of originating mortgage loans for compensation must be registered as a loan "originator" with the New Hampshire Banking Department. This would require filing an application, paying a fee, and being subject to suspension, revocation or non-renewal. The committee felt that there was not sufficient evidence to justify implementing a registration process. Further, the committee believes that the licensed mortgage banker or mortgage broker is ultimately responsible for the actions of their agents/employees. The committee amendment requires the licensee to provide a list of all loan originators who originate loans on their behalf to the banking department at the

time of renewal of their license. Vote 13-2.

Amendment (1500h)

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

AN ACT relative to mortgage originators.

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

1 Definitions; "Originator". RSA 397-A:1, IX is repealed and reenacted to read as follows:

IX. "Originator" means an individual who is employed and supervised by a mortgage banker or broker required to be licensed under RSA 397-A, and who, for compensation or gain or in the expectation of compensation or gain, negotiates, solicits, arranges, or finds a mortgage loan.

2 New Subparagraph; License Application; Requirements; Originator List. Amend RSA 397-A:5, II by inserting after subparagraph (c) the following new subparagraph:

(d) Each applicant shall provide a list of all individuals, and the address of the work location of each such individual, who will act as originators for the licensee.

3 Annual Report; Originator List Included. Amend RSA 397-A:13, I to read as follows:

I. Each licensee shall file, under oath, an annual report with the banking department on or before February 1 each year concerning operations for the preceding year or license period ending December 31 upon the form prescribed by the banking department. ~~[Whenever a licensee operates 2 or more licensed offices or whenever 2 or more affiliated licensees operate licensed offices, then a composite report of such group of licensed offices may be filed in lieu of individual reports.]~~ ***The annual report shall include a list of all individuals, and the address of the work location of each such individual, who act as originators for the licensee.***

4 New Paragraph; Definitions; "Originator". Amend RSA 398-A:1 by inserting after paragraph V the following new paragraph:

VI. "Originator" means an individual who is employed and supervised by a mortgage lender or broker required to be licensed under RSA 397-A or 398-A, and who, for compensation or gain or in the expectation of compensation or gain, negotiates, solicits, arranges, or finds a mortgage loan.

5 License Required; Originator List Added. Amend RSA 398-A:1-a, II to read as follows:

II. The application for such license shall be in writing, under oath and in the form prescribed by the bank commissioner. ***Each applicant shall provide a list of all individuals, and the address of the work location of each such individual, who will act as originators for the licensee.***

6 Report; Originator List Added. Amend RSA 398-A:1-e to read as follows:

398-A:1-e Report. Each licensee shall file with the commissioner on or before February 1 of each year a report under oath concerning the business and operations for the preceding calendar year ending December 31 in the form prescribed by the commissioner. ~~[Whenever a licensee operated 2 or more licensed offices or whenever 2 or more affiliated licensees operated licensed offices, then a composite report of such group of licensed offices may be filed in lieu of individual reports.]~~ ***The annual report shall include a list of all individuals, and the address of the work location of each such individual, who act as originators for the licensee.*** The commissioner shall publish an analysis of the information required under this section as a part of his annual report. Any licensee failing to file the report required by this section within the time prescribed shall pay to the commissioner the sum of \$25 for each calendar day the report is overdue. ~~[If a licensee elects to file a composite report and such composite report is not filed on or before February 1 as required under this section, the penalty prescribed in this section shall apply separately for each license held.]~~

7 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill defines the term “originator” for both first and second mortgage brokers and requires the mortgage broker to include a list of his or her originators with an application for a license and in the annual report.

Adopted.

Report adopted and ordered to third reading.

SB 221-FN, relative to the offense of obstructing government administration by the use of simulated legal process. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill relates to the use of a simulated legal process against a public official a misdemeanor and allows injunctive relief and restitution in addition to the criminal penalty. Although the use of simulated legal process has not been a major issue in New Hampshire, it is not unheard of. In one recent case, a simulated action was brought against a presiding district court judge summoning him before “The People’s Court of New Hampshire,” a non-existent court. Vote 14-2.

Amendment (1440h)

Amend RSA 638:14 as inserted by section 2 of the bill by replacing it with the following:

638:14 Unlawful Simulation of [~~Official Notice~~] **Legal Process**. A person is guilty of a misdemeanor who, with a purpose to procure the compliance of another with a request made by such person, knowingly sends, mails or delivers to such person a notice or other writing which has no judicial or other sanction, but which in its format or appearance simulates a summons, complaint, court order or process, ***including, but not limited to, lien, indictment, warrant, injunction, writ, notice, pleading, subpoena, or order,*** or an insignia, seal or printed form of a federal, state or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.

Adopted.

Reps. Marple and Kennedy spoke against.

Rep. Stevens spoke in favor.

On a division vote, 270 members having voted in the affirmative and 77 in the negative, the report was adopted.

Ordered to third reading.

SB 107-FN-A-L, establishing a statewide education accountability system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Sharon M. Carson for Education: This bill attempts to fulfill both the federal requirement under No Child Left Behind and the recent “Claremont” decision relative to a statewide education accountability system. It creates a comprehensive accountability system that sets statewide performance targets for all New Hampshire schools, measures school performances at the state and local level, reports on these results at the school district and state level, gives schools the opportunity to receive assistance from the State Department of Education in order to meet identified state targets and creates a system of rewards for schools that excel and strategic responses for schools that do not meet statewide performance targets. Over a series of meetings, the concerns and suggestions of a multitude of interested parties were heard. The strong bipartisan vote of the committee believes this is a fair and balanced attempt at creating an accountability program designed for the State of New Hampshire. Vote 13-2.

Amendment (1541h)

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

1 Policy and Purpose. The general court hereby establishes a statewide accountability system to ensure that public schools are providing all students an opportunity to receive an

adequate public education as set forth in RSA 193-E:1-2. A comprehensive, statewide educational accountability system should include:

- I. Statewide performance targets for all schools.
- II. Systematic measurement of school performance at the state and local level using multiple valid measures.
- III. Reporting on pupil performance at the school, school district, and state levels.
- IV. The opportunity for schools that are not making satisfactory progress toward statutory performance targets to receive assistance from the state, including assistance with the development, implementation, and evaluation of local education improvement plans designed to meet state targets and any performance targets developed locally to meet identified educational needs.
- V. A statewide system of recognition of achievement for schools that meet or exceed statewide performance targets and strategic responses for schools that do not meet these targets.

2 Adequate Public Education; Reporting on the Delivery of Education. RSA 193-E:3 is repealed and reenacted to read as follows:

193-E:3 Reporting on the Delivery of Education.

I. By August 1, 2003, and annually thereafter, each school district shall report data to the department of education, at the school and district levels for the previous school year, on the following indicators, provided that the department shall develop a reasonable schedule to phase-in the reporting of data that is not being collected systematically during school year 2002-2003:

- (a) Numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major racial and ethnic groups.
- (b) Attendance and dropout rates.
- (c) Performance on statewide tests administered pursuant to RSA 193-C:3, IV(i) including the percentage of pupils reading at grade level on the reading component of the grade 3 statewide educational assessment.
- (d) Percentage of graduating pupils going on to post-secondary education and military service.
- (e) Number and percentage of classes taught by highly qualified teachers.
- (f) Teacher and administrator turnover rates at the school and district levels.

II. The department of education, with the approval of the legislative oversight committee established in RSA 193-C:7, may implement and report data on any additional indicators deemed relevant to the purposes of this section.

III. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in paragraph I and all enrollment and cost data related to determining the cost of an adequate education.

IV.(a) Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles." It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Comparisons with state averages shall be provided for all data reported. Comparisons of each district and school to itself based on its own performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school

education improvement plan. The local school district shall provide a copy of the report to the public upon request.

(b) A school or school district designated as in need of improvement under this paragraph shall have 30 days from the date of the report to appeal such designation to the commissioner of the department of education.

V. The department of education shall promote school improvement through annual recognition as deemed appropriate.

3 New Chapter; School Performance and Accountability. Amend RSA by inserting after chapter 193-F the following new chapter:

CHAPTER 193-G SCHOOL PERFORMANCE AND ACCOUNTABILITY

193-G:1 Definitions. In this chapter:

I. "Adequate yearly progress" means that measure of school performance as defined in 34 C.F.R sections 200.13 through 200.18.

II. "Commissioner" means the commissioner of the department of education.

III. "Department" means the department of education.

IV. "Highly qualified teacher" means a person who is certified by the department of education and who has demonstrated, through a process approved by the department of education, teaching skills in the core subjects of instruction.

V. "Statewide assessment" means the New Hampshire education improvement and assessment program as established under RSA 193-C.

193-G:2 Statewide Performance Targets.

I. On or before the 2013-2014 school year, schools shall ensure that all pupils are performing at the basic level or above on the statewide assessment as established in RSA 193-C.

II. In addition to the requirements of paragraph I, schools shall meet statewide performance targets as established in rules adopted by the state board of education pursuant to RSA 541-A.

III. Schools shall meet statewide performance targets as established in the rules adopted by the state board of education pursuant to RSA 541-A, relative to the statewide assessment.

IV. Schools shall meet statewide performance targets as established in the rules adopted by the state board of education pursuant to RSA 541-A, relative to attendance rate.

V. Schools shall meet statewide performance targets as established in the rules adopted by the state board of education pursuant to RSA 541-A, relative to the percentage of pupils who graduate with a regular diploma from an approved high school.

193-G:3 Identification and Public Disclosure.

I. The commissioner shall annually compile and disseminate to the governor and council, the president of the senate, the speaker of the house, local school boards, superintendents of schools, the public, and shall make available on the department website, a list of schools that are not meeting the statewide performance targets set forth in RSA 193-G:2.

II. The department shall notify schools identified under this section of the availability of technical assistance. The department shall provide technical assistance to the school districts upon request.

193-G:4 Local Education Improvement Plan; Strategic Responses.

I.(a) A school or school district shall have one year from the date that a school or school district has been designated as in need of improvement pursuant to RSA 193-E:3, IV to remedy identified problems at the local level. The school or school district shall create a plan that identifies actions that it intends to take to correct the areas of concern. This plan shall be submitted to the state board within 90 days of the date that the school or school district was designated as in need of improvement. If the plan does not sufficiently address the areas of concern, the state board shall disapprove the plan within 30 days. If the state

board disapproves the plan, the state board's designee shall work with the school or school district to amend the plan so that it meets state board approval. One year following the designation, if the school or school district is not making satisfactory progress in implementing its plan, the commissioner of education shall issue a notice to the school or school district and shall initiate a process for providing assistance pursuant to paragraph II; or

(b) If a school or school district has been designated as in need of improvement, then the school or school district may request assistance from the department of education.

(c) On or before the one year anniversary of being designated as a school or school district in need of improvement, the commissioner shall designate a progress review team to evaluate the implementation of the improvement plans and the progress toward state performance targets. The progress review team shall deliver a report to the state board. This report shall include evidence of satisfactory implementation and progress towards state performance targets or lack thereof and recommendations regarding future actions pursuant to II(b).

II. The department of education and the state board of education shall work cooperatively with the school or school district to provide assistance as follows:

(a) Within 30 days of a school district's request for assistance pursuant to paragraph I(b), the commissioner of education may appoint a peer review team to review the educational programming and effectiveness of the school or school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board. This report shall be issued within 30 days of the team's appointment. Based on this report, the school or school district and superintendent shall, within 90 days of the issuance of the report, prepare a corrective action plan and submit it to the state board for approval. If the plan is not approved, the school or school district may revise the plan and resubmit it to the state board. The school or school district may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(b) If the state board does not approve a corrective action plan in accordance with paragraphs I(a) or II(a), or upon the state board's adoption of a progress review team recommendations, the commissioner of education shall work with the school or school district to revise the corrective action plan. If the school or school district does not revise the corrective action plan within 60 days or the state board does not approve the revised corrective action plan, then the commissioner of education shall submit in a timely manner a corrective action plan, including methods for implementing it, to the state board for approval. The state board shall direct the school board to implement the plan pursuant to RSA 186:5.

III. At a minimum, the corrective action plan filed by the commissioner shall:

(a) Identify the area in which the school failed to meet the annual statewide performance targets established under RSA 193-G:2.

(b) Identify and describe the strategy the school intends to implement to improve its performance.

(c) Establish and explain a strategy designed to promote family and community involvement.

(d) Detail how the school district budget reflects the goals of the local education improvement plan.

IV. In addition to the provisions of subparagraph I(b), each plan may include the following elements:

(a) The school's curriculum including curricular priorities and instructional materials.

(b) Instructional models that incorporate research-based practices that have been proven to be effective in improving student achievement.

- (c) Formal and informal opportunities to assess and monitor each child's progress.
- (d) Evidence of data-based decisions.
- (e) Structural reform strategies that may include schedule, organization, support mechanisms, and resources.
- (f) Shared leadership structure to support school improvement.
- (g) Professional development that is aligned with school improvement goals.
- (h) External support and resources based on their effectiveness and alignment with school improvement plan.
- (i) Extended learning activities for students.

193-G:5 Powers of the Department of Education. Nothing in this chapter shall be construed to permit either the department of education or the state board of education to take control of the daily operations of any local public school.

4 New Subparagraphs; Statewide Education Improvement and Assessment Program; Program Goals Amended. Amend RSA 193-C:3, IV by inserting after subparagraph (h) the following new subparagraphs:

(i) At the end of grade 3, to determine if pupils are reading at grade level on a standardized reading test to be developed by the department as part of a statewide assessment system.

(j) At the school, district, and state levels, to provide performance reports on specific subgroups of pupils as required by federal law.

5 Statewide Education Improvement and Assessment; Duties of the Legislative Oversight Committee. RSA 193-C:8-9 are repealed and reenacted to read as follows:

193-C:8 Duties of the Legislative Oversight Committee. The committee shall:

I. Review the development and implementation of the school performance and accountability program set forth in RSA 193-G to ensure compliance with state and federal law. Implementation of the program shall be in conjunction with the committee's review.

II. Review the provisions of RSA 193-G and submit a report of such review annually to the speaker of the house of representatives, the president of the senate, the governor, and the chairpersons of the house and senate education committees.

III. Propose legislation that is needed as a result of the review of the progress and results of the policies implemented under this chapter and under RSA 193-G, including any changes necessitated by federal law.

IV. Confer with the commissioner and the state board of education to identify operational principles which should guide the work of the department of education in supporting improved school performance and accountability.

V. Analyze existing department of education programs and initiatives which support improved school performance and accountability.

VI. Receive reports from the commissioner regarding the status of public education in New Hampshire, updates on the improvement made by local school districts toward achieving satisfactory progress in statewide student performance under RSA 193-G:2 and status reports on the on-going issues and implications of school accountability at the state and federal level. Reports by the commissioner shall occur at least once annually or more frequently as needed, as determined by the committee and the commissioner.

VII. Receive reports from the state board of education summarizing any rules proposed pursuant to RSA 193-G prior to the submission of such rules to the joint legislative committee on administrative rules, and propose legislation to be submitted to establish such performance targets in state statute.

VIII. Statewide performance targets shall be developed by the department of education and recommended to the legislative oversight committee which shall review and may approve such targets no later than August 15 annually.

193-C:9 Local Education Improvement and Assessment Plan; Local Education Improvement Fund.

I. There is hereby established a local education improvement fund in the state treasury for the purpose of providing assistance to local school districts. This fund shall be nonlapsing.

II.(a) The department of education is authorized to use the amount transferred to the education improvement fund, in addition to any available federal funds for similar purposes, for any of the following purposes:

(1) To support and administer the local education improvement plan program.

(2) To collect, analyze, and report the demographic and educational improvement data.

(3) To assist local school staff with the analysis and use of school performance data.

(4) To provide grants as available to school districts for local school improvement.

(5) To provide a system of annual recognition to identify best practices and promote school improvement.

(b) For the biennium beginning July 1, 2003, and every biennium thereafter, appropriations from the fund shall be authorized by the legislative fiscal committee and the governor and council.

(c) Moneys transferred to the education improvement fund shall not be transferred, diverted, or used for any purpose not specified in this section.

III. The priority for the use of any state funds shall be given to lower-performing non Title I schools.

6 Repeal. The following are repealed:

I. RSA 194:23-d, relative to state financial aid.

II. Section 7 of this act, relative to the department of education investigation of gains-based testing.

7 Department of Education; Gains-Based Testing. The commissioner of the department of education shall investigate the feasibility of gains-based testing in meeting the needs of a statewide testing program. The commissioner shall report all findings and recommendations to the house and senate education committees no later than November 1 of each year.

8 Effective Date.

I. Paragraph II of section 6 of this act shall take effect June 30, 2005.

II. The remainder of this act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill establishes a statewide education accountability system which includes school performance standards, the creation of an education improvement fund, and the development of a local school improvement plan in each school district.

Rep. Stephen L'Heureux spoke against.

Amendment failed.

Rep. Stephen L'Heureux offered floor amendment (1598h), spoke in favor and yielded to questions.

Floor Amendment (1598h)

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

1 Policy and Purpose. The general court hereby establishes a statewide accountability system to ensure that public schools are providing all students an opportunity to receive an adequate public education as set forth in RSA 193-E:1-2. A comprehensive, statewide educational accountability system should include:

I. Statewide performance targets for all schools.

II. Systematic measurement of school performance at the state and local level using multiple valid measures.

III. Reporting on pupil performance at the school, school district, and state levels.

IV. The opportunity for schools that are not making satisfactory progress toward statutory statewide performance targets to receive assistance from the state, including assistance with the development, implementation, and evaluation of local education improvement plans designed to meet statewide performance targets and any performance targets developed locally to meet identified educational needs.

V. A statewide system of recognition of achievement for schools that meet or exceed statewide performance targets and strategic responses for schools that do not meet these targets.

2 Adequate Public Education; Reporting on the Delivery of Education. RSA 193-E:3 is repealed and reenacted to read as follows:

193-E:3 Reporting on the Delivery of Education.

I. By August 1, 2003, and annually thereafter, each school district shall report data to the department of education, at the school and district levels for the previous school year, on the following indicators, provided that the department shall develop a reasonable schedule to phase-in the reporting of data that is not being collected systematically during school year 2002-2003:

(a) Numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major racial and ethnic groups.

(b) Attendance and dropout rates.

(c) Performance on statewide tests administered pursuant to RSA 193-C:3, IV(i) including the percentage of pupils reading at grade level on the reading component of the grade 3 statewide educational assessment.

(d) Percentage of graduating pupils going on to post-secondary education and military service.

(e) Number and percentage of classes taught by highly qualified teachers.

(f) Teacher and administrator turnover rates at the school and district levels.

II. The department of education, with the approval of the legislative oversight committee established in RSA 193-C:7, may implement and report data on any additional indicators deemed relevant to the purposes of this section.

III. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in paragraph I and all enrollment and cost data related to determining the cost of an adequate education.

IV.(a) Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles" and shall be made available at every school administrative unit for public review. It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Comparisons with state averages shall be provided for all data reported. Comparisons of each district and school to itself based on its own performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school education improvement plan.

(b) A school or school district designated as in need of improvement under this paragraph shall have 30 days from the date of the report to appeal such designation to the commissioner of the department of education.

V. The department of education shall promote school improvement through annual recognition as deemed appropriate.

3 New Chapter; School Performance and Accountability. Amend RSA by inserting after chapter 193-F the following new chapter:

CHAPTER 193-G
SCHOOL PERFORMANCE AND ACCOUNTABILITY

193-G:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of education.

II. "Department" means the department of education.

III. "Highly qualified teacher" means a person who is certified by the department of education and who has demonstrated, through a process approved by the department of education, teaching skills in the core subjects of instruction.

IV. "Statewide assessment" means the New Hampshire education improvement and assessment program as established under RSA 193-C.

193-G:2 Statewide Performance Targets.

I. On or before the 2013-2014 school year, schools shall ensure that all pupils are performing at the basic level or above on the statewide assessment as established in RSA 193-C.

II. In addition to the requirements of paragraph I, schools shall meet statewide performance targets as approved by the legislative oversight committee established in RSA 193-C and thereafter, established in rules adopted by the state board of education pursuant to RSA 541-A.

III. Schools shall meet statewide performance targets as approved by the legislative oversight committee established in RSA 193-C and thereafter, established in the rules adopted by the state board of education pursuant to RSA 541-A, relative to the statewide assessment.

IV. Schools shall meet statewide performance targets as approved by the legislative oversight committee established in RSA 193-C and thereafter, established in the rules adopted by the state board of education pursuant to RSA 541-A, relative to attendance rate.

V. Schools shall meet statewide performance targets as approved by the legislative oversight committee established in RSA 193-C and thereafter, established in the rules adopted by the state board of education pursuant to RSA 541-A, relative to the percentage of pupils who graduate with a regular diploma from an approved high school.

VI. Notwithstanding RSA 541-A, the state board of education shall receive approval from the legislative oversight committee established in RSA 193-C prior to the submission of any rules to the joint legislative committee on administrative rules relative to statewide performance targets required under this section.

193-G:3 Identification and Public Disclosure of Schools in Need of Improvement.

I. The commissioner shall annually compile and disseminate to the governor and council, the president of the senate, the speaker of the house, local school boards, superintendents of schools, the public, and shall make available on the department website, a list of schools that are not meeting the statewide performance targets established in RSA 193-G:2.

II. A school or school district designated by the commissioner as not meeting statewide performance targets shall have 30 days from the date of the report to appeal such designation to the state board of education.

193-G:4 Local Education Improvement Plan; Strategic Responses.

I.(a) A school or school district shall have one year from the date that a school or school district has been designated as in need of improvement pursuant to RSA 193-G:3 to remedy identified problems at the local level. The school or school district shall create a plan that identifies actions that it intends to take to correct the areas of concern. This plan shall be submitted to the state board within 90 days of the date that the school or school district was designated as in need of improvement. If the plan does not sufficiently address the

areas of concern, the state board shall disapprove the plan within 30 days. If the state board disapproves the plan, the state board's designee shall work with the school or school district to amend the plan so that it meets state board approval. One year following the designation, if the school or school district is not making satisfactory progress in implementing its plan, the commissioner of education shall issue a notice to the school or school district and shall initiate a process for providing assistance pursuant to paragraph II; or

(b) If a school or school district has been designated as in need of improvement, then the school or school district may request assistance from the department of education. The department shall provide technical assistance to those schools that request assistance under this section.

(c) On or before the one year anniversary of being designated as a school or school district in need of improvement, the commissioner shall designate a progress review team to evaluate the implementation of the improvement plans and the progress toward state performance targets. The progress review team shall deliver a report to the state board. This report shall include evidence of satisfactory implementation and progress towards state performance targets or lack thereof and recommendations regarding future actions pursuant to II(b).

II. The department of education and the state board of education shall work cooperatively with the school or school district to provide assistance as follows:

(a) Within 30 days of a school district's request for assistance pursuant to paragraph I(b), the commissioner of education may appoint a peer review team to review the educational programming and effectiveness of the school or school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board. This report shall be issued within 30 days of the team's appointment. Based on this report, the school or school district and superintendent shall, within 90 days of the issuance of the report, prepare a corrective action plan and submit it to the state board for approval. If the plan is not approved, the school or school district may revise the plan and resubmit it to the state board. The school or school district may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(b) If the state board does not approve a corrective action plan in accordance with paragraphs I(a) or II(a), or upon the state board's adoption of a progress review team recommendations, the commissioner of education shall work with the school or school district to revise the corrective action plan. If the school or school district does not revise the corrective action plan within 60 days or the state board does not approve the revised corrective action plan, then the commissioner of education shall submit in a timely manner a corrective action plan, including methods for implementing it, to the state board for approval. The state board shall direct the school board to implement the plan pursuant to RSA 186:5.

III. At a minimum, the corrective action plan filed by the commissioner shall:

(a) Identify the area in which the school failed to meet the annual statewide performance targets established under RSA 193-G:2.

(b) Identify and describe the strategy the school intends to implement to improve its performance.

(c) Establish and explain a strategy designed to promote family and community involvement.

(d) Detail how the school district budget reflects the goals of the local education improvement plan.

IV. In addition to the provisions of subparagraph I(b), each plan may include the following elements:

(a) The school's curriculum including curricular priorities and instructional materials.

- (b) Instructional models that incorporate research-based practices that have been proven to be effective in improving student achievement.
- (c) Formal and informal opportunities to assess and monitor each child's progress.
- (d) Evidence of data-based decisions.
- (e) Structural reform strategies that may include schedule, organization, support mechanisms, and resources.
- (f) Shared leadership structure to support school improvement.
- (g) Professional development that is aligned with school improvement goals.
- (h) External support and resources based on their effectiveness and alignment with school improvement plan.
- (i) Extended learning activities for students.

193-G:5 Powers of the Department of Education. Nothing in this chapter shall be construed to permit either the department of education or the state board of education to take control of the daily operations of any local public school.

4 New Subparagraphs; Statewide Education Improvement and Assessment Program; Program Goals Amended. Amend RSA 193-C:3, IV by inserting after subparagraph (h) the following new subparagraphs:

- (i) At the end of grade 3, to determine if pupils are reading at grade level on a standardized reading test to be developed by the department as part of a statewide assessment system.
- (j) At the school, district, and state levels, to provide performance reports on specific subgroups of pupils as required by federal law.

5 Statewide Education Improvement and Assessment; Duties of the Legislative Oversight Committee. RSA 193-C:8-9 are repealed and reenacted to read as follows:

193-C:8 Duties of the Legislative Oversight Committee. The committee shall:

- I. Review the development and implementation of the school performance and accountability program set forth in RSA 193-G to ensure compliance with state and federal law. Implementation of the program shall be in conjunction with the committee's review.
- II. Review the provisions of RSA 193-G and submit a report of such review annually to the speaker of the house of representatives, the president of the senate, the governor, and the chairpersons of the house and senate education committees.
- III. Propose legislation that is needed as a result of the review of the progress and results of the policies implemented under this chapter and under RSA 193-G, including any changes necessitated by federal law.
- IV. Confer with the commissioner and the state board of education to identify operational principles which should guide the work of the department of education in supporting improved school performance and accountability.
- V. Analyze existing department of education programs and initiatives which support improved school performance and accountability.
- VI. Receive reports from the commissioner regarding the status of public education in New Hampshire, updates on the improvement made by local school districts toward achieving satisfactory progress in statewide student performance under RSA 193-G:2 and status reports on the on-going issues and implications of school accountability at the state and federal level. Reports by the commissioner shall occur at least once annually or more frequently as needed, as determined by the committee and the commissioner.
- VII. Review and approve statewide performance targets required under RSA 193-G:2 developed by the department of education and recommended to the legislative oversight committee by the state board of education.
- VIII. Receive reports from the state board of education including rules recommended by the department to be adopted by the state board of education under RSA 541-A relative to statewide performance targets required under RSA 193-G:2. The legislative oversight committee shall propose legislation to be submitted to establish such statewide performance

targets in state statute during the legislative session following the approval of any recommendations which the state board of education is required to make.

193-C:9 Local Education Improvement and Assessment Plan; Local Education Improvement Fund.

I. There is hereby established a local education improvement fund in the state treasury for the purpose of providing assistance to local school districts. This fund shall be nonlapsing.

II.(a) The department of education is authorized to use the amount transferred to the education improvement fund, in addition to any available federal funds for similar purposes, for any of the following purposes:

(1) To support and administer the local education improvement plan program.

(2) To collect, analyze, and report the demographic and educational improvement data.

(3) To assist local school staff with the analysis and use of school performance data.

(4) To provide grants as available to school districts for local school improvement.

(5) To provide a system of annual recognition to identify best practices and promote school improvement.

(b) For the biennium beginning July 1, 2003, and every biennium thereafter, appropriations from the fund shall be authorized by the legislative fiscal committee and the governor and council.

(c) Moneys transferred to the education improvement fund shall not be transferred, diverted, or used for any purpose not specified in this section.

III. The priority for the use of any state funds shall be given to lower-performing non Title I schools.

6 Repeal. The following are repealed:

I. RSA 194:23-d, relative to state financial aid.

II. Section 7 of this act, relative to the department of education investigation of gains-based testing.

7 Department of Education; Gains-Based Testing. The commissioner of the department of education shall investigate the feasibility of gains-based testing in meeting the needs of a statewide testing program. The commissioner shall report all findings and recommendations to the house and senate education committees no later than November 1 of each year.

8 Effective Date.

I. Paragraph II of section 6 of this act shall take effect June 30, 2005.

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

AMENDED ANALYSIS

This bill establishes a statewide education accountability system which includes school performance standards, the creation of an education improvement fund, and the development of a local school improvement plan in each school district.

Adopted.

Report adopted and referred to Finance.

SB 114, implementing an unsafe school choice option for pupils attending schools which have been classified as persistently dangerous and authorizing the state board of education to implement a complaint process to address school safety and school violence issues in nonpublic schools. **OUGHT TO PASS WITH AMENDMENT**

Rep. John R.M. Alger for Education: This bill is a requirement under the federal No Child Left Behind Act (NCLB). Under Section 9532 of that law, any state adopting NCLB must implement a policy defining a persistently dangerous school and allowing students attending such a school the option of attending another school in the same district. This bill might be

considered an umbrella over existing state law that already spells out safe school zones and pupil safety requirements under RSA 193-D & F. Vote 13-4.

Amendment (1514h)

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

1 New Chapter; Persistently Dangerous Schools. Amend RSA 193 by inserting after chapter 193-F the following new chapter:

CHAPTER 193-G

PERSISTENTLY DANGEROUS SCHOOLS

193-G:1 Persistently Dangerous Schools.

I. A persistently dangerous school is a school in which 3 of the following acts have occurred as separate incidents during the period of one school year for 3 consecutive years:

- (a) Homicide under RSA 630.
- (b) First or second degree assault under RSA 631:1 and RSA 631:2.
- (c) Aggravated felonious sexual assault under RSA 632-A:1.
- (d) Arson under RSA 634:1.
- (e) Robbery as a class A felony under RSA 636:1, III; or
- (f) Unlawful possession or sale of a firearm or other dangerous weapon under

RSA 159.

II. Any act set forth in paragraph I must occur within the school or on school grounds, during regular school hours or during a school-sponsored event, or during transportation of pupils to or from school, if such transportation is provided by the school district.

III. No later than July 1 of each year, the commissioner of the department of education shall report any persistently dangerous schools to the state board of education and to the school board of such schools.

193-G:2 Citizen's Advisory Committee. If a school is classified as a persistently dangerous school, the local school board shall establish a citizen's advisory committee to examine the conditions which led to the designation and offer input to the school board and administrators on steps which might be taken to remedy the designation and prevent further incidents. The committee shall be appointed by the local school board chairman with the advice of the local school board members. It shall include but not be limited to the principal of the designated school, the superintendent of the designated school, one member of the school board, one teacher employed at the designated school, one law enforcement official from the police department having jurisdiction in the district in which the designated school is located, and representatives of parents whose children are assigned to the designated school. The committee shall serve until the designation of a persistently dangerous school is removed.

193-G:3 Removal of Designation. Any school which is designated a persistently dangerous school, which for 2 consecutive years has operated as a safe school, shall be decertified as a persistently dangerous school. For the purposes of this section, a safe school is a school which has not had the number or frequency of qualifying events set forth in this section.

193-G:4 School Choice.

I. Any school which is designated a persistently dangerous school shall, within 5 days of being notified of such designation, notify the parents or guardian of the pupil attending such school of the option to transfer the pupil from the school to a school within the same school district, consistent with local school board policy.

II. If a pupil is the victim of any offense set forth in RSA 193-G:1, I, the school district shall, within 5 days of being notified of the incident, notify the parents or guardian of the pupil of the option to transfer the pupil to another school within the same school district, consistent with local school board policy.

193-G:5 Department of Education Authority. The commissioner of the department of education shall be the certifying authority under this chapter.

193-G:6 School Safety. Schools shall be authorized to implement policies promoting school safety.

2 New Paragraph; State Board of Education; Rulemaking. Amend RSA 186:11 by inserting after paragraph the following new paragraph:

XXIX-a. Adopt rules pursuant to RSA 541-A, relative to establishing a process for receiving, investigating, and resolving complaints from parents or legal guardians concerning school safety and school violence in nonpublic schools.

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

Report adopted and ordered to third reading.

SB 132-FN-A, extending the Parents as Teachers program in Sullivan county and making an appropriation therefor. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Sharon M. Carson for the Majority of Education: This bill has two objectives. First, it seeks to establish the Parents as Teachers program throughout Sullivan County. Under Chapter 140, laws of 2000 (SB 170), Sullivan county was chosen as the rural site for this program and the necessary funds were appropriated. The majority of the committee believed we should continue the state's commitment to this very successful program. Secondly, the bill removes oversight of the program from the Department of Health and Human Services and places it under the Department of Education. This change was made per the request of Health and Human Services believing it will result in administrative efficiency and program coordination. Vote 11-5.

Rep. Barbara J. Hagan for the Minority of Education: This legislation is the Senate component to HB 621-FN, which narrowly passed the House on April 10, 2003, after it was revealed that there would be a funding commitment that could be staggering in 2004. The legislation proposes to move a program, which rightfully belongs in HHS to Education in hopes of capturing a new revenue source. The bill funds only one program, leaving 26 other state Parents as Teachers programs with nothing. Testimony by the proponents of the bill confirmed that it "was not an academic program," that it "was not a preschool program," and that it was "more a program for social and emotional skills." The minority felt that the Claremont Parents as Teachers should not ask the state for money to continue, but should look to their local community to financially support the program.

Rep. Ingbreton spoke against and yielded to questions.

Rep. Newton spoke against.

Reps. Alger and Rodeschin spoke in favor.

On a division vote, 196 members having voted in the affirmative and 153 in the negative, the majority committee report was adopted.

Referred to Finance.

SB 163-FN, relative to the procedures of the health services planning and review board. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Charles E. McMahon for the Majority of Health, Human Services and Elderly Affairs: This bill, as amended, streamlines the review process for health services by reducing regulation, provides for public input through an oversight advisory committee, improves data collection and analysis, and increases choice for health care consumers while protecting the viability of small hospitals. In addition, SB 78 was incorporated into this bill because of the data collection benefits that were compatible with this bill. The goal of the original Certificate of Need (CON) process was to manage growth of health care facilities statewide while reducing costs incurred by New Hampshire citizens. The committee believes the CON

process has not met this goal to manage growth and control costs. One report stated that the influence of CON appeared to add 20.6% to per capita hospital expenditures in the long run. Additionally, the committee found the CON process has less to do with the “quality” of the care than it did with restricting the volume of choices available to citizens for that care. The amendment provides for the transfer of existing review staff to the Department of Health & Human Services. The Health and Human Services Oversight Committee, with the assistance of a three-person citizen advisory committee, will annually assess the performance of the department in its review process. In addition the amendment specifies those health services that are subject to a certificate of review. Small hospital service areas are provided alternative choices to ensure protection from unregulated expansion of duplicate services. Finally, the existing staff will be used to do more efficient long term health care planning and assessment as well as assuring improvements in quality of care issues. Based on consideration of the information received, the committee felt that the bill would help to ensure that all New Hampshire citizens have access to high quality, cost effective health care services. Vote 15-1.

Rep. Hilda W. Sokol for the Minority of Health, Human Services and Elderly Affairs: The belief that all health care service, outpatient as well as inpatient, should be subject to similar review procedures is rationale for voting against the amended version of this bill.

Majority Amendment (1483h)

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

AN ACT transferring the duties of the health services planning and review board, adding a duty to the oversight committee on health and human services, and relative to certain health care data.

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

1 Certificate of Review. RSA 151-C is repealed and reenacted to read as follows:

CHAPTER 151-C

CERTIFICATE OF REVIEW OF PROPOSED NEW INSTITUTIONAL HEALTH SERVICES

151-C:1 Legislative Findings; Public Interest; Review and Assessment of New Health Services. It is declared to be the public policy of this state that:

I. The general welfare and protection of the lives, health, and property of the people of this state require that all new inpatient institutional health services be offered or developed in a manner which avoids unnecessary duplication, contains or reduces increases in the cost of delivering services, and promotes rational allocation of health care resources in the state;

II. The state has a compelling interest in working with the health care delivery system to set standards relative to the size, type, level, quality, and affordability of health services offered in New Hampshire; and

III. The state has an interest in promoting and stimulating collaboration among providers, including hospitals, ambulatory surgery centers, physicians, and others, and payors, including Medicaid, Medicare, private health insurers, and CHAMPUS, in the health care delivery system as a means of managing community health care needs and the increases in health care costs.

151-C:2 Definitions. In this chapter:

I. “Ambulatory surgical facility” means a health care facility or a portion of a health care facility which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

II. “Applicant” means a person responding to a request for application for certificate of review.

III. "Bed capacity" means the total number of licensed beds in a facility licensed under RSA 151; or in the case of state facilities, it means the total number of beds in service (staffed).

IV. "Calendar day" includes any day, except legal holidays.

V. "Capital expenditure" means an expenditure which, under generally accepted accounting principles consistently applied, is not properly chargeable as an expense of operation or maintenance, and includes acquisition by purchase, by transfer, or by lease or comparable arrangement, or through donation, if the expenditure would have been considered a capital expenditure if acquisition had been by purchase.

VI. "Categories of service" means health services offered in or through a health care facility which were not offered on a regular basis in or through such health care facility within the 12-month period before the time such services would be offered.

VII. "Certificate of review" means a certificate issued by the state agency approving the offering or development of a proposed new inpatient institutional health service.

VIII. "Confidential commercial information" means any information filed either by a health care facility in an application for certificate of review or data disclosure under RSA 126:25 that contains either a trade secret or other commercial information:

(a) That has not yet been revealed to persons other than (i) employees, agents, or attorneys of the filing party; (ii) other persons or entities with which the filing party is engaging in a joint venture or other commercial action in concert; and (iii) other persons or entities with which the filing party is actively negotiating for the purchase or sale of goods or services; and

(b) That would, if revealed, substantially and adversely affect the ability of the filing party or its affiliated interests to compete with other entities offering or proposing to offer the same goods and services in the same market.

IX. "Confidential financial information" means any financial information filed by a health care facility in accordance with an application for certificate of review or data disclosure under RSA 126:25:

(a) That has not yet been revealed to persons other than (i) employees, agents, or attorneys of the health care facility; (ii) other persons or entities with which the health care facility is jointly participating in an effort to obtain financing; and (iii) other persons or entities to which the health care facility has applied for financing;

(b) That would, if revealed, substantially, predictably, and adversely affect the ability of the health care facility or its affiliated interests to obtain financing on reasonable terms in competition with others seeking similar types of capital; and

(c) That could lawfully be concealed under applicable laws governing financial transactions.

X. "Construction" includes actual commencement of any construction or fabrication of any new building, or addition to any existing facility, or any expenditure, relating to the alteration, remodeling, renovation, modernization, improvement, relocation, repair, or replacement of a health care facility or health maintenance organization which adds inpatient beds or is with the intent to add a new inpatient institutional service.

XI. "Consumer of health care" means a person who is not a provider of health care.

XII. "Conversion" means change of the distribution of existing beds in a health care facility affecting acute care, skilled nursing care, intermediate care, psychiatric care, and substance abuse care as defined in the applicable state or federal law.

XIII. "Days" means calendar days.

XIV. "Department" means the department of health and human services.

XV. "Health care facility" means hospitals, ambulatory surgical facilities, specialty hospitals and nursing homes. Health care facilities shall include facilities which are publicly or privately owned or for-profit or not-for-profit, and which are licensed or required to be licensed in whole or in part by the state.

XVI. "Health maintenance organization" means a public or private organization, organized under the laws of any state or the federal government which:

(a) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage; and

(b) Is compensated, except for co-payments, for the provision of the basic health care services listed in subparagraph (a) to enrolled participants on a predetermined periodic basis without regard to the date on which health care services are provided; a predetermined periodic basis shall be fixed without regard to the frequency, extent, or kind of health care service actually provided; and

(c) Provides physician services primarily (1) directly through physicians who are either employees or partners of such organization, or (2) through arrangements with individual physicians or one or more groups of physicians organized in a group practice or individual basis, or (3) a combination of (1) and (2), as provided herein.

XVII. "Health services" means clinically related diagnostic, treatment, or rehabilitative services, as well as preventive services, and includes, without limitation, alcohol, drug abuse, and mental health services.

XVIII. "Hospice" means a concept of care to assist dying patients to live their remaining weeks or months as free of symptoms and as much in control as possible. Such care can be provided in the individual's home, in a residential setting outside of the individual's home or in a hospital or long-term care facility.

XIX. "Hospice house" means a free standing 24-hour residential setting licensed under RSA 151 as a supported residential care facility for terminally ill individuals with less than one year to live who no longer have a home or cannot remain safely there. Palliative care such as room, meals, personal care, medication monitoring and emotional support, is provided. Additional health care services may be provided to residents through arrangements with outside organizations as is currently available if the resident was in his or her own home.

XX. "Hospital" means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term "hospital" includes psychiatric and substance abuse treatment hospitals.

XXI. "Inpatient services" means all care delivered to patients staying more than 24 hours in a health care facility, including, but not limited to, alcohol and drug dependency, psychiatric services, physical rehabilitation, cardiology services, obstetrical services, and general medical and surgical services.

XXII. "Institutional health service" means any proposed project for which a standard must be developed under RSA 151-C:5, II.

XXIII. "Intermediate care facility" means an institution which, on a regular basis, provides health-related care and services of a lower level than those provided by a hospital or skilled nursing facility but above the level of room and office.

XXIV. "Location" means service area.

XXV. "Major new facilities" means the construction, development, or other establishment of a new inpatient health care facility.

XXVI. "Nursing home or facility" means a place which shall provide, for 2 or more persons, basic domiciliary services (office, room, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required.

XXVII. "To offer", when used in connection with health services, means that a health care provider holds itself out as capable of providing, or as having the means for the provision of, specified health services.

XXVIII. "Outpatient services" means all care delivered to patients who are not required as a part of treatment to stay in excess of 24 hours from time of admission in a health care facility.

XXIX. "Person" means an individual, trust, state, partnership, committee, corporation, nonprofit health service corporation, association and other organizations such as joint stock companies and insurance companies, or a political subdivision or instrumentality of a state, including a municipal corporation.

XXX. "Physical facility or site" means the total buildings, structures, and land of a health care facility.

XXXI. "Provider of health care" means a person:

(a) Who is a direct provider of health care, including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician, in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions, including hospitals, long-term care facilities, rehabilitation facilities, alcohol and drug abuse treatment facilities, outpatient facilities, and health maintenance organizations, in which such care is provided and, when required by the laws of this state, who has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

(b) Who holds a fiduciary position with, or has a fiduciary interest in, any entity described in subparagraph (c)(2) or (c)(4) of this paragraph other than an entity described in either such subparagraph which is also an entity described in section 501(c)(3) of the Internal Revenue Code of 1954 and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals, or the production of drugs or articles described in subparagraph (c)(3) of this paragraph;

(c) Who receives (either directly or through the person's spouse) more than 1/5 of his gross annual income from any one or combination of the following:

(1) Fees or other compensation for research into or instruction in the provision of health care;

(2) Entities engaged in the provision of health care or in research or instruction in the provision of health care;

(3) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; or

(4) Entities engaged in producing drugs or such other articles;

(d) Who is the member of the immediate family of an individual described in subparagraph (a), (b), or (c); or

(e) Who is engaged in issuing any policy or contract of individual or group health insurance, hospital, or medical service benefits. An individual shall not be considered a provider of health care solely because the individual is a member of the governing office of an entity described in subparagraph (c)(2) or (c)(4).

XXXII. "Psychiatric hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis, treatment, and rehabilitation of mentally ill and emotionally disturbed persons.

XXXIII. "Rehabilitation facility" means an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent professional supervision.

XXXIV. "Request for application" means a formal publication of need for a specific service based on an existing standard, revised standard, or new standard as developed pursuant to RSA 151-C:5 and 6.

XXXV. "Review" means the review of applications submitted in response to a request for application published by the department.

XXXVI. "Skilled nursing facility" means an institution or a distinct part of an institution which is primarily engaged in providing to injured, disabled, or sick inpatients skilled nursing care, and rehabilitative and related services.

XXXVII. "Standard" means a health policy guideline developed by the department and instituted under the provisions of RSA 541-A.

151-C:3 Ambulatory Surgical Facilities. An ambulatory surgical facility may provide beds or other accommodations for the overnight stay of up to 5 patients not to exceed 24 hours from the time of admission. Thereafter, an individual patient shall be discharged in an ambulatory condition or shall be transferred to an inpatient health care facility. The rules adopted pursuant to 1996, 299:4 regarding quality and safety standards for overnight beds in ambulatory surgical facilities shall remain in effect.

151-C:4 Prohibitions.

I. No new inpatient institutional health service shall be offered or developed within the state, nor shall any arrangement or commitment for financing the offering or developing of a new inpatient institutional health service be made, except pursuant to obtaining a certificate of review for such service.

II. No certificate of review shall be granted by the department unless a standard has been developed which delineates the need for the service and outlines the criteria which must be met by any person proposing such a service.

III.(a) No certificate of review shall be granted by the department for any nursing home, skilled nursing facility, intermediate care facility or rehabilitation facility from the effective date of chapter 310, laws of 1995, department of health and human services reorganization act, through the period ending June 30, 2003, except that a certificate of review shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act.

(b) No certificate of review shall be granted by the department for any nursing home, skilled nursing facility or intermediate care facility if it will result in the total number of licensed nursing facility beds in the region exceeding 40 beds per each 1,000 persons aged 65 and older living in the region.

IV. Any applications for certificates of review for nursing homes or facilities or rehabilitation facilities pending on the effective date of this paragraph shall be suspended pending revision of such standard of need.

V. The department shall apply the revised standard of review to any suspended pending applications.

151-C:5 Standard Development.

I. Prior to development or review of any new institutional health service the department shall publish in one or more newspapers of general circulation within each county, a description of the scope of coverage of its program for development and review of standards and the review of applications responding to requests for applications (RFA's) including the activities covered in RSA 151-C:5, II and 151-C:13. Whenever the scope of such coverage is revised, the department shall publish a revised description thereof, as provided in this paragraph.

II. The department shall develop standards for new inpatient institutional health services. These include the following:

(a) The transfer of ownership, in whole or in part, of an existing health care facility, or the acquisition of all or substantially all of its assets or stock, except where the transfer of ownership would be subject to the provisions of reevaluation of assets as outlined in the Federal Deficit Reduction Act of 1984;

(b) The development and offering of new inpatient services;

(c)(1) In addition to subparagraphs II(a) and (b), the following shall apply to hospitals with fewer than 70 general hospital beds licensed by the department of health and human services:

(A) A threshold amount for construction of ambulatory surgical centers within the service area of such a hospital shall be \$500,000, which threshold shall be adjusted annually using an appropriate inflation index, unless there is an objection by such hospital, in which case the application shall be subject to review regardless of value; or

(B) The construction, development, expansion, or alteration of any such hospital requiring a capital expenditure of more than \$1,759,512. A threshold amount for construction of ambulatory surgical centers and other outpatient services (excluding physician offices) within the service area of such a hospital requiring a capital expenditure of more than \$500,000, unless there is an objection by such hospital in which case the application shall be subject to review regardless of value. The department shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index. The purchase, lease, donation, transfer, or other comparable arrangement by or on behalf of a health care provider of diagnostic or therapeutic equipment for which the cost or, in the case of donation, the value, is in excess of \$400,000, including standards for one or more articles of diagnostic or therapeutic equipment which are necessarily interdependent in the performance of their ordinary functions as determined by the department. The department shall not develop standards for the purchase of equipment which is substantially similar to equipment owned by the provider within the preceding 12 months, provided the equipment will not result in a substantial increase in operating costs above that of the existing or replaced equipment.

(2) Such hospital shall notify the department within 30 days of July 1, 2003 whether it wishes to be covered under the option in subparagraph (c)(1)(A) or (B). Any such hospital which fails to notify the department within the 30-day period shall automatically be covered under the option in subparagraph (c)(1)(B). A hospital may change its option after January 1, 2006 and only every 2 years thereafter.

(3) The department shall determine by rule the service areas of such hospitals.

III. The department shall develop, pursuant to rules adopted under RSA 541-A, standards of need on health care services listed in paragraph II of this section. All persons enumerated in paragraph I of this section shall receive notice of all the standards and public hearings relative to the standards. The department shall publish notice of proposed standards in a state-wide newspaper and at least one newspaper in each county of the state. Each notice shall include dates and locations of public hearings.

151-C:6 Procedures for Existing Standards; No Standards.

I. If a standard of need, which precludes additional services, has existed for longer than 24 months, any person may request that the standard be reviewed to determine whether the standard should be continued. The 24-month requirement may be waived if it can be demonstrated that there has been a change in technology, market, or price which would warrant review of the standard. Notwithstanding RSA 541-A:4, the procedure shall be as follows:

(a) A request for a standard review shall be submitted in writing to the department.

(b) Within 30 days of the receipt of the request, the department must notify, in writing, the person making the request of the commencement of the 120-day standard review process or that the proposed project is not in accordance with RSA 151-C:5, II, and no standard review shall take place.

(c) The review of an existing standard shall take no longer than 120 days. Adoption of the standard shall be in accordance with RSA 541-A.

(d) The department shall notify persons, pursuant to RSA 151-C:5, I, of the beginning of the standard review period and the schedule for the review.

(e) If the department does not provide a standard allocating the new service or a statement on competition within the allotted 180 days, the proposed service shall not be required to obtain a certificate of review and shall not be subject to regulation under RSA 151-C.

II. In the case of a service for which there is no standard, any person may request, in writing, that the department develop a standard. Notwithstanding RSA 541-A:4, the procedure shall be as follows:

(a) A request for a standard development shall be submitted in writing to the department.

(b) Within 30 days of the receipt of the request, the department shall notify, in writing, the person making the request of the commencement of the 120-day standard development process or that the service is not in accordance with RSA 151-C:5, II, and no standard development shall take place.

(c) The development of a new standard shall take no longer than 120 days. Adoption of the standard shall be in accordance with RSA 541-A.

(d) The department shall notify persons, pursuant to RSA 151-C:5, I, of the beginning of the standard development period and the schedule for the review.

(e) The standard shall be either a standard allocating the new service by number, type, and location or a statement that the proposed new service is in the best competitive interest of health care in the state and shall not be subject to the provisions of RSA 151-C:8. The decision of the department shall be considered a final decision.

(f) If the department does not provide a standard allocating the new service or a statement on competition within the allotted 180 days, the proposed service shall not be required to obtain a certificate of review and shall not be subject to regulation under RSA 151-C.

III. In any standards for nursing facilities, the department shall provide that priority for a certificate of review for additional nursing facility beds shall be given to any facility which after January 1, 1999, has surrendered its certificate of review for the same or greater number of nursing facility beds. A facility may transfer to any other entity its priority status for a new certificate of review.

151-C:7 Criteria. Every standard developed by the department shall stipulate the criteria which must be met by any successful applicant applying to fill a need identified in the standard. At a minimum these shall include:

I. The immediate and long range financial feasibility of the proposed project, including the probable impact of costs and charges of the facility on health insurance premiums and personal health expenditures in the state or the region of the state.

II. The availability of resources for the proposed project including health and management personnel and funds, capital, and operating needs.

III. The degree to which the proposed project will be accessible to persons who are medically underserved, including, but not limited to, persons with a disability and indigent persons.

IV. In the case of existing facilities or entities with other facilities, records of the quality of care which may include records from state, federal, and private licensing and accreditation facilities. In the case of new entities, assurance of the quality of care stated in measurable terms.

151-C:8 Procedures for Certificate of Review.

I. If a standard developed through RSA 151-C:5 or 151-C:6 indicates a need for additional health services, the department shall issue a request for applications. The department shall publish, in other than the legal notices section, in a newspaper of statewide distribution and in at least one newspaper in every county, as well as notify all affected persons as defined in paragraph VI(b) of this section, a notice that the department is requesting applications for certificates of review for the specified service. At a minimum the notice shall include:

(a) A brief description of the service to be provided, including the amount, type, and location as established by the standard.

(b) The final date that applications are to be submitted which shall be no sooner than 60 days from the date of publication. An application in response to a request for application may be submitted prior to the deadline, but no review shall commence prior to the deadline.

(c) An address at which applicants may obtain copies of the application format as well as the minimum criteria and specifications which shall be the basis for judging the merits of each application.

II. The department shall be available to provide technical assistance to any applicant submitting an application in response to a request for applications.

III. All applications received in response to a single request for applications shall be reviewed simultaneously and shall be considered in relationship to each other.

IV. Every application shall contain such information as the department adopts by rule. The department shall not require any information which it has not adopted by rule. The information requirements established by the department may vary according to the purpose of the review or the type of health service being reviewed. In addition to the information required for submission to the department, any applicant may submit, and the department shall duly consider, any other information.

V.(a) The department shall examine every application for form and completeness, and the information required by RSA 151-C:7 as well as the specifications and standards outlined in the request for application. If an application is determined incomplete by the department, it shall notify the applicant by electronic mail or by certified mail within 21 days of receipt of the application. Such notification shall include a full explanation of the reasons for incompleteness. If no request for additional information is made by the department within the 21 days, the application shall be considered complete.

(b) An applicant whose application is incomplete shall be allowed a maximum of 21 days, from the date of receipt of notification of incompleteness, to provide the required additional information. The applicant shall not provide more than the required additional information. The department shall then review the additional information provided by the applicant; and, if satisfactory, the application shall be considered complete and the applicant shall be notified by electronic mail or by certified mail. If the application is still found to be incomplete, the department shall mail the applicant a notification within 14 days of receipt of the additional information. If no such notification is mailed to the applicant by the department within the 14-day period, the application shall be considered complete. Within 7 days of the receipt of any information submitted pursuant to the second completeness notice, the department shall notify the applicant as to whether such information is satisfactory and the application shall be considered complete.

(c) Any applicant whose application is incomplete following the second completeness review under subparagraph (b) may, by electronic mail or by certified mail, within 7 calendar days of receipt of the second notice of incompleteness:

(1) Provide the additional required information; or

(2) Stipulate that it wishes to have its application reviewed by the department notwithstanding its incompleteness. Any applicant whose application is incomplete and who fails to either provide the additional required information or stipulate that it wishes to have its application reviewed notwithstanding its incompleteness shall waive any right to have its application reviewed.

(d) The department shall review any application for which a stipulation has been filed pursuant to subparagraph (c).

(e) An applicant may withdraw an application at any time thereby terminating the review process.

VI.(a) Within 14 days of completion of the completeness review under paragraph V of this section, the department shall mail, to any qualified applicant, a notice that formal

review of the application has begun and shall publish the notice in other than the legal notice section of one or more newspapers of general circulation in the state and in one or more newspapers of general circulation in the service area of the facility to be reviewed. The department shall provide all affected persons, as defined in subparagraph (b), with written notification of the beginning of a review. The notice shall include a statement that review has begun and the proposed schedule for review by the department.

(b) For purposes of this paragraph, "affected persons" include organizations of health care providers and organizations of health care consumers, as defined by the department by rules adopted pursuant to RSA 541-A, and members of the public who are to be served by the proposed project. For purposes of this paragraph, notification of all qualified applicants in which the proposed project is to be offered or developed shall be by electronic mail or by certified mail. Notification to all affected persons shall be by mail and notification to members of the public shall be by newspaper. Notification by newspaper shall serve as appropriate notice to all health care facilities located within the state.

(c) If an affected person fails to receive notification which was provided in accordance with this paragraph, such failure of notice shall not be grounds for reversal of a decision made by the department, defeat any jurisdiction of the department, or adversely affect the regularity of any proceedings before the department.

VII. The date on which notification is sent to qualified applicants or the date on which notification to the members of the public first appears in a newspaper published in the state, whichever occurs later, shall be the date of notification and shall be the beginning date of the review cycle of the department.

VIII. The department shall establish review schedules which provide that no review by the department shall, to the extent possible, take longer than 90 calendar days from the beginning of the review cycle to the date of a final decision of the department. In accordance with the requirements of RSA 151-C:11, the department shall adopt exception criteria for determining when it would not be practicable to complete a review within 90 calendar days. If an application clearly meets such exception criteria, the department may provide for a single extension of the review period for a total of 30 calendar days beyond the initial 90-day period. The total review period for certificate of review shall not extend beyond 120 days from the beginning of review.

IX. Upon request, the department shall provide for access by the general public to all applications reviewed by the department and to all other written materials pertinent to department review.

X. The department shall provide in its review procedures for a public hearing. The department shall, prior to such hearing, provide notice of such hearing in accordance with the notification provisions in paragraph VI of this section. The procedures for a public hearing shall include an opportunity for any person to present testimony regarding the proposed project, the right of any persons testifying to be accompanied and advised by legal counsel, the right of any qualified applicant to cross-examine witnesses, and the establishment of a formal record of the hearing. The department shall not impose any fee for such a public hearing.

XI. During the course of review of any application for a certificate of review, the department shall take reasonable measures to prohibit and prevent all ex parte communication relating to the merits of such application.

XII.(a) After an application has been filed with the department, the applicant may file a request to amend the application only during the 45 days after the date of notification of the beginning of review. If the department grants the applicant's request, the application shall be filed 30 days after the department's approval. The department shall examine the amended application for form and completeness, for information required in RSA 151-C:7, and for conformity to all applicable standards in the request for applications. If an application is determined incomplete, the department shall notify the applicant by electronic mail or by certified mail within 14 days of receipt of the amended application. The applicant

whose application is incomplete shall be allowed a maximum of 14 days from the date of receipt of the department's notification of incompleteness to provide the required additional information. The amended application shall then be considered complete and processed in accordance with the provisions of paragraph VIII.

(b) When an application is filed with the department, an applicant shall be required by the department to file an amendment of the application when any supporting documentation or other material submitted to the department by the applicant indicates that:

(1) The nature, scope, or location of the project will differ substantially from those described in the application;

(2) The method of financing will differ substantially from that described in the application in that the estimated capital expenditure will exceed that proposed in the application by 15 percent plus the inflation factor, as specified in RSA 151-C:12, IV.

(3) The identity of the applicant has changed.

(4) The department may waive the requirements of subparagraph (b)(1), (2) or (3) if it is determined that the proposed amendment of the application is technical or otherwise insignificant.

(c) If an amendment is filed in accordance with subparagraph (a) or (b), the application shall return to the point in the review process defined in paragraph VI relative to the notification to the applicant that review of the application has begun.

XIII. Any action by the department or by an applicant pursuant to this section which results in a delay of the review process shall affect all applicants which filed under the same request for application and are considered by the department to be competing.

151-C:9 Decision Regarding Certificate of Review; Issuance of Certificate of Review; Reconsideration.

I. Upon completion of the review, the department shall render a decision on the applicant or applicants which filed in response to a request for application. The decision shall be in the form of an approval, denial, or an approval with conditions. An approval of a certificate of review shall be in conformance with the standard used as the basis for the request for application.

II. The department shall consider competing applicants in relationship to each other. The decision shall be based on the applicant who demonstrates superiority in cost effectiveness, quality, and affordability and who will best meet the specifications and criteria outlined in the standard.

III. If the department fails to issue a final decision within the time period specified for the review, a certificate of review shall be denied. The applicant may either request a reconsideration hearing under paragraph IV, or, within a reasonable time following the expiration of that period, petition the supreme court to require the department to render a final decision on the application.

IV.(a) Any person, for good cause shown, may request in writing a public hearing for purposes of reconsideration of a final decision of the department. The department shall adopt appropriate procedures for such a hearing. No fee may be imposed for the hearing. For purposes of this paragraph, a request for a reconsideration hearing, other than by an applicant denied a certificate of review, shall be good cause if it:

(1) Presents significant, relevant information not previously considered by the department;

(2) Demonstrates that there have been significant changes in factors or circumstances relied upon by the department in reaching its decision;

(3) Demonstrates that the department has materially failed to follow its adopted procedures in reaching its decision; or

(4) Provides such other basis for a public hearing as the department determines constitutes good cause.

(b) To be effective, a request for a reconsideration hearing shall be received by the department within 21 calendar days following the release of the department's written decision and order. The reconsideration request shall be considered by the department not more than 45 calendar days from the receipt of the reconsideration request. If granted, the hearing shall commence within 45 calendar days of receipt of the reconsideration request. At least 14 calendar days prior to the reconsideration hearing, notification of the hearing shall be sent to the person requesting the hearing and to the persons proposing the new institutional health service and to others upon request. Within 35 calendar days after the conclusion of the hearing, the department shall make written findings which state the basis for its decision. The decision shall be considered the final decision of the department.

151-C:10 Appeals to the Supreme Court.

I. Any person submitting an application for a certificate of review, if aggrieved or dissatisfied with the decision of the department, shall have the right, upon a petition which provides a detailed statement of the grounds upon which the decision of the department is claimed to be erroneous and contrary to the facts and the law, to appeal from the decision to the supreme court pursuant to RSA 541.

II. The provisions of RSA 541 shall govern all appeals under this section.

III. The court shall affirm the decision of the department unless it finds it to be arbitrary or capricious or not made in compliance with applicable law.

151-C:11 Additional Rules.

I. The commissioner of the department shall adopt rules governing review of certificate of review applications consistent with and necessary to the proper administration of this chapter. All rules shall be adopted pursuant to RSA 541-A and as described in this section; except that, in the case of an irreconcilable conflict between the provisions of RSA 541-A and the provisions of this section, the provisions of this section shall control.

II. At least 45 days prior to adopting any rule, the department shall publish, in at least one newspaper of statewide circulation, a notice stating that rules for the review of certificate of review applications or any revisions thereof have been proposed for adoption and are available at specified addresses for inspection and copying by interested persons. Such notice shall appear in other than the legal notice section of such newspapers; in addition, notice may be given through other public information channels.

151-C:12 Validity of Certificates of Review; Compliance; Sanctions.

I. A certificate of review issued pursuant to this chapter shall expire upon failure to commence or complete the project authorized thereby within the time period specified in this section. The department's approval shall be terminated upon the expiration of such period, and the person proposing to offer or develop the new institutional health service shall be required to resubmit an application for certificate of review under RSA 151-C:8. In the event that only part of a project to offer or develop the new institutional health service has been commenced or completed within such period, the department's approval shall be terminated upon the expiration of such period solely with respect to the parts of the project which have not been commenced or completed. Project completion date requirements are as follows:

(a) In the case of construction projects, the following time periods apply:

(1) If the total estimated cost of the project is less than \$ 1,000,000, the project must be commenced within one year of, and completed within 3 years of, the date of issuance of a certificate of review.

(2) If the total estimated cost of the project is greater than \$1,000,000, then the project must be commenced within 18 months of, and completed within 5 years of, the date of issuance of a certificate of review.

(b) In the case of any plan for capital expenditures proposed by or on behalf of a health care facility, health maintenance organization, or health care provider under which a series of obligations for capital expenditures for discrete components of the plan is to be incurred over a period longer than one year, the department may allow up to 3 years following the date of approval for incurring such capital expenditures.

II. Pursuant to a showing of good cause by the person proposing the project, the department shall extend by 6 months the period for commencement. A maximum of 2 such extensions shall be allowed. Upon a showing of substantial, diligent progress and good cause by the person proposing the project, the department shall grant up to a maximum of 2 extensions of 6 months each for completion of the project. For purposes of this paragraph, "good cause" includes delay resulting from unpreventable or unexpected occurrences, such as emergency, strike, disaster, unforeseen shortage of materials or other reasonably unforeseeable event.

III. For the purposes of this chapter, a project shall be commenced if:

(a) The applicant has submitted to the department a certified copy of a written agreement executed between the applicant and a registered general contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans and specifications; or

(b) The applicant has submitted evidence to the department that there has been construction work on the project to justify and require a progress payment by the applicant to the general contractor under the terms of the construction agreement, or, if the construction agreement does not require progress payments, then construction has progressed to the state at which an initial progress payment would otherwise be required in accordance with the usual and customary practices of the building industry.

IV. For purposes of this chapter, completion shall mean when the approved proposed project is sufficiently complete so that it becomes operational for the purpose for which the certificate of review was issued. A certificate of review shall be valid only for the designated scope of the project and for the premises and geographical area named in the application. A certificate of review granted for a project shall not be considered as an approval of that portion of the total actual cost of such a project which is in excess of the sum of: (a) the anticipated cost designated in the application; (b) an additional 15 percent of the total cost; and (c) cost increases clearly attributable to inflation.

IV-a.(a) Prior to completion of the proposed project, the department may require any applicant to file a change of scope when any documentation or other material submitted to the department indicates that:

(1) The nature, scope, or location of the project will differ substantially in the opinion of the department from those described in the application.

(2) The method of financing will differ substantially because the estimated capital expenditure will exceed that proposed in the application by 15 percent plus the inflation factor, as specified in RSA 151-C:12, IV.

(3) The identity of the applicant has changed.

(b) The department may waive the requirements of subparagraph (a)(1), (2) or (3), if it is determined that the proposed change in scope of the project is technical or otherwise insignificant.

V. All applicants receiving a certificate of review or a certificate of review with conditions shall file, at least semi-annually during the development stage and annually once the project is commenced, a report indicating that the project is in compliance with information provided in the application, and with the conditions outlined in the certificate of review. A report shall only be necessary for the first 5 years after completion of the project.

VI. Any applicant found not to be in reasonable compliance with any statement in its certificate of review application or with the conditions of the certificate of review shall be fined not more than 1/2 of one percent of the previous year's revenue minus contractual allowances or, in the case of a new facility, not more than 1/2 of one percent of the projected first year revenue minus contractual allowances.

VII. Funds collected under the provisions of this section shall be deposited in the general fund.

151-C:13 Exemptions.

I. The following are excluded from this chapter:

(a) Private offices or private clinics of physicians, dentists, or other practitioners of the healing arts, meaning the physical places which are occupied by such providers on a regular basis in which such providers perform the range of diagnostic and treatment services usually performed by such providers on an outpatient basis.

(b) Dispensaries and first-aid stations, located within business or industrial establishments, maintained solely for the use of employees, provided that such a facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than 24 hours.

(c) Infirmaries owned or operated by education institutions.

(d) Institutions or homes which provide remedial care or treatment only to residents or patients who rely solely upon treatment by prayer or spiritual means in accordance with the creed or attendance of any recognized church or religious denomination.

(e) Facilities and services which are intended to serve only outpatients.

(f) Hospice houses.

II. Nothing in this chapter shall exempt hospice houses from the licensing standards established under RSA 151.

151-C:14 Enforcement.

I. Any person who offers or develops any new institutional health service within the meaning of this chapter without first obtaining a certificate of review as required in this chapter, or who otherwise violates any of the provisions of this chapter, shall be subject to the following sanctions:

(a) The state shall not issue a license to any health care facility or health maintenance organization to operate, offer, or develop any new institutional health service in violation of this chapter and without a certificate of review issued pursuant to this chapter. The provisions of RSA 151 notwithstanding, in the case of an increase in actual bed capacity in contravention of the requirements of this chapter, any license for such beds shall be deemed to be revoked.

(b) The state shall not furnish from any reimbursement program administered by the state, nor shall any entity chartered under the laws of New Hampshire or any person licensed and doing business in the state, provide reimbursement for any new institutional health service offered or developed in contravention of the requirements of this chapter.

(c) Any person who violates this chapter shall be fined not more than 1/2 of one percent of the total operating budget of the previous year, or, in the case of a new facility, not more than 1/2 of one percent of the projected annual operating budget for the first year of operation.

(d) In addition to all other sanctions, if any person offers or develops any new institutional health service without first having been issued a certificate of review, or violates any other provision of this chapter or any lawful rule adopted under this chapter, upon the posting of a bond or security, the department or health care facilities, health maintenance organizations, and health care providers located in the state shall have standing to maintain a civil action in the superior court of the county in which such alleged violation has occurred, or in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the department, it shall be the duty of the attorney general of the state to furnish such legal services as may be appropriate and to prosecute such action for injunctive relief to an appropriate conclusion.

151-C:15 Fees.

I. In addition to any other fees required of it, each acute care hospital, specialty hospital, nursing home, and ambulatory surgical center licensed under RSA 151 shall pay an annual administrative fee. The total amount collected shall be equal to the amount actually expended in that year for the health services planning and review component of the department of health and human services or \$700,000, whichever is less. The amount to be collected shall be prorated at the end of each fiscal year among all health care facilities licensed under RSA 151, except those operated by county and municipal governments. Any

acute care hospital, specialty hospital, nursing home, or ambulatory surgical center which does not pay the fee required under this paragraph in a timely manner shall not have its license renewed under RSA 151 until such time as the fee is paid.

II. All persons filing an application in response to a request for applications shall pay a fee of one percent of the total capital cost of the project with a minimum fee of \$1,500, and a maximum of \$12,000. This paragraph shall not apply to health care facilities operated by counties or municipalities.

III. Persons requesting a standard development or standard review as outlined in RSA 151-C:6 shall pay a fee of \$1,000 if the department determines that a standard review or a standard development process shall occur.

IV. Funds collected under this section shall be deposited in the general fund.

151-C:16 Advisory Committee on Certificate of Review.

I. There is established an advisory committee on the certificate of review process under this chapter to monitor projects, recommend ideas, and provide input to the department. The committee shall provide a mechanism for the public sector to advise said department. The committee members are hereby encouraged to become knowledgeable about other health care organizations and associations.

II. The advisory committee shall consist of 3 public members, appointed by the governor. The members shall serve for 3-year terms and until their successors are appointed and qualified; provided, that initially one member shall serve for one year, one member for 2 years, and one member for 3 years. No member of the committee shall serve more than 2 consecutive terms. Geographic diversity shall be maintained.

III. The committee shall elect its own chairperson and shall meet on a quarterly basis. Members of the committee shall not be compensated.

IV. No person who receives a significant portion of his or her income directly or indirectly from facilities licensed under RSA 151 shall be a member of the committee.

2 Transfer of Functions, Powers, Duties and Staff. All functions, powers, duties and staff of the health services planning and review board are hereby transferred to the department of health and human services.

3 Reference Change. Amend RSA 126:25, II to read as follows:

II. In addition to the data listed in paragraph I, the commissioner of health and human services shall require all providers~~[-including ambulatory care facilities,]~~ licensed or certified to practice in the state of New Hampshire to submit ambulatory health care data pursuant to a plan to collect such data developed by the ~~[health services planning and review board established by RSA 151-C:3]~~ **department of health and human services**. This plan shall be ~~[submitted to the commissioner of health and human services by December 1, 1990]~~ **completed by December 31, 2004**.

4 Data Review; Reference Change. Amend RSA 126:26 to read as follows:

126:26 Data Review. ~~[The department of health and human services shall provide access, without restriction, to the data collected under RSA 126:25 to the health services planning and review board].~~ The department shall prepare a report on or before November 15, ~~[1996]~~ **2004**, and annually thereafter, to the speaker of the house of representatives ~~[and], the president of the senate,~~ **and the chairperson of the oversight committee on health and human services**. The report shall contain, but not be limited to, **an inventory of the existing health care system capacity and the projection of future system needs**, an analysis and evaluation of the data collected and recommendations for improved efficiencies and for health care cost containment. The department of health and human services is also authorized to prepare periodic reports on ~~[price]~~ **health care cost** and utilization of health services for the purpose of encouraging competition.

5 Reference Change. Amend RSA 195-D:3, XII to read as follows:

XII. "Nursing home," notwithstanding any other provision of law to the contrary, means any nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue

Code of 1986 as amended, and which is engaged in the operation of, or formed for the purpose of operating, a facility in which nursing care, sheltered care, intermediate care, life-care or continuing care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in New Hampshire, and in whole or in part is, or shall be upon completion, (a) licensed as a residential care facility under RSA 151:2, I(e) or (b) can be upon receipt of a certificate of ~~need~~ **review** under RSA 151-C licensed as a nursing home under the laws of New Hampshire.

6 Reference Changes. Amend RSA 281-A:2, XII-b to read as follows:

XII-b. "Health care provider" as used in this chapter includes doctors, chiropractors, rehabilitation providers, health services as defined in RSA 151-C:2, ~~[XVIII]~~ **XVII**, health care facilities as defined in RSA 151-C:2, ~~[XV-a]~~ **XV**, and health maintenance organizations as defined in RSA 151-C:2, XVI.

7 Reference Changes. Amend the introductory paragraph of RSA 326-B:17, IX(a) to read as follows:

(a) The administration of medications by any person employed or under contract to provide direct care to residents of a hospice house as defined in RSA 151-C:2, ~~[XIX-b]~~ **XIX** and licensed under RSA 151 and rules adopted under that chapter as a hospice house under the supported residential care level of care by the New Hampshire department of health and human services who:

8 Reference Change. Amend RSA 508:18, II to read as follows:

II. For purposes of this section, "health care facility" means "health care facility" as defined in RSA 151-C:2, ~~[XV-a]~~ **XV**.

9 Oversight Committee on Health and Human Services; Section Heading. Amend the section heading of RSA 126-A:15 to read as follows:

126-A:15 ~~[Duty]~~ **Duties** of Oversight Committee.

10 New Paragraph; Duty Added. Amend RSA 126-A:15 by inserting after paragraph I the following new paragraph:

I-a. The committee shall also review on an annual basis the certificate of review of proposed new institutional health services under RSA 151-C and include any recommendations in the report required under RSA 126-A:15, III.

11 Oversight Committee on Health and Human Services; Report. Amend RSA 126-A:15, III to read as follows:

III. The committee shall report no later than the first day of November of the second year of the biennium as to its activities and recommendations **under RSA 126-A:15, I** to the speaker of the house and the president of the senate. ***The committee shall report no later than the first day of November of each year as to its review and recommendations under RSA 126-A:15, I-a to the speaker of the house and the president of the senate.***

12 Statement of Purpose. The general court recognizes the need to promote informed decision-making, increase accountability in the health care system, and improve health care planning through the collection and maintenance of useful, objective, reliable, and comprehensive health care data. Under sections 12 through 16 of this act, data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in New Hampshire and to enhance the ability of New Hampshire consumers and employers to make informed and cost-effective health care choices.

13 Disclosure. RSA 420-G:11, II is repealed and reenacted to read as follows:

II.(a) All health carriers shall electronically provide:

(1) Their encrypted claims data to the department and to the department of health and human services in accordance with rules approved by the commissioner of health and human services and adopted by the insurance commissioner under RSA 420-G:14.

(2) To the department of health and human services, cross-matched claims data on requested policyholders, and subscriber information necessary for third party

liability for benefits provided under RSA 167, filed in accordance with rules adopted under RSA 167:3-c.

(b) The collection, storage and release of all data shall be done in accordance with the federal requirements of the Health Information Privacy and Accountability Act (HIPAA) and shall comply with the rules adopted thereunder in 45 CFR Parts 160 and 164.

14 New Paragraph; Disclosure. Amend RSA 420-G:11 by inserting after paragraph II the following new paragraph:

II-a. All health carriers and other health plans that collect the Health Employer Data and Information Set (HEDIS) shall annually submit the HEDIS information to the department.

15 Rulemaking. Amend RSA 420-G:14 to read as follows:

420-G:14 Rulemaking Authority.

I. The commissioner may adopt rules, under RSA 541-A, necessary to the proper administration of this chapter.

II. The commissioner, with the approval of the commissioner of the department of health and human services, shall adopt rules, under RSA 541-A, defining the content, format, and schedule for the filing of encrypted claims data and HEDIS information under RSA 420-G:11.

16 New Section; Health Care Information System. Amend RSA 420-G by inserting after section 11 the following new section:

420-G:11-a Development of a Comprehensive Health Care Information System. The department and the department of health and human services shall enter into a memorandum of understanding for collaboration in the development of a comprehensive health care information system. The memorandum of understanding shall include a description of the data sets that will be included in the comprehensive health care information system, the criteria and procedures for the development of limited use data sets, the criteria and procedures to ensure that Health Information Privacy and Accountability Act (HIPAA) compliant limited use data sets are accessible, and a proposed time frame for the creation of a comprehensive health care information system. In presenting data for public access, comparative considerations shall be made regarding geography, demographics, general economic factors, and institutional size.

17 Applicability. Any existing outpatient service within a service area of a hospital with fewer than 70 general hospital beds licensed by the department of health and human services as described in RSA 151-C:5, II as inserted by section 1 of this act are hereby exempted from the provisions of this act.

18 Effective Date.

I. Sections 12 through 16 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill transfers the duties of the health services planning and review board to the department of health and human services. The bill increases the standard amounts for which a review is necessary. This bill allows applicants to be notified by electronic mail.

This bill adds a new duty to the oversight committee on health and human services.

This bill also requires the department of health and human services and the insurance department to collect encrypted health insurance claims data and to collaboratively develop a comprehensive health care information system.

Adopted.

Majority report adopted.

Referred to Finance.

SB 101-FN, relative to unemployment compensation. **OUGHT TO PASS**

Rep. Robert J. Giuda for Labor, Industrial and Rehabilitative Services: This bill, a recommendation of the Advisory Council on Unemployment Compensation, brings the

Department of Employment Security into conformity with the Federal Unemployment Tax Act regarding the treatment of American Indian tribes, and in restricting the payment of benefits to individuals in the United States, its possessions and in contiguous countries with an unemployment compensation agreement with the United States. The bill also brings the state in line with federal law regarding the treatment of direct sellers engaged in the trade or business of distribution or delivery of newspapers. It allows the commissioner of employment security to approve vocational training programs for claimants, makes the statute consistent in so far as re-qualification provisions are concerned, and provides for appeals decisions to be mailed via first class mail. Additional provisions in the bill clarify the role of department employees as officers for serving liens and tax warrants, allow the commission to collect debts via civil action on behalf of other states and the federal government, and update the department's responsibility under the Trade Act of 1974 and the Trade Adjustment Reform Act of 2002. This bill also gives the commissioner the authority to waive debts of interest, fees and legal costs of up to \$50 for employers and claimants. Finally, the bill includes a provision that will allow school bus drivers who are employees of private contractors to collect unemployment compensation benefits during the school and summer vacations, as they have in the past, something which was put in jeopardy by a recent New Hampshire Supreme Court decision. Vote 8-5.
Report adopted and ordered to third reading.

SCR 4, urging the New Hampshire congressional delegation to take appropriate action against modification of the Clean Air Act if the result jeopardizes New Hampshire's ability to safeguard public health and protect environmental quality. **OUGHT TO PASS**

Rep. Edward R. Leach for Science, Technology and Energy: No state has benefited more from the Clean Air Act than New Hampshire. Due to our geographic location, we are at the end of the nation's tailpipe, and most of the air pollution that is monitored in our state began its journey hundreds of miles away. Thus the national Clean Air Act does for New Hampshire something we are unable to do for ourselves. It sets uniform standards, emissions limits and attainment goals for polluters, whose effluence leaves their states and travels to us. Recent announcements from the EPA will change the rules of the Clean Air Act and that will have an adverse effect on the public health and environmental quality for New Hampshire citizens. When the proposed rules change was announced, the Attorneys General from all New England states joined together to launch a suit against the proposed rules. Then Governor Shaheen spoke out on the issue, and now Gov. Benson has directed Attorney General Heed to vigorously move forward with the suit. If successful, the suit will keep the law in place until such time as an in-depth scientific assessment can be completed by the National Academy of Sciences to determine what effect such changes would have on New England states. Our entire congressional delegation is also fighting the proposed rule change and this non-partisan resolution was overwhelmingly adopted by a strong bi-partisan vote in the committee in order to support Senators Gregg and Sununu, and Congressmen Bass and Bradley. We must give them every possible advantage as they strive to reverse this proposed, ill-advised, EPA rule change. Vote 10-1.

Rep. Slocum spoke against and yielded to questions.

Rep. Leach spoke in favor.

On a division vote, 279 members having voted in the affirmative and 63 in the negative, the report was adopted.

The House recessed at 12:05 p.m.

RECESS

(Speaker Chandler in the Chair)

The House reconvened at 1:05 p.m.

SB 63-FN-A-L, relative to establishing community reinvestment and opportunity zones and granting business tax credits for investments in projects in such zones. **OUGHT TO PASS WITH AMENDMENT**

Rep. John M. Gibson for Ways and Means: This bill is a four-year pilot program to establish Community Reinvestment and Opportunity (CROP) zones in brownfields and economically disadvantaged areas of the state. Business tax, compensation and interest credits, for new business activity in CROP zones will be available to new and existing businesses as a way to stimulate economic development and investment, expand industrial areas, create new job growth, and increase long-term tax revenues. The yearly total compensation tax credits against the state's business taxes of \$100 million in wages and \$10 million in interest could stimulate up to 2,000 new jobs a year in the approved CROP zones. The maximum credit allowed per year during the pilot program will be \$825,000. This legislation authorizes the Dept. of Resources and Economic Development to adopt rules for the designation and the eligibility of CROP zones with legislative oversight by the Joint Legislative Fiscal Committee. This pilot program will not diminish state revenues and is expected over time to significantly increase both state and local tax receipts. Vote 15-0.

Amendment (1528h)

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

1 Purpose. The general court finds that establishment of community reinvestment and opportunity ("CROP") zones and tax incentives for CROP zone projects which are available to qualifying new and existing businesses in the state are effective ways to meet certain state economic objectives, such as stimulating economic redevelopment, expanding the industrial base, creating new jobs, reducing sprawl, and increasing tax revenue. Therefore, to further these economic objectives, the general court in this act authorizes the commissioner of resources and economic development to adopt rules relating to the establishment of CROP zones, providing for the designation of CROP zones, eligibility for projects within the CROP zones, tax incentives for such projects, reporting requirements, and other provisions as may be necessary for the establishment and operation of a 4-year CROP zones pilot program.

2 New Chapters; CROP Zones. Amend RSA by inserting after chapter 162-M the following new chapter:

CHAPTER 162-N

COMMUNITY REINVESTMENT AND OPPORTUNITY ZONES

162-N:1 Definition. In this chapter, "community reinvestment and opportunity zone" or "CROP zone" means a zone designated by the commissioner of resources and economic development as a CROP zone in accordance with the provisions of this chapter.

162-N:2 Designation of CROP Zone.

I. CROP zone shall mean a zone with a single continuous boundary, comprised of one or more contiguous census tracts or blocks or smaller recognizable physical areas, designated in accordance with the rules adopted under RSA 162-N:8, and certified by the commissioner of resources and economic development as being a brownfields site as defined under RSA 147-F, or having at least one of the following characteristics:

(a) The population of the municipality or municipalities in which the zone is located, according to the most recent federal census, decreased during the preceding 20 years prior to the census.

(b) At least 51 percent of the households in the census tract or tracts in which the zone is located have incomes of less than 80 percent of the median income of households in the state.

(c) At least 20 percent of households in the census tract or tracts in which the zone is located have a median income below the federal poverty level.

(d)(1) The zone contains either:

(A) Unused or underutilized industrial parks; or
(B) Vacant land, or structures previously used for industrial, commercial, or retail purposes but currently not so used due to demolition, age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operation resulting from unfavorable economic conditions either generally or in a specific economic sector; and

(2) Certification of the zone as a CROP zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the zone.

II. CROP zones shall be designated by the commissioner of resources and economic development only upon petition by the local governing body, as defined by RSA 672:6 and also including town councils. The commissioner of resources and economic development shall certify that the proposed zone meets the criteria required in paragraph I.

III. The commissioner of resources and economic development is authorized to establish an advisory board for each CROP zone established under this chapter.

162-N:3 Eligibility Requirements For Business Tax Credits. No CROP zone credits shall be allowed to any taxpayer unless the taxpayer's project receives written certification from the commissioner of resources and economic development that it will expand the commercial or industrial base of the state, will create new jobs in the state, and will meet at least one of the following criteria:

I. The project is the creation of a facility which is determined to the satisfaction of the commissioner of resources and economic development to entail significant investment in real and/or personal property other than inventory at a location where the business has not previously operated.

II. The project will make expenditures to add buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least 50 percent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

III. The project will make expenditures to alter or repair a facility that equal at least 50 percent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

IV. The project will make expenditures to alter or repair a vacant facility equal to at least 20 percent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

162-N:4 CROP Zone Credit Agreement.

I. The commissioner of resources and economic development shall enter into a written agreement with each taxpayer; such agreement to be certified by the commissioner of resources and economic development under this section. The agreement shall contain provisions as the commissioner of resources and economic development determines to be in the public interest, which shall include but not be limited to:

- (a) Quality and quantity of jobs to be created.
- (b) Duration of the taxpayer's commitments with respect to the CROP zone.
- (c) The amount of the taxpayer's investment in the project.
- (d) A precise definition of the location of the CROP zone facility eligible for the credit.
- (e) The maximum amount of compensation as defined in RSA 77-E:1, V, that will be allowed as a CROP zone tax credit.
- (f) The maximum amount of interest paid, as defined in RSA 77-E:1, XI, that will be allowed as a CROP zone tax credit.
- (g) Recapture of tax credits utilized in the event that the agreement is breached.

II. A certified copy of each agreement signed by the commissioner of resources and economic development and the taxpayer shall be provided to the commissioner of revenue administration.

162-N:5 Limit on Total CROP Zone Credits. The commissioner of resources and economic development shall not exceed the following limits for the sum of all CROP zone credit agreements entered into in any fiscal year:

I. \$100,000,000 for the sum of all compensation as defined by RSA 77-E:1, V.

II. \$10,000,000 for the sum of all interest as defined by RSA 77-E:1, XI

162-N:6 Determination of CROP Zone Tax Credits Eligible Amount.

I. For the purpose of determining the CROP zone credit, the amount of compensation shall be the lesser of the following:

(a) The maximum credit amount as stated in the agreement as specified by RSA 162-N:4, I(e);

(b) The increase in the total compensation in this state as determined by subtracting the total compensation in this state in the year prior to the CROP zone agreements from the total compensation in this state the year the credit is used; or

(c) The compensation as determined by RSA 77-E:1, V in the CROP zone facility.

II. For the purpose of determining the CROP zone credit, the amount of interest shall be the lesser of the following:

(a) The maximum credit amount as stated in the agreement as specified by RSA 162-N:4, I(f); or

(b) The total interest paid or accrued by the taxpayer in this state.

162-N:7 CROP Zone Tax Credits. CROP zone tax credit shall be determined by adding together the amount determined in RSA 162-N:5, I and RSA 162-N:5, II and multiplying the result by the current tax rate under RSA 77-E. The CROP zone tax credit shall be available to the taxpayer only for tax liabilities arising during the 5 consecutive tax periods following the signing of the agreement. CROP zone tax credits shall be applied against tax due under RSA 77-E. For the purpose of the credit allowed under RSA 77-A:5, X, the CROP zone credit shall be considered taxes paid under RSA 77-E. CROP zone tax credits shall not be transferable.

162-N:8 Rules.

I. The commissioner of revenue administration shall adopt rules, under RSA 541-A, relative to documentation of the credits claimed under this chapter. The commissioner of resources and economic development shall, in consultation with the executive director of the community development finance authority, adopt rules, under RSA 541-A, relative to the administration and implementation of this chapter. The rules adopted by the commissioner of resources and economic development shall include provisions relative to:

(a) Establishment and certification of CROP zones.

(b) Criteria for and approval of projects in CROP zones, including jobs per dollar thresholds.

(c) Fees which the commissioner of resources and economic development may charge to each applicant to cover the reasonable costs of the state's administration of the applicant's participation in the CROP zone.

II. Rules adopted under paragraph I shall require the prior approval of the legislative fiscal committee.

162-N:9 Reports. The commissioner of resources and economic development shall furnish a report annually to the governor, the senate president, and the speaker of the house which describes the results of the CROP zone program, and shall include any recommendations for further legislation regarding CROP zones.

3 New Paragraph; Business Profits Tax; CROP Zone Tax Credit. Amend RSA 77-A:5 by inserting after paragraph XI the following new paragraph:

XII. The CROP zone tax credit, as computed in RSA 162-N:7.

4 New Section; Business Enterprise Tax; CROP Zone Tax Credit. Amend RSA 77-E by inserting after section 3 the following new section:

77-E:3-a Credit. The CROP zone tax credit, as computed in RSA 162-N:7, shall be allowed against the tax due under this chapter.

5 Authority to Enter CROP Zone Credit Agreements. The commissioner of resources and economic development shall not enter into a CROP zone credit agreement with any taxpayer after June 30, 2007.

6 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill establishes procedures for designation of community reinvestment and opportunity ("CROP") zones by the department of resources and economic development and grants the commissioner of resources and economic development rulemaking authority to develop and implement such procedures as are necessary for the establishment of a 4-year CROP zones pilot program. The bill also establishes credits against the business profits tax and the business enterprise tax for investments CROP zones determined to be eligible by the commissioner of resources and economic development. The bill grants the commissioner of revenue administration the authority to adopt rules relative to the documentation of tax credits claimed.

Adopted.

Report adopted and referred to Finance.

BILLS REMOVED FROM CONSENT CALENDAR

SB 72, relative to the regulation of small loans, title loans, and payday loans. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: The purpose of this bill is to set regulatory standards around two new types of lending programs known as "payday" loans and "title" loans. The bill also expands the existing small loan statute, RSA 399, by providing an expanded regulatory framework around the practices of small loan licensees. The enhanced regulatory framework provides the New Hampshire Banking Department with the same powers and structure it already possesses to regulate first and second mortgage bankers and brokers. The committee amendment expands and clarifies proposed limitations on both "payday" and "title" loans, and limits the exemption of licensees under the provisions of RSA 358-A and 358-C, the consumer protection act statute. Vote 15-0.

Amendment (1516h)

Amend RSA 399-A:1, XV as inserted by section 1 of the bill by replacing it with the following:

XV. "Small loan lender" means any person engaged in the business of making small loans, including title loans and payday loans.

Amend RSA 399-A:2, I as inserted by section 1 of the bill by replacing it with the following:

I. No person shall engage in the business of making small loans, title loans or payday loans in this state or with consumers located in this state, without first obtaining a license from the commissioner as provided in this chapter.

Amend RSA 399-A:2 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Notwithstanding any other provision of this chapter or of RSA 358-A:3, no licensee, lender or person subject to this chapter shall be exempt from the provisions of RSA 358-A or RSA 358-C.

Amend RSA 399-A:4, V- VIII as inserted by section 1 of the bill by replacing it with the following:

V. No license shall be issued to any person whose principal place of business is located outside of this state unless that person designates an agent residing within this state for service of process.

VI. Persons subject to or licensed under this chapter shall abide by applicable federal laws, and rules promulgated thereunder, including the Federal Truth in Lending Act, and the laws, orders, and regulations of this state. Any violation of such law, rule, or order shall be a violation of this chapter.

VII. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

VIII. A licensee who ceases to engage in the business of a small loan lender, payday loan lender, or title loan lender at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation.

IX. Any licensee may surrender any license by delivering it to the commissioner with written notice of a surrender, but such surrender shall not affect administrative, civil, or criminal liability for acts committed prior thereto.

Amend RSA 399-A:11-15 as inserted by section 1 of the bill by replacing them with the following:

399-A:11 Provisions Applicable to all Persons under this Chapter.

I. Any loan made outside this state, as permitted by the laws of the state in which the loan was made, may be collected in this state in accordance with its terms.

II. No person making small loans, payday loans, or title loans, shall advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions which is false, misleading or deceptive.

III. This chapter, or any part thereof may be modified, amended, or repealed so as to effect a cancellation or alteration of any license, or right of a licensee hereunder, provided that such modification, amendment or repeal shall not impair or affect the obligation of any pre-existing lawful contracts between any licensee and any borrowers.

IV. No interest shall be paid, deducted, or received in advance. Interest shall not be compounded and interest shall be computed only on unpaid principal balances. For the purpose of computing interest, whether at the maximum rate or less, a month shall be considered a calendar month and, where a fraction of a month is involved, a day shall be considered 1/30 of a month. However, if all or any part of the consideration for a loan contract is the unpaid principal balance of the prior loan with the same lender then the loan contract may include unpaid interest of such prior loan which has accrued within 60 days of the making of the loan contract.

V. If charges in excess of those permitted by this chapter shall be charged, contracted for or received except as a result of an accidental or bona fide error the contract of loan shall be void and the lender shall have no right to collect or receive any principal, charges or recompense whatsoever.

VI. No person shall take any confession of judgment or any power of attorney running to himself, herself, or any third person to confess judgment or to appear for the borrower in a judicial proceeding; nor take any note, agreement, or promise to pay which does not disclose the date and amount or maximum credit line of the note or agreement, a schedule or description of the payments to be made thereon, and the agreed charges or rates of charge; nor take any instrument in which blanks are left to be filled in after the loan is made.

VII. No person shall include any of the following provisions in a small loan, payday loan, or title loan contract:

(a) A hold-harmless clause;

(b) A confession of judgment or other waiver of the right to notice and the opportunity to be heard in an action;

(c) An agreement by the consumer not to assert any claim or defense arising out of the contract against the lender or any holder in due course;

(d) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held by, owned by or due to the consumer, unless the waiver or limitation applies only to property subject to security interest executed in connection with the loan; or

(e) A clause permitting the continuation of interest after repossession of the consumer's motor vehicle.

VIII. No person shall be permitted to accept as collateral on a loan under this chapter:

(a) Real estate; or

(b) Household furniture presently in use on loans of \$2,000 or less.

IX. Any agreement purporting to convey to a lender a security interest in the property listed in paragraph VIII shall be null and void.

X. If a borrower desires to renew an existing closed-end loan, payday loan, or title loan for the purpose of obtaining additional cash a new contract shall be drawn up in its entirety and such prior loan shall be paid in full from such proceeds of the new loan. All legal papers in connection with such prior loan shall be stamped "PAID IN FULL" and returned to such borrower.

XI. No charge for any examination, service, brokerage, commission, or other fee shall be directly or indirectly made or contracted for on closed-end loans, payday loans, or title loans except the lawful fees, if any, actually and necessarily paid out by the lender to any public officer, for filing or recording in any public office any instrument securing such loan, which fees may be collected when such loan is made, or at any time thereafter and except the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security in foreclosure proceedings or upon entry of judgment.

XII. Credit life insurance, credit accident and health insurance, and credit involuntary unemployment insurance may be issued in connection with a loan or other credit transaction authorized by this chapter in compliance with the provisions of RSA 408:15, II and the cost of such insurance and any commission, benefit or return to the lender therefrom shall not be deemed a violation of any provision of this chapter; provided, however, that if there is more than one borrower or obligor on any such loan or credit transaction, credit life insurance providing a single benefit may cover both borrowers or obligors.

XIII. The lender may require a borrower to insure tangible personal property given to secure the loan against any substantial risk of loss, damage, or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, whichever is less, and for the customary insurance term approximating the term of the loan. The borrower shall not be required to insure against unusual or exceptional risks not ordinarily insured against in policies issued to nonborrowers. The premium for such insurance may be included in the principal amount of the loan. Such insurance shall be written by or through a duly licensed insurance agent or broker with a company qualified to do business in New Hampshire. Such insurance shall name the borrower as insured but may include the lender as co-insured or protect the interest of the lender under a loss-payable clause. No lender shall require a borrower to duplicate or cancel existing insurance or to purchase insurance from a lender or any employee, affiliate, or associate of the lender or from any agent, broker, or insurance company designated by the lender, as a condition precedent to the making of the loan.

XIV. A lender in the business of making small loans, payday loans, or title loans shall include in every loan contract a notice, printed in type size equal to at least 12-point type, stating that the consumer or the consumer's attorney may file a complaint with the commissioner.

399-A:12 Provisions Applicable to Loans.

I. For any closed-end loan of \$10,000 or less, excluding charges, a lender may lend in money, goods or things of value upon such security not forbidden by RSA 399-A:12,VIII as may be agreed upon and may charge, contract for and receive charges on the entire principal of the loan, at rates agreed to in writing by the borrower and lender.

II. For any open-end loan with a line of credit of \$10,000 or less, excluding charges, a lender may charge, contract for and receive charges on the unpaid balances of the account at rates agreed to in writing by the borrower and the lender.

III. No small loan lender shall permit any person to be obligated to him or her on one or more contracts of loan the total principal balance of which is more than \$10,000.

IV. For the purpose of applying paragraphs II and III of this section only, small loan lender shall mean any single small loan lender, except that in the event any person or affiliated group of persons holds more than one small loan lender license, such person or affiliated group of persons shall be considered a single small loan lender.

V. No small loan lender shall induce any potential borrower who is not a loan customer of the lender to enter into a closed-end loan agreement, by delivering in the first instance a negotiable check for such loan to such potential borrower, without including the following information clearly printed on the endorsement side of the check:

(a) A statement which reads, "By endorsing this check, you become legally liable for repaying all moneys, including interest, as specified in the following loan agreement/disclosure statement;"

(b) The amount financed;

(c) The annual percentage rate;

(d) The number of installments; and

(e) The amount of each installment payment.

VI. Every small loan lender shall:

(a) Mail or deliver to the borrower, or if more than one, to one of them, at the time of making a loan under this chapter, a payment book in which space shall be provided for the record of all payments showing principal, interest and balance and which shall contain statements showing the date of such loan; the amount of the principal of such loan; the total interest charged for the period of such loan; the nature of the security, if any, for such loan; the name and address of the borrower and of the lender; and the description of schedule of payments on such loans. The payment book shall also have printed therein an interest calculation such as the following:

"Interpretation of Interest Charges in the Event Payments are Made when Due.

2% per month = 24% per year or \$13.47 per year on \$100

1 1/2% per month = 18% per year or \$10.01 per year on \$100"

Provided, however, a lender may provide a borrower with a monthly billing statement in lieu of a payment book and the information required above.

(b) Give to the person making any cash payment on account of any closed-end loan a receipt at the time such payment is made.

(c) Permit payment in advance in an amount equal to one or more full installments at any time during the regular business hours of the lender.

(d) Upon repayment of a closed-end loan in full, mark plainly every note or other evidence of the indebtedness or assignment signed by an obligor or a copy of any of the foregoing documents with the words "PAID IN FULL" or "CANCELLED" and release or provide the borrower evidence to release any mortgage or security instrument no longer securing any indebtedness to the lender. If the original is retained by the lender, the original shall be returned within a reasonable period of time upon the written request of the borrower.

(e) Upon repayment of an open-end loan in full, written notice from the borrower to the lender of termination of such loan and surrender to the lender of any checks or other device used to obtain credit; mark plainly every note, agreement or assignment signed by an obligor, with the words "PAID IN FULL" or "CANCELLED" and release or provide the

borrower evidence to release any mortgage or security instrument no longer securing any indebtedness to the lender.

VII. No lender shall conduct the business of making loans under this chapter at any office, suite, room, or place of business where liquor or lottery tickets are sold.

399-A:13 Provisions Applicable to Payday Loan Lenders.

I. Each lender shall conspicuously post in its licensed location a schedule of interest charges, with examples using a \$300 loan payable in 14 days and 30 days. Payday loans shall incur interest only. No other charges or fees shall apply to or be collected on payday loans.

II. Each payday loan shall be evidenced by a written loan agreement, which shall be signed by the borrower and a person authorized by the lender to sign such agreements and dated the same day the loan is made and disbursed. The loan agreement shall set forth, at a minimum:

- (a) The principal amount of the loan.
- (b) The interest charged.
- (c) The annual percentage rate, which shall be stated using that term, applicable to the transaction calculated in accordance with Federal Reserve Board Regulation Z.
- (d) Evidence of receipt from the borrower of a check, dated the same date, as security for the loan, stating the amount of the check.
- (e) An agreement by the lender not to present the check for payment or deposit until a specified maturity date, which date shall be at least 7 days and not more than 30 days after the date the loan is made and after which date interest shall not accrue at a greater rate than 6 percent per year.
- (f) An agreement by the lender that the borrower shall have the right to cancel the loan transaction at any time before the close of business of the next business day following the date of the transaction by paying to the lender, in the form of cash or other funds instrument, the amount advanced to the borrower.
- (g) An agreement that the borrower shall have the right to prepay the loan in full or in part prior to maturity by paying the lender the principal amount advanced and any accrued and unpaid interest.

III. The lender shall give a duplicate original of the loan agreement to the borrower at the time of the transaction.

IV. A lender shall not obtain any agreement from the borrower:

- (a) Giving the lender or any third person power of attorney or authority to confess judgment for the borrower;
- (b) Authorizing the lender or any third party to bring suit against the borrower in a court outside the state; or
- (c) Waiving any right the borrower has under this chapter.

V. A lender shall not require, or accept, more than one check from the borrower as security for any loan at any one time.

VI. A lender shall not cause any person to be obligated to the lender in any capacity at any time in the principal amount of more than \$500.

VII. A lender shall not refinance, renew, or extend any loan.

VIII. A lender shall not cause a borrower to be obligated upon more than one loan at any time for the purpose of increasing charges payable by the borrower.

IX. A lender shall not require or accept a post-dated check as security for, or in payment of, a loan.

X. A lender shall not threaten, or cause to be instigated, criminal proceedings against a borrower if a check given as security for a loan is dishonored.

XI. A lender shall not take an interest in any property other than a check payable to the lender as security for a loan.

XII. A lender shall not make a loan to a borrower to enable the borrower to pay for any other product or service sold at the lender's business location.

XIII. Loan proceeds shall be disbursed in cash or by the lender's business check. No fee shall be charged by the lender or an affiliated check cashier for cashing a loan proceeds check.

XIV. A check given as security for a loan shall not be endorsed to a third party.

XV. Upon receipt of a check given as security for a loan, the lender shall stamp the check with an endorsement stating "This check is being negotiated as part of a payday loan pursuant to RSA 399-A, and any holder of this check takes it subject to all claims and defenses of the maker."

XVI. Before entering into a payday loan, the lender shall provide each borrower with a pamphlet, in form consistent with regulations promulgated by the commissioner, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number in the banking department for assistance with complaints.

XVII. Before disbursing funds pursuant to a payday loan, a lender shall provide a clear and conspicuous printed notice to the borrower indicating that a payday loan is not intended to meet long-term financial needs and that the borrower should use a payday loan only to meet short-term cash needs.

XVIII. A borrower shall be permitted to make partial payments, in increments of not less than \$50 on the loan at any time prior to maturity without charge. The lender shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan.

399-A:14 Provisions Applicable to Title Loan Lenders. A title loan lender shall not:

I. Charge the consumer more than one fee for dishonored checks when the consumer issues more than one check to the lender. However, the title loan lender may recover from the consumer any fee charged to the lender by an unaffiliated financial institution for each dishonored check;

II. Make more than one outstanding loan that is secured by one title;

III. Make a title loan without providing the borrower within the title loan agreement the right to cancel the title loan at any time before the close of business of the next business day following the date of the transaction by repaying to the lender in cash the amount advanced to the borrower.

IV. Offer, advertise, or make a loan with a rate of interest that is lower in the original period than in subsequent renewals.

399-A:15 Title Loan Renewals. A title loan shall be for an original term of no more than 30 days. A title loan lender may allow such loan to be renewed no more than 11 additional periods each equal the original term, provided however, that at each such renewal the borrower must pay at least 5 percent of the loan's original principal balance, in addition to any finance charge owed, to reduce the principal balance outstanding. If the borrower cannot pay this principal reduction at any renewal, the title loan lender may either: (i) declare the borrower in default, or (ii) allow the loan to be renewed, provided that the lender shall reduce the current principal amount of the loan by 5 percent of the original principal amount for the purposes of calculating interest thereafter. This reduction in principal shall continue to be owed by the borrower, but such amount shall not be entitled to accrue interest thereafter. For the purpose of this section, a renewal is any extension of a title loan for an additional period without any change in the terms of the title loan other than a reduction in principal. No accrued interest shall be capitalized or added to the principal of the loan at the time of any renewal.

AMENDED ANALYSIS

This bill defines and regulates small loans, title loans, and payday loans.
Adopted.

Rep. Hunt yielded to questions.

Rep. Hunt requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 171 NAYS 109

YEAS 171

BELKNAP

Ahern, Omer Jr	Allen, Janet	Boyce, Laurie	Clark, Charles
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Nedeau, Stephen
Pilliod, James	Rice, Thomas	Thomas, John	

CARROLL

Babson, David Jr	Derby, Mark	Dickinson, Howard	Hatch, Paul
McConkey, Mark	Patten, Betsey	Stevens, Stanley	

CHESHIRE

Dexter, Judson	Eaton, Daniel	Fish, Douglas	Hunt, John
Laurent, John	Liebl, George	Meader, David	Parkhurst, Henry
Royce, H Charles	Smith, Edwin		

COOS

Brady, Mark	Mears, Edgar	Stohl, Eric	Tholl, John Jr
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GRAFTON

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
Eaton, Stephanie	Gilman, G Michael	Giuda, Robert	Ingbretson, Paul
Maybeck, Margie	Sorg, Gregory		

HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Artz, Lawrence	Balboni, Michael
Batula, Peter	Beaton, William	Bergeron, Jean-Guy	Bergin, Peter
Brassard, Paul	Bruno, Pierre	Buhlman, David	Cail, Kenneth
Carlson, Donald	Carter, Mark	Christensen, D L	Cote, David
		Chris	
Crane, Elenore	Dokmo, Cynthia	Elliott, Larry	Furman, Christine
Casey			
Gargas, Carolyn	Goulet, Maurice	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Hall, Charles	Hallyburton, Margaret	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Holden, Randolph	Hunter, Bruce
Irwin, Anne-Marie	Jasper, Shawn	Katsiantonis, Thomas	L'Heureux, Robert
LaFlamme, Paul	Lasky, Bette	Leach, Edward	McDonough-Wallace,
			Alice
McHugh, Claire	McRae, Karen	Mercer, Robert	Mooney, Maureen
Moran, Edward	Movsesian, Lori	Ober, Russell III	Price, Pamela
Ross, Lawrence	Souza, Kathleen	Spiess, Paul	Stepanek, Stephen
Sullivan, Francis	Tahir, Saghir		

MERRIMACK

Anderson, Eric	Colcord, J D	Currier, David	DeJoie, John
DeStefano, Stephen	Dunne, Christopher	Fraser, Leo Jr	French, Barbara
Hager, Elizabeth	Jacobson, Alf	L'Heureux, Stephen	Langer, Ray
Lockwood, Priscilla	Marple, Richard	Nutter, Edward	Oliver, James
Osborne, Jessie			

ROCKINGHAM

Belanger, Ronald	Cady, Harriet	Camm, Kevin	Cooney, Richard
Corbin, Corey	DiFruscia, Anthony	Dodge, Robert	Dumaine, Dudley
Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey	Gilbert, Karl
Gillick, Thomas	Gleason, John	Gould, Kenneth	Headd, James
Holland, James Jr	Introne, Robert	Johnson, Rogers	Katsakiores, George
Kelley, Jane	Kobel, Rudolph	Langley, Jane	Langone, John
Major, Norman	Manning, John	McKinney, Betsy	McMahon, Charles
Morris, Richard	Norelli, Terie	Noyes, Richard	Packard, Sherman

Pitts, Jacqueline
Roessner, Kurt
Weare, E Albert
Zolla, William

Priestley, Anne
Scamman, Stella
Welch, David

Putnam, Ed II
Stritch, C Donald
Weyler, Kenneth

Quandt, Matthew
Waterhouse, Kevin
Winchell, George

STRAFFORD

Bemis, Alan
Hollinger, Jeffrey
Newton, Clifford

Creteau, Irene
Johnson, Nancy
Spang, Judith

Dunlap, Patricia
Kaen, Naida

Hofemann, Roland
Keans, Sandra

SULLIVAN

Cloutier, John

Leone, Richard

Rodeschin, Beverly

NAYS 109

BELKNAP

Whalley, Michael

CARROLL

Brown, Carolyn

Mock, Henry

Olimpio, J Lisbeth

Philbrick, Donald

CHESHIRE

Allen, Peter
Pratt, Irene

Batchelder, Robert
Pratt, John

Dunn, James
Richardson, Barbara

Espieffs, Peter
Weed, Charles

COOS

Pratt, Leighton

Theberge, Robert

GRAFTON

Almy, Susan
Diamond, Estelle
Scovner, Nancy

Benn, Bernard
Dudley, Terri
Sokol, Hilda

Bleyler, Ruth
Hammond, Lee

Densmore, Edward
Nordgren, Sharon

HILLSBOROUGH

Arnold, Thomas Jr
Christiansen, Lars
Emerton, Larry
Hinkle, Peyton
Kudalis, Debra
Messier, Irene
Rowe, Robert
Vaillancourt, Steve

Balcom, John
Craig, James
Fletcher, Richard
Jean, Claudette
Kurk, Neal
Milligan, Robert
Scanlon, Michael
Wheeler, James

Brundige, Robert
Desmarais, Vivian
Gibson, John
Johnson, Lionel
Malloy, Chris
Mosher, William
Slocum, Lee
Wheeler, Robert

Buckley, Raymond
Drisko, Richard
Gorman, Mary
Konys, Christine
McElroy, Henry Jr
Pappas, Christopher
Sweeney, Cynthia

MERRIMACK

Blanchard, Elizabeth
Hamm, Christine
Perkins, Randy

Clarke, Claire
Hess, David
Potter, Frances

Field, William
Kennedy, Richard
Rush, Deanna

Foley, Albert
MacKay, James
Soltani, Tony

ROCKINGHAM

Bicknell, Elbert
Dupuis, Roland
Hughes, Daniel
McCann, Richard
Ruffner, Walter
Varrell, Thomas

Casey, Kimberley
Fesh, Bob
Johnson, Robert
McEachern, Paul
Smith, Donald
Wiley, Robert

Dalrymple, Janeen
Flayhan, Mary Lou
Katsakiores, Phyllis
O'Neil, Michael
Stone, Joseph

Duffy, James
Griffin, Mary
Letourneau, Robert
Robertson, Carl
Vallone, Matthew

STRAFFORD

Albert, Russell
Knowles, William
Scott, David
Wall, Janet

Berube, Roger
Miller, Joseph
Smith, Marjorie

Cataldo, Sam
Pelletier, Arthur
Snyder, Clair

Harrington, Michael
Schmidt, Peter
Twombly, James

SULLIVAN

Allison, David
Jones, Constance

Burling, Peter
Phinizy, James

Donovan, Thomas

Franklin, Peter

and the report was adopted.
Ordered to third reading.

SB 40, relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill allows the electronic submission of violation complaints by the officer in the cruiser to comply with the Integrated Criminal Justice Information System, a portion of which is being tested in several locations in the state. It removes the requirement to have the complaints sworn to by a justice of the peace, and adds a notice on the electronic form that false statements are punishable by law. It reduces paperwork and duplication of effort on several levels. SB 40 is similar in content to HB 206, which passed the House on Feb. 13, 2003. The amendment replaces some of the Senate language with the language of the House version. Vote 11-0.

Amendment (1438h)

Amend RSA 592-A:7 as inserted by section 1 of the bill by replacing it with the following:

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 include notice that making a false statement on the complaint may result in criminal prosecution.***

Adopted.

Rep. Marple spoke against.

Rep. Tholl spoke in favor and yielded to questions.

Report adopted and ordered to third reading.

SB 59-FN, relative to administrative license suspension hearings. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: The purpose of this bill is to allow hearings for administrative license suspensions to be conducted telephonically or electronically unless the hearing examiner requires the presence of the law enforcement officer. It will reduce the number of hearings at which the law enforcement officer who is involved in the case must physically appear. It has the potential to significantly decrease both state and local expenditures. Vote 18-0.

Amendment (1301h)

Amend RSA 265:91-b, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) If the request is for a hearing, the law enforcement officer's presence shall not be required unless the request also indicates that the person desires to have the law enforcement officer present and explains the reasons therefor. If the person requests the law enforcement officer's presence, the hearing examiner shall order the presence of the officer if the examiner determines, by a preponderance of the evidence, that reasons asserted indicate that the presence of the law enforcement officer is required. The hearing shall be held within 20 days after the filing of the request unless the person requests a continuance. A request for a continuance by the person shall not stay the order of suspension or revocation. The hearing shall be recorded, and be conducted by the department's designated agent. Except

as otherwise provided in this subparagraph, the hearing may be conducted telephonically or electronically. If the person and the law enforcement officer so agree, the hearing may be conducted upon a review of the law enforcement officer's report. If the person requesting the hearing fails to appear without good cause shown, the right to a hearing shall be waived and the order sustained. If the hearing examiner orders the presence of the law enforcement officer, and the officer fails to appear without good cause shown, the case shall be dismissed and the order rescinded. The director may adopt rules relative to telephonic or electronic hearings conducted pursuant to this subparagraph.

This bill permits administrative license suspension hearings to be conducted telephonically or electronically.

Adopted.

Rep. Craig spoke against and yielded to questions.

LAID ON THE TABLE

Rep. Elliott moved that **SB 59-FN**, relative to administrative license suspension hearings, be laid on the table.

On a division vote, 255 members having voted in the affirmative and 55 in the negative, the motion was adopted.

SB 16-FN, establishing the governor's incentive and reward program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Ray F. Langer for Executive Departments and Administration: This bill rewards state workers for recommending state cost saving measures that increase efficiency in the workplace. Vote 15-0.

Amendment (1497h)

Amend RSA 99-E:2 as inserted by section 1 of the bill by replacing it with the following:

99-E:2 Awards. The committee shall recommend to the governor and council that either of the following awards be given to eligible state employees:

I. Monetary awards for original suggestions to improve government cost savings or efficiency. Unclassified employees shall not be eligible for monetary awards.

II. Non-monetary recognition for extraordinary service in the interest of the state.

Any state employee shall be eligible based on a suggestion or service that is outside or beyond the employee's regular responsibilities or performance standards.

Rep. O'Neil spoke against.

Amendment failed.

Rep. O'Neil yielded to questions.

The question now being adoption of Ought to Pass.

Adopted.

Referred to Finance.

SB 53, establishing an advisory board to the labor commissioner and relative to the terms of the members of the compensation appeals board. **OUGHT TO PASS**

Rep. Robert J. Giuda for Labor, Industrial and Rehabilitative Services: This bill is the outgrowth of a study committee in the last term. This bill establishes an advisory board to the labor commission, which shall evaluate candidates for the compensation appeals board. This bill also changes the term of the members of the compensation appeals board. Vote 9-4.

Rep. Espieffs offered floor amendment (1645h), spoke in favor and yielded to questions.

Rep. Giuda spoke against.

Rep. Espieffs requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (1645h).

YEAS 112 NAYS 201

YEAS 112

BELKNAP

None

CARROLL

Derby, Mark

CHESHIRE

Allen, Peter
Eaton, Daniel
Meader, David
Pratt, John
Webber, Amy

Batchelder, Robert
Espieffs, Peter
Mitchell, McKim
Richardson, Barbara
Weed, Charles

Dexter, Judson
Fish, Douglas
Parkhurst, Henry
Robertson, Timothy

Dunn, James
Manning, Joseph
Pratt, Irene
Tilton, Anna

COOS

Mears, Edgar

Poulin, Richard

Pratt, Leighton

Theberge, Robert

GRAFTON

Almy, Susan
Diamond, Estelle
Scovner, Nancy

Benn, Bernard
Hammond, Lee
Sokol, Hilda

Bleyler, Ruth
Naro, Debra

Cooney, Mary
Nordgren, Sharon

HILLSBOROUGH

Brassard, Paul
Furman, Christine
Hawkins, Ken
Johnson, Lionel
Lasky, Bette
McDonough-Wallace,
Alice
Pappas, Christopher
Sweeney, Cynthia

Buckley, Raymond
Gibson, John
Holden, Randolph
Katsiantonis, Thomas
Leach, Edward
Mooney, Maureen

Cote, David
Gorman, Mary
Irwin, Anne-Marie
Konys, Christine
Lefebvre, Roland
Mosher, William

Craig, James
Hallyburton, Margaret
Jean, Claudette
Kudalis, Debra
Malloy, Chris
Movsesian, Lori

Pilotte, Maurice
Vaillancourt, Steve

Schulze, Joan

Shaw, Barbara

MERRIMACK

Anderson, Eric

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Clarke, Claire
Perkins, Randy
Soltani, Tony

French, Barbara
Potter, Frances
Wallner, Mary Jane

Hamm, Christine
Rush, Deanna

Osborne, Jessie
Seldin, Gloria

ROCKINGHAM

Blanchard, MaryAnn
Ingram, Russell
Noyes, Richard

Casey, Kimberley
Johnson, Robert
Pitts, Jacqueline

Coes, Betsy
Langone, John
Vallone, Matthew

Duffy, James
Norelli, Terie

STRAFFORD

Berube, Roger
Johnson, Nancy
Miller, Joseph
Snyder, Clair

Brown, Julie
Kaen, Naida
Pelletier, Arthur
Taylor, Kathleen

Creteau, Irene
Keans, Sandra
Schmidt, Peter
Wall, Janet

Hofemann, Roland
Knowles, William
Smith, Marjorie

SULLIVAN

Allison, David
Ferland, Brenda
Phinizy, James

Burling, Peter
Franklin, Peter

Cloutier, John
Harris, Joseph

Donovan, Thomas
Harris, Sandra

NAYS 201

BELKNAP

Ahern, Omer Jr
Clark, Charles
Lawton, David
Thomas, John

Allen, Janet
Fitzgerald, James
Nedeau, Stephen
Whalley, Michael

Bartlett, Gordon
Flanders, Donald
Pilliod, James

Boyce, Laurie
Holbrook, Robert
Rice, Thomas

CARROLL

Babson, David Jr
Kenney, Bettie
Patten, Betsey

Brown, Carolyn
McConkey, Mark
Philbrick, Donald

Dickinson, Howard
Mock, Henry
Stevens, Stanley

Hatch, Paul
Olimpio, J Lisbeth

CHESHIRE

Hunt, John
Smith, Edwin

Laurent, John

Liebl, George

Royce, H Charles

COOS

Brady, Mark
Woodward, David

King, Frederick

Stohl, Eric

Tholl, John Jr

GRAFTON

Alger, John
Eaton, Stephanie
Ingbretson, Paul

Barker, Robert
Gilman, G Michael
Maybeck, Margie

Dorsett, Andrew
Gionet, Edmond
Sorg, Gregory

Dudley, Terri
Giuda, Robert

HILLSBOROUGH

Adams, Jarvis
Balboni, Michael
Bergeron, Jean-Guy
Buhlman, David
Chabot, Robert

Allan, Nelson
Balcom, John
Bergin, Peter
Cail, Kenneth
Christensen, D L
Chris

Arnold, Thomas Jr
Batula, Peter
Brundige, Robert
Carlson, Donald
Christiansen, Lars

Artz, Lawrence
Beaton, William
Bruno, Pierre
Carter, Mark
Crane, Elenore Casey

Desmarais, Vivian
Emerton, Larry
Goyette, Peter Jr
Harrington, Paul
Jasper, Shawn
McElroy, Henry Jr
Messier, Irene
Ober, Russell III
Rowe, Robert
Spiess, Paul
Wheeler, James

Dokmo, Cynthia
Fletcher, Richard
Graham, John
Haytayan, Harry Jr
Kurk, Neal
McHugh, Claire
Milligan, Robert
Pepino, Leo
Scanlon, Michael
Stepanek, Stephen
Wheeler, Robert

Drisko, Richard
Gargasz, Carolyn
Greenberg, Gary
Hinkle, Peyton
L'Heureux, Robert
McRae, Karen
Moran, Edward
Price, Pamela
Slocum, Lee
Sullivan, Francis

Elliott, Larry
Goulet, Maurice
Hall, Charles
Hunter, Bruce
Luebker, Bernard
Mercer, Robert
O'Brien, Lori
Ross, Lawrence
Souza, Kathleen
Tahir, Saghir

MERRIMACK

Colcord, J D
Dunne, Christopher
Hager, Elizabeth
L'Heureux, Stephen
MacKay, James

Currier, David
Field, William
Hess, David
Langer, Ray
Marple, Richard

DeJoie, John
Foley, Albert
Jacobson, Alf
Leber, William
Nutter, Edward

DeStefano, Stephen
Fraser, Leo Jr
Kennedy, Richard
Lockwood, Priscilla
Oliver, James

ROCKINGHAM

Allen, Mary
Camm, Kevin
Dalrymple, Janeen
Dupaix, Roland
Francoeur, Sheila
Gleason, John
Holland, James Jr
Katsakiores, George
Langley, Jane

Belanger, Ronald
Carson, Sharon
DiFruscia, Anthony
Fesh, Bob
Gilbert, Jeffrey
Gould, Kenneth
Hughes, Daniel
Katsakiores, Phyllis
Letourneau, Robert

Bicknell, Elbert
Cooney, Richard
Dodge, Robert
Flanders, John Sr
Gilbert, Karl
Griffin, Mary
Introne, Robert
Kelley, Jane
Major, Norman

Cady, Harriet
Corbin, Corey
Dumaine, Dudley
Flayhan, Mary Lou
Gillick, Thomas
Headd, James
Johnson, Rogers
Kobel, Rudolph
Manning, John

McCann, Richard
Morris, Richard
Putnam, Ed II
Scamman, Stella
Varrell, Thomas
Weyler, Kenneth

McEachern, Paul
O'Neil, Michael
Quandt, Matthew
Smith, Donald
Waterhouse, Kevin
Wiley, Robert

McKinney, Betsy
Packard, Sherman
Robertson, Carl
Stone, Joseph
Weare, E Albert
Winchell, George

McMahon, Charles
Priestley, Anne
Roessner, Kurt
Stritch, C Donald
Welch, David
Zolla, William

STRAFFORD

Albert, Russell
Harrington, Michael
Twombly, James

Bemis, Alan
Hollinger, Jeffrey
Woods, Phyllis

Cataldo, Sam
Newton, Clifford

Dunlap, Patricia
Scott, David

SULLIVAN

Jones, Constance Leone, Richard Rodeschin, Beverly
and floor amendment (1645h) failed.
Report adopted and ordered to third reading.

SB 82-FN, relative to awards of fees and interest under workers' compensation. **OUGHT TO PASS**

Rep. Robert J. Giuda for Labor, Industrial and Rehabilitative Services: This bill clarifies when interest is due and when a claimant is entitled to interest on awards under workers' compensation. This bill also clarifies when a claimant is entitled to attorney's fees in appeals of workers' compensation cases. Vote 13-0.

Rep. Espieffs spoke against and yielded to questions.

Rep. Gilman spoke in favor.

Rep. Espieffs requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 218 NAYS 99

YEAS 218

BELKNAP

Ahern, Omer Jr
Clark, Charles
Lawton, David
Thomas, John

Allen, Janet
Fitzgerald, James
Nedeau, Stephen
Whalley, Michael

Bartlett, Gordon
Flanders, Donald
Pilliod, James

Boyce, Laurie
Holbrook, Robert
Rice, Thomas

CARROLL

Babson, David Jr
Kenney, Bettie
Philbrick, Donald

Brown, Carolyn
McConkey, Mark
Stevens, Stanley

Dickinson, Howard
Mock, Henry

Hatch, Paul
Patten, Betsey

CHESHIRE

Fish, Douglas
Manning, Joseph

Hunt, John
Royce, H Charles

Laurent, John
Smith, Edwin

Liebl, George

COOS

Brady, Mark
Tholl, John Jr

King, Frederick
Woodward, David

Pratt, Leighton

Stohl, Eric

GRAFTON

Akins, Ralph
Eaton, Stephanie
Ingbreton, Paul

Barker, Robert
Gilman, G Michael
Maybeck, Margie

Dorsett, Andrew
Gionet, Edmond
Naro, Debra

Dudley, Terri
Giuda, Robert
Sorg, Gregory

HILLSBOROUGH

Adams, Jarvis
Balboni, Michael
Beaton, William

Allan, Nelson
Balcom, John
Bergeron, Jean-Guy

Arnold, Thomas Jr
Baroody, Benjamin
Bergin, Peter

Artz, Lawrence
Batula, Peter
Brassard, Paul

Brundige, Robert	Bruno, Pierre	Buhlman, David	Cail, Kenneth
Carlson, Donald	Carter, Mark	Chabot, Robert	Christensen, D L
			Chris
Christiansen, Lars	Crane, Elenore	Desmarais, Vivian	Dokmo, Cynthia
	Casey		
Drisko, Richard	Elliott, Larry	Emerton, Larry	Fletcher, Richard
Furman, Christine	Gargas, Carolyn	Gibson, John	Goulet, Maurice
Goyette, Peter Jr	Graham, John	Greenberg, Gary	Hall, Charles
Hallyburton, Margaret	Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr
Hinkle, Peyton	Hunter, Bruce	Irwin, Anne-Marie	Jasper, Shawn
Johnson, Lionel	Kurk, Neal	L'Heureux, Robert	Leach, Edward
Luebker, Bernard	McHugh, Claire	McRae, Karen	Mercer, Robert
Messier, Irene	Milligan, Robert	Moran, Edward	Mosher, William
Movsesian, Lori	O'Brien, Lori	Ober, Russell III	Pepino, Leo
Price, Pamela	Ross, Lawrence	Rowe, Robert	Scanlon, Michael
Slocum, Lee	Souza, Kathleen	Spieess, Paul	Stepanek, Stephen
Tahir, Saghir	Vaillancourt, Steve	Wheeler, James	Wheeler, Robert

MERRIMACK

Anderson, Eric	Colcord, J D	Currier, David	DeStefano, Stephen
Dunne, Christopher	Field, William	Foley, Albert	Fraser, Leo Jr
Hager, Elizabeth	Hess, David	Jacobson, Alf	Kennedy, Richard
L'Heureux, Stephen	Langer, Ray	Leber, William	Lockwood, Priscilla
MacKay, James	Marple, Richard	Nutter, Edward	Oliver, James
Soltani, Tony			

ROCKINGHAM

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Cady, Harriet
Camm, Kevin	Carson, Sharon	Cooney, Richard	Corbin, Corey
Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert	Duffy, James
Dumaine, Dudley	Dupuis, Roland	Fesh, Bob	Flanders, John Sr
Flayhan, Mary Lou	Francoeur, Sheila	Gilbert, Jeffrey	Gillick, Thomas
Gleason, John	Gould, Kenneth	Griffin, Mary	Headd, James
Holland, James Jr	Hughes, Daniel	Ingram, Russell	Introne, Robert
Johnson, Robert	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kobel, Rudolph	Langley, Jane	Langone, John	Letourneau, Robert
Major, Norman	Manning, John	McCann, Richard	McKinney, Betsy
McMahon, Charles	Morris, Richard	Noyes, Richard	O'Neil, Michael
Packard, Sherman	Putnam, Ed II	Quandt, Matthew	Roessner, Kurt
Scamman, Stella	Smith, Donald	Stone, Joseph	Stritch, C Donald
Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert	Welch, David
Weyler, Kenneth	Wiley, Robert	Winchell, George	Zolla, William

STRAFFORD

Albert, Russell	Bemis, Alan	Berube, Roger	Brown, Julie
Dunlap, Patricia	Harrington, Michael	Hofemann, Roland	Hollinger, Jeffrey
Newton, Clifford	Scott, David	Spang, Judith	Twombly, James
Woods, Phyllis			

SULLIVAN

Jones, Constance	Leone, Richard	Rodeschin, Beverly
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NAYS 99

BELKNAP

None

CARROLL

Derby, Mark	Olimpio, J Lisbeth
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CHESHIRE

Allen, Peter	Batchelder, Robert	Dexter, Judson	Dunn, James
Eaton, Daniel	Espieffs, Peter	Meador, David	Mitchell, McKim
Parkhurst, Henry	Pratt, Irene	Pratt, John	Richardson, Barbara
Robertson, Timothy	Tilton, Anna	Webber, Amy	Weed, Charles

COOS

Mears, Edgar	Poulin, Richard	Theberge, Robert
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GRAFTON

Alger, John	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Hammond, Lee
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	

HILLSBOROUGH

Buckley, Raymond	Cote, David	Craig, James	Gorman, Mary
Holden, Randolph	Jean, Claudette	Katsiantonis, Thomas	Konys, Christine
Kudalis, Debra	Lasky, Bette	Lefebvre, Roland	Malloy, Chris
McDonough-Wallace, Alice	McElroy, Henry Jr	Mooney, Maureen	Pappas, Christopher
Pilotte, Maurice	Schulze, Joan	Shaw, Barbara	Sullivan, Francis
Sweeney, Cynthia			

MERRIMACK

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
DeJoie, John	French, Barbara	Hamm, Christine	Osborne, Jessie
Perkins, Randy	Potter, Frances	Rush, Deanna	Seldin, Gloria
Wallner, Mary Jane			

ROCKINGHAM

Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy	Gilbert, Karl
Kelley, Jane	McEachern, Paul	Norelli, Terie	Pitts, Jacqueline
Priestley, Anne	Robertson, Carl	Vallone, Matthew	

STRAFFORD

Cataldo, Sam	Creteau, Irene	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Pelletier, Arthur
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Taylor, Kathleen
Wall, Janet			

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Harris, Joseph	Harris, Sandra
Phinizy, James			

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

SB 157, establishing a committee to study the vesting of development rights. OUGHT TO PASS WITH AMENDMENT

Rep. Robert W. Brundige for Municipal and County Government: The need to study the vesting of development rights came about as a result of two recent court cases. A developer claimed vested rights after 20 years. The court agreed in this case and a similar case. It has previously been the practice that four (4) years was the limit for vested rights to be exercised. The purpose of this committee will be to clarify the law on vested rights and those rights should be established by the legislature. The amendment adds to the study the subject matter of simultaneous use of growth management ordinances and impact fees (RSA 674:21(h)) in light of another New Hampshire Supreme Court case. Vote 12-0.

Amendment (1428h)

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study the vesting of development rights in light of the recent New Hampshire supreme court decisions in *AWL Power, Inc. v. City of Rochester*, issued December 9, 2002, and *Monahan-Fortin Properties, LLC v. Town of Hudson*, issued December 24, 2002, regarding the simultaneous use of growth management ordinances and impact fees under RSA 674:21, V(h).

Rep. Patten moved Recommit to committee and spoke in favor.

Adopted.

Recommitted to Municipal and County Government.

SENATE MESSAGES

ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE

HB 310, establishing a commission to study child support issues.

The President appointed Sens. Roberge, Peterson and Foster.

HB 361-L, permitting municipalities to form regional water districts.

The President appointed Sens. Prescott, O'Hearn and Cohen.

HB 418, relative to annulment of arrest records for defendants whose cases result in acquittal, dismissal, or failure to prosecute.

The President appointed Sens. Clegg, Peterson and Foster.

CONFEREE CHANGE

HB 361-L, permitting municipalities to form regional water districts.

Rep. Patten replaces Rep. Boyce.

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, May 29, 2003 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 135, relative to hotelkeeper or innkeeper liability for personal child care services.

SB 43, relative to archives and records management.

SB 174, relative to scheduled permanent impairment awards and remedial care under workers' compensation.

SB 32, relative to municipal budget recommendations.

SJR 1, approving certain uses of Weeks state park.

SB 139, relative to exhibition fees charged by the boxing and wrestling commission.

SB 98-FN, prohibiting telemarketers from contacting customers on a federal do-not-call registry.

SB 121-FN, relative to mortgage originators.

SB 221-FN, relative to the offense of obstructing government administration by the use of simulated legal process.

SB 114, implementing an unsafe school choice option for pupils attending schools which have been classified as persistently dangerous and authorizing the state board of education to implement a complaint process to address school safety and school violence issues in

nonpublic schools.

SB 101-FN, relative to unemployment compensation.

SCR 4, urging the New Hampshire congressional delegation to take appropriate action against modification of the Clean Air Act if the result jeopardizes New Hampshire's ability to safeguard public health and protect environmental quality.

SB 72, relative to the regulation of small loans, title loans, and payday loans.

SB 40, relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

SB 53, establishing an advisory board to the labor commissioner and relative to the terms of the members of the compensation appeals board.

SB 82-FN, relative to awards of fees and interest under workers' compensation.

UNANIMOUS CONSENT

Rep. Kennedy addressed the House.

RECESS MOTION

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

Adopted.

The House recessed at 2:20 p.m.

RECESS