

HOUSE RECORD

Second Year of the 158th General Court Calendar and Journal of the 2004 Session

Vol. 26

Concord N.H.

January 22, 2004

No.

HOUSE JOURNAL No. 2 (cont.)

Thursday, January 15, 2004

Rep. Hess moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 3

Thursday, January 22, 2004

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.

As the eyes of the nation turn toward us, O lover of souls, may our fellow Americans find in us a people passionate to defend and uphold the precious gifts of freedom and liberty bequeathed to us by the sacrifice of women and men of many generations. Bless the work of this honorable House and the membership and staff who labor on behalf of all the citizens of our beloved New Hampshire.

Protect and defend the men and women of our military who defend us daily in distant lands, as we especially remember those who have given their lives for our freedom and their loved ones who mourn. Protect and defend also those who stand on guard to protect us at home, especially those who serve in law enforcement and in emergency services. May our service be worthy of their daily sacrifice. Amen

Rep. Herbert D. Richardson led the Pledge of Allegiance.

The National Anthem was sung by Lindsey Finnemore, Johanna Wenger, Nicole Chininis,

Christina Rahaim, Dylan Sherry and Benjamin April, members of the A Cappella Choir of Souhegan High School in Amherst.

LEAVES OF ABSENCE

Reps. Albert, Carlson, Crane, Desmarais, Flanagan, Guay, Hunter, Robert L'Heureux, McDonough-Wallace, Milligan and Scamman, the day, illness.

Reps. Janet Allen, Dewhirst, Flayhan, Katsiantonis, Langone, Lessard, O'Neil, Pantelakos, Priestley, Rollo, Paul Smith, Tholl and Zolla, the day, important business.

INTRODUCTION OF GUESTS

Roger Van Wert, guest of Rep. Mooney. Betsy Wooster and Laura Beth Goodman, guests of Rep. Bleyler. David Oliver, guest of Rep. Dorsett. Hon. Gregory Carson, guest of Rep. Carson. Members of the 4th grade class from Hills-Garrison Elementary School, including Sarah Jasper, daughter of Rep. Jasper, guests of the House.

ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 299.

Rep. Currier, Sen. D'Allesandro for the Committee

REGULAR CALENDAR

CACR 2, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis. **OUGHT TO PASS WITH AMENDMENT**
Rep. Mark S. Carter for Education: This amendment has the endorsement of Governor Benson. It seeks to restore the authority of the Legislature over education policy and funding. It endorses the concept that the Legislature must cherish education, and that the representatives of the people are empowered to determine how to cherish it. It was the opinion of the majority of the Education Committee that after ten years without a say, the people must be given a voice at the ballot box in November 2004. Vote 11-7.

Amendment (0528h)

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

Relating to the legislature's authority concerning the content, extent, beneficiaries, level and source of funding of public education.

Providing that the legislature shall have exclusive authority to determine the content, extent, beneficiaries, level and source of funding of public education.

Amend the resolution by replacing paragraph I with the following:

VI. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general

benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against. Amend the bill by replacing section IV with the following:

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

“Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and

officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature exclusive authority to determine either directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education.

Rep. Stephen L’Heureux spoke against.

Amendment failed.

Rep. Mark Carter offered floor amendment (0105h).

Floor Amendment (0105h)

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

RELATING TO: the legislature’s authority concerning the content, extent, beneficiaries, level and source of funding of public education.

PROVIDING THAT: the legislature shall have authority (subject to the supreme court’s power to review for rational basis) to determine the content, extent, beneficiaries, level and source of funding of public education.

Amend the resolution by replacing all after the resolving clause with the following:

VI. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have the authority under this article (subject to the supreme court’s power to review for rational basis) to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

VI. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2004.

VI. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

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

“Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have the authority under this article (subject to the supreme court’s power to review for rational basis) to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education and* that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.”

VI. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2004 General Court” shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature authority (subject to the supreme court’s power to review for rational basis) to determine either

directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education.

Rep. Mark Carter spoke in favor.

Rep. McEachern spoke against.

Rep. Whalley requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0105h).

YEAS 206 NAYS 147

YEAS 206

BELKNAP

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Flanders, Donald	Laflam, Robert	Lawton, David	Nedeau, Stephen
Rice, Thomas	Russell, David	Thomas, John	Wendelboe, Fran
Whalley, Michael			

CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	Kenney, Bettie	McConkey, Mark	Morrow, Harry
Mock, Henry	Olimpio, J Lisbeth	Patten, Betsey	Stevens, Stanley

CHESHIRE

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Royce, H Charles	Smith, Edwin	

COOS

Brady, Mark	Pratt, Leighton	Richardson, Herbert	Stohl, Eric
Woodward, David			

GRAFTON

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ingbreton, Paul	Maybeck, Margie	Sorg, Gregory	

HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Balcom, John	Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy
Bouchard, David	Brundige, Robert	Bruno, Pierre	Buhlman, David
Cail, Kenneth	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Chabot, Robert	Christensen, D L	Christiansen, Lars	Coughlin, Pamela
	Chris		
Emerton, Larry	Fields, Dennis	Fletcher, Richard	Gibson, John
Gonzalez, Carlos	Goyette, Peter Jr	Graham, John	Greenberg, Gary
Hagan, Barbara	Hall, Charles	Hansen, Ryan	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Hinkle, Peyton	Holden, Randolph
Hopper, Gary	Infantine, William	Jasper, Shawn	Johnson, Lionel
Kurk, Neal	LaFlamme, Paul	Lefebvre, Roland	McElroy, Henry Jr
McRae, Karen	Mercer, Robert	Mooney, Maureen	Moran, Edward
Mosher, William	O'Brien, Lori	Ober, Russell III	Pappas, Marc
Pepino, Leo	Price, Pamela	Reeves, Sandra	Rowe, Robert
Scanlon, Michael	Slocum, Lee	Stepanek, Stephen	Sullivan, Jeffrey

Tahir, Saghir
Wheeler, Robert

Tate, Joan

Vaillancourt, Steve

Wheeler, James

MERRIMACK

Anderson, Eric
Field, William
Kennedy, Richard
MacKay, James
Nutter, Edward

Currier, David
Foley, Albert
L'Heureux, Stephen
Marple, Richard
Oliver, James

Daniels, Eric
Hess, David
Langer, Ray
Maxfield, Roy
Soltani, Tony

Dunne, Christopher
Kenison, Leon
Leber, William
McCormick, Tom

ROCKINGHAM

Allen, Mary
Cady, Harriet
Cooney, Richard
Doyle, Christopher
Flanders, John Sr
Gillick, Thomas
Holland, James Jr
Introne, Robert
Katsakiores, Phyllis
Letourneau, Robert
McKinney, Betsy
Noyes, Richard
Roessner, Kurt
Tufts, J Arthur
Welch, David
Winchell, George

Belanger, Ronald
Camm, Kevin
Dalrymple, Janeen
Duffy, James
Francoeur, Sheila
Griffin, Mary
Hughes, Daniel
Itse, Daniel
Kelley, Jane
Major, Norman
McMahon, Charles
Packard, Sherman
Ruffner, Walter
Varrell, Thomas
Weldy, Norman Jr

Bicknell, Elbert
Carson, Sharon
DiFruscia, Anthony
Dumaine, Dudley
Gilbert, Jeffrey
Hamel, Albert
Hutchinson, Karen
Johnson, Rogers
Kobel, Rudolph
Manning, John
Moore, Benjamin
Putnam, Ed II
Smith, Donald
Waterhouse, Kevin
Weyler, Kenneth

Bridle, Russell
Clark, Vivian
Dodge, Robert
Fesh, Bob
Gilbert, Karl
Headd, James
Ingram, Russell
Katsakiores, George
Langley, Jane
McCann, Richard
Morris, Richard
Quandt, Matthew
Stone, Joseph
Weare, E Albert
Wiley, Robert

STRAFFORD

Bickford, David
Harrington, Michael
Twombly, James

Campbell, W Packy
Musler, George
Woods, Phyllis

Cataldo, Sam
Newton, Clifford

Easson, Timothy
Scott, David

SULLIVAN

Jones, Constance

Leone, Richard

Rodeschin, Beverly

NAYS 147

BELKNAP

Fitzgerald, James

Holbrook, Robert

Pilliod, James

CARROLL

Philbrick, Donald

CHESHIRE

Allen, Peter
Manning, Joseph
Pratt, Irene
Slack, Pamela

Dunn, James
Meader, David
Pratt, John
Tilton, Anna

Eaton, Daniel
Mitchell, McKim
Richardson, Barbara
Webber, Amy

Espieffs, Peter
Parkhurst, Henry
Robertson, Timothy
Weed, Charles

COOS

King, Frederick

Mears, Edgar

Poulin, Richard

Theberge, Robert

GRAFTON

Akins, Ralph
Cooney, Mary
Naro, Debra
Solomon, Peter

Almy, Susan
Densmore, Edward
Nordgren, Sharon
Williams, Burton

Benn, Bernard
Diamond, Estelle
Scovner, Nancy

Bleyler, Ruth
Hammond, Lee
Sokol, Hilda

HILLSBOROUGH

Arnold, Thomas Jr
Clayton, William
Craig, James
Elliott, Larry
Haley, Robert
Kopka, Angeline
McHugh, Claire
Pappas, Christopher
Shaw, Barbara
Sweeney, Cynthia

Bergin, Peter
Clemons, Jane
Dionne, Kimberley
Ford, Nancy
Hallyburton, Margaret
Lasky, Bette
Messier, Irene
Pilotte, Maurice
Spiess, Paul

Brassard, Paul
Cote, David
Dokmo, Cynthia
Gargas, Carolyn
Irwin, Anne-Marie
Leach, Edward
Michon, Stephen
Ross, Lawrence
Sullivan, Francis

Buckley, Raymond
Cote, Peter
Drisko, Richard
Gorman, Mary
Jean, Claudette
Martin, Mary Ellen
Movsesian, Lori
Schulze, Joan
Sullivan, Peter

MERRIMACK

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Clarke, Claire

Davis, Frank
French, Barbara
Jacobson, Alf
Perkins, Randy
Rush, Deanna

DeJoie, John
Gile, Mary
Lockwood, Priscilla
Potter, Frances
Seldin, Gloria

DeStefano, Stephen
Hager, Elizabeth
Osborne, Jessie
Reardon, Tara
Wallner, Mary Jane

Fraser, Leo Jr
Hamm, Christine
Owen, Derek
Reed, Dennis

ROCKINGHAM

Bishop, Franklin
Corbin, Corey
Norelli, Terie
Shultis, Elizabeth

Blanchard, MaryAnn
Gould, Kenneth
Pitts, Jacqueline
Splaine, James

Casey, Kimberley
Johnson, Robert
Rausch, James
Vallone, Matthew

Coes, Betsy
McEachern, Paul
Robertson, Carl

STRAFFORD

Bemis, Alan
Creteau, Irene
Hofemann, Roland
Knowles, William
Schmidt, Peter
Taylor, Katherine

Berube, Roger
Dunlap, Patricia
Johnson, Nancy
Miller, Joseph
Smith, Marjorie
Taylor, Kathleen

Brown, Julie
Grassie, Anne
Kaen, Naida
Pelletier, Arthur
Snyder, Clair
Vachon, Dennis

Callaghan, Frank
Heon, Richard
Keans, Sandra
Rous, Emma
Spang, Judith
Wall, Janet

SULLIVAN

Allison, David
Ferland, Brenda
Harris, Sandra

Burling, Peter
Flint, Gordon Sr
Phinizy, James

Cloutier, John
Franklin, Peter

Donovan, Thomas
Harris, Joseph

and floor amendment (0105h) was adopted.

The question now being Ought to Pass as Amended.
Rep. Jacobson spoke against and yielded to questions.
Reps. Diamond, Burling and DiFruscia spoke against.

Reps. Mark Carter and Stephen L'Heureux spoke in favor.

Rep. Hess spoke in favor and yielded to questions.

As required by the State Constitution, a roll call was taken, the question being adoption of the majority report.

YEAS 186 NAYS 172

YEAS 186

BELKNAP

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Flanders, Donald	Laflam, Robert	Lawton, David	Nedeau, Stephen
Rice, Thomas	Russell, David	Thomas, John	Wendelboe, Fran
Whalley, Michael			

CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	Kenney, Bettie	McConkey, Mark	Merrow, Harry
Mock, Henry	Olimpio, J Lisbeth	Patten, Betsey	Stevens, Stanley

CHESHIRE

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Royce, H Charles	Smith, Edwin	

COOS

Brady, Mark	Pratt, Leighton	Richardson, Herbert	Stohl, Eric
Woodward, David			

GRAFTON

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ingbretson, Paul	Maybeck, Margie	Sorg, Gregory	

HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Barry, J Gail	Bergeron, Jean-Guy	Bouchard, David	Brundige, Robert
Bruno, Pierre	Buhlman, David	Cail, Kenneth	Carter, Jeffrey
Carter, Mark	Cernota, Albert	Chabot, Robert	Christiansen, Lars
Coughlin, Pamela	Emerton, Larry	Fields, Dennis	Fletcher, Richard
Gibson, John	Gonzalez, Carlos	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Hagan, Barbara	Hansen, Ryan	Harrington, Paul
Hawkins, Ken	Hinkle, Peyton	Hopper, Gary	Infantine, William
Jasper, Shawn	Kurk, Neal	LaFlamme, Paul	Luebker, Bernard
McElroy, Henry Jr	McRae, Karen	Mercer, Robert	Moran, Edward
Mosher, William	O'Brien, Lori	Ober, Russell III	Pappas, Marc
Pepino, Leo	Price, Pamela	Reeves, Sandra	Scanlon, Michael
Slocum, Lee	Stepanek, Stephen	Sullivan, Jeffrey	Tahir, Saghir
Tate, Joan	Vaillancourt, Steve	Wheeler, James	Wheeler, Robert

MERRIMACK

Anderson, Eric	Dunne, Christopher	Field, William	Foley, Albert
Hess, David	Kennedy, Richard	L'Heureux, Stephen	Langer, Ray

Leber, William
Nutter, Edward

Marple, Richard
Oliver, James

Maxfield, Roy
Soltani, Tony

McCormick, Tom

ROCKINGHAM

Allen, Mary
Cady, Harriet
Dalrymple, Janeen
Dumaine, Dudley
Gilbert, Jeffrey
Hamel, Albert
Ingram, Russell
Katsakiores, George
Major, Norman
McMahon, Charles
Packard, Sherman
Ruffner, Walter
Waterhouse, Kevin
Weyler, Kenneth

Belanger, Ronald
Camm, Kevin
Dodge, Robert
Fesh, Bob
Gilbert, Karl
Headd, James
Introne, Robert
Katsakiores, Phyllis
Manning, John
Moore, Benjamin
Putnam, Ed II
Smith, Donald
Weare, E Albert
Wiley, Robert

Bicknell, Elbert
Carson, Sharon
Doyle, Christopher
Flanders, John Sr
Gillick, Thomas
Holland, James Jr
Itse, Daniel
Langley, Jane
McCann, Richard
Morris, Richard
Quandt, Matthew
Stone, Joseph
Welch, David
Winchell, George

Bridle, Russell
Clark, Vivian
Duffy, James
Francoeur, Sheila
Griffin, Mary
Hughes, Daniel
Johnson, Rogers
Letourneau, Robert
McKinney, Betsy
Noyes, Richard
Roessner, Kurt
Varrell, Thomas
Weldy, Norman Jr

STRAFFORD

Bickford, David
Musler, George
Woods, Phyllis

Cataldo, Sam
Newton, Clifford

Easson, Timothy
Scott, David

Harrington, Michael
Twombly, James

SULLIVAN

Jones, Constance

Leone, Richard

Rodeschin, Beverly

NAYS 172

BELKNAP

Fitzgerald, James

Holbrook, Robert

Pilliod, James

CARROLL

Philbrick, Donald

CHESHIRE

Allen, Peter
Manning, Joseph
Pratt, Irene
Slack, Pamela

Dunn, James
Meader, David
Pratt, John
Tilton, Anna

Eaton, Daniel
Mitchell, McKim
Richardson, Barbara
Webber, Amy

Espiefs, Peter
Parkhurst, Henry
Robertson, Timothy
Weed, Charles

COOS

King, Frederick

Mears, Edgar

Poulin, Richard

Theberge, Robert

GRAFTON

Akins, Ralph
Cooney, Mary
Naro, Debra
Solomon, Peter

Almy, Susan
Densmore, Edward
Nordgren, Sharon
Williams, Burton

Benn, Bernard
Diamond, Estelle
Scovner, Nancy

Bleyler, Ruth
Hammond, Lee
Sokol, Hilda

HILLSBOROUGH

Arnold, Thomas Jr	Balcom, John	Baroody, Benjamin	Batula, Peter
Bergin, Peter	Brassard, Paul	Buckley, Raymond	Christensen, D L
			Chris
Clayton, William	Clemons, Jane	Cote, David	Cote, Peter
Craig, James	Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard
Elliott, Larry	Ford, Nancy	Gargas, Carolyn	Gorman, Mary
Haley, Robert	Hall, Charles	Hallyburton, Margaret	Haytayan, Harry Jr
Holden, Randolph	Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel
Kopka, Angeline	Lasky, Bette	Leach, Edward	Lefebvre, Roland
Malloy, Chris	Martin, Mary Ellen	McHugh, Claire	Messier, Irene
Michon, Stephen	Mooney, Maureen	Movsesian, Lori	Palangas, Eric
Pappas, Christopher	Pilotte, Maurice	Ross, Lawrence	Rowe, Robert
Schulze, Joan	Shaw, Barbara	Spiess, Paul	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia		

MERRIMACK

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Currier, David	Daniels, Eric	Davis, Frank	DeJoie, John
DeStefano, Stephen	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Jacobson, Alf	Kenison, Leon
Lockwood, Priscilla	Mackay, James	Osborne, Jessie	Owen, Derek
Perkins, Randy	Potter, Frances	Reardon, Tara	Reed, Dennis
Rush, Deanna	Seldin, Gloria	Wallner, Mary Jane	

ROCKINGHAM

Bishop, Franklin	Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy
Cooney, Richard	Corbin, Corey	DiFruscia, Anthony	Gleason, John
Gould, Kenneth	Hutchinson, Karen	Johnson, Robert	Kelley, Jane
Kobel, Rudolph	McEachern, Paul	Norelli, Terie	Pitts, Jacqueline
Rausch, James	Robertson, Carl	Shultis, Elizabeth	Splaine, James
Tufts, J Arthur	Vallone, Matthew		

STRAFFORD

Bemis, Alan	Berube, Roger	Brown, Julie	Callaghan, Frank
Campbell, W Packy	Creteau, Irene	Dunlap, Patricia	Grassie, Anne
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Pelletier, Arthur
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis
Wall, Janet			

SULLIVAN

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

and the majority report failed to pass, lacking the constitutionally required three-fifths vote.

CACR 9, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms, which may be renewed.

MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Alf E. Jacobson for the Majority of Judiciary: This bill seeks to alter fundamentally the current life appointment system to a definite term of seven years later amended to ten-year terms. Since no evidence that the current appointment system has failed the people was offered to the committee, the committee voted the proposed CACR 9, as amended, Inexpedient to Legislate. One of the basic concerns was that judicial appointments, based on a seven- or ten-year method, may increase the political climate with judicial appointments. Further, many members who would have otherwise supported the ten-year term voted against the bill because the new retirement system was not compatible with the ten-year term. The term of ten years with no vesting after ten years would discourage younger applicants for a judgeship. Vote 11-6.

Rep. James E. Wheeler for the Minority of Judiciary: In order to better ensure quality in our judiciary, the minority believes that this proposal for a judicial term is essential. We believe that a judge who is aware that his or her term is going to expire and to have any possibility of re-nomination will have to be more aware of the way they treat litigants, will treat litigants more courteously, and will give the people of New Hampshire a more responsive judiciary. Furthermore, we are of the opinion that to give the people of New Hampshire the best judiciary possible, we should give the Governor a chance every ten years to examine a judge to see if they are the best person for the job, as the minority amendment does. We also reject the argument that there will be a lack of qualified candidates for a judicial position just because it is only for ten years – ten years is more job security than most people have. The minority believes this bill Ought to Pass with Amendment.

Reps. James Wheeler and Soltani spoke against.

Reps. Rowe and Jacobson spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the majority report.

YEAS 212 NAYS 140

YEAS 212

BELKNAP

Bartlett, Gordon	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Nedeau, Stephen	Pilliod, James	Russell, David	

CARROLL

Babson, David Jr	Derby, Mark	Dickinson, Howard	Hatch, Paul
McConkey, Mark	Merrow, Harry	Philbrick, Donald	Stevens, Stanley

CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Fish, Douglas	Hunt, John	Liebl, George	Manning, Joseph
Meader, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Slack, Pamela	Smith, Edwin	Tilton, Anna	Webber, Amy
Weed, Charles			

COOS

King, Frederick	Mears, Edgar	Poulin, Richard	Theberge, Robert
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GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Eaton, Stephanie

Hammond, Lee
Sokol, Hilda

Naro, Debra
Solomon, Peter

Nordgren, Sharon
Sorg, Gregory

Scovner, Nancy
Williams, Burton

HILLSBOROUGH

Arnold, Thomas Jr
Clayton, William
Coughlin, Pamela
Emerton, Larry
Gorman, Mary
Hallyburton, Margaret
Jean, Claudette
Lasky, Bette
Mercer, Robert
Movsesian, Lori
Price, Pamela
Scanlon, Michael
Sullivan, Francis

Baroody, Benjamin
Clemons, Jane
Craig, James
Fletcher, Richard
Graham, John
Hawkins, Ken
Johnson, Lionel
Leach, Edward
Messier, Irene
Palangas, Eric
Reeves, Sandra
Schulze, Joan
Sweeney, Cynthia

Bergin, Peter
Cote, David
Dokmo, Cynthia
Ford, Nancy
Greenberg, Gary
Haytayan, Harry Jr
Kopka, Angeline
Lefebvre, Roland
Michon, Stephen
Pappas, Christopher
Ross, Lawrence
Shaw, Barbara
Tahir, Saghir

Brassard, Paul
Cote, Peter
Drisko, Richard
Gargas, Carolyn
Haley, Robert
Irwin, Anne-Marie
Kurk, Neal
Malloy, Chris
Mooney, Maureen
Pilotte, Maurice
Spiess, Robert
Spiess, Paul
Wheeler, Robert

MERRIMACK

Anderson, Eric

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald
DeStefano, Stephen
Gile, Mary
Jacobson, Alf
MacKay, James
Potter, Frances
Seldin, Gloria

Currier, David
Dunne, Christopher
Hager, Elizabeth
Kenison, Leon
Maxfield, Roy
Reardon, Tara
Wallner, Mary Jane

Davis, Frank
Fraser, Leo Jr
Hamm, Christine
L'Heureux, Stephen
Osborne, Jessie
Reed, Dennis

DeJoie, John
French, Barbara
Hess, David
Lockwood, Priscilla
Perkins, Randy
Rush, Deanna

ROCKINGHAM

Belanger, Ronald
Casey, Kimberley
Dalrymple, Janeen
Gilbert, Jeffrey
Griffin, Mary
Ingram, Russell
Kelley, Jane
McEachern, Paul
Pitts, Jacqueline
Stone, Joseph

Bishop, Franklin
Coes, Betsy
Dodge, Robert
Gillick, Thomas
Hamel, Albert
Johnson, Robert
Kobel, Rudolph
Morris, Richard
Robertson, Carl
Vallone, Matthew

Blanchard, MaryAnn
Cooney, Richard
Flanders, John Sr
Gleason, John
Headd, James
Katsakiores, George
Langley, Jane
Norelli, Terie
Shultis, Elizabeth

Bridle, Russell
Corbin, Corey
Francoeur, Sheila
Gould, Kenneth
Holland, James Jr
Katsakiores, Phyllis
Major, Norman
Noyes, Richard
Splaine, James

STRAFFORD

Berube, Roger
Creteau, Irene
Hofemann, Roland
Knowles, William
Rous, Emma
Spang, Judith
Wall, Janet

Brown, Julie
Dunlap, Patricia
Johnson, Nancy
Miller, Joseph
Schmidt, Peter
Taylor, Katherine

Callaghan, Frank
Grassie, Anne
Kaen, Naida
Musler, George
Smith, Marjorie
Taylor, Kathleen

Campbell, W Packy
Heon, Richard
Keans, Sandra
Pelletier, Arthur
Snyder, Clair
Vachon, Dennis

SULLIVAN

Allison, David
Ferland, Brenda

Burling, Peter
Flint, Gordon Sr

Cloutier, John
Franklin, Peter

Donovan, Thomas
Harris, Joseph

Harris, Sandra

Jones, Constance

Leone, Richard

Phinizy, James

NAYS 140

BELKNAP

Ahern, Omer Jr
Rice, Thomas

Boyce, Laurie
Thomas, John

Clark, Charles
Wendelboe, Fran

Lawton, David
Whalley, Michael

CARROLL

Brown, Carolyn
Patten, Betsey

Kenney, Bettie

Mock, Henry

Olimpio, J Lisbeth

CHESHIRE

Dexter, Judson

Laurent, John

COOS

Brady, Mark
Woodward, David

Pratt, Leighton

Richardson, Herbert

Stohl, Eric

GRAFTON

Alger, John
Gilman, G Michael
Maybeck, Margie

Barker, Robert
Gionet, Edmond

Dorsett, Andrew
Giuda, Robert

Dudley, Terri
Ingbretson, Paul

HILLSBOROUGH

Adams, Jarvis
Balboni, Michael
Bergeron, Jean-Guy
Buckley, Raymond
Carter, Mark

Allan, Nelson
Balcom, John
Bouchard, David
Buhlman, David
Cernota, Albert

Allen, Timothy
Barry, J Gail
Brundige, Robert
Cail, Kenneth
Christensen, D L
Chris

Artz, Lawrence
Batula, Peter
Bruno, Pierre
Carter, Jeffrey
Christiansen, Lars

Dionne, Kimberley
Gonzalez, Carlos
Hansen, Ryan
Hopper, Gary
Luebker, Bernard
McRae, Karen
Ober, Russell III
Stepanek, Stephen
Vaillancourt, Steve

Elliott, Larry
Goyette, Peter Jr
Harrington, Paul
Infantine, William
Martin, Mary Ellen
Moran, Edward
Pappas, Marc
Sullivan, Jeffrey
Wheeler, James

Fields, Dennis
Hagan, Barbara
Hinkle, Peyton
Jasper, Shawn
McElroy, Henry Jr
Mosher, William
Pepino, Leo
Sullivan, Peter

Gibson, John
Hall, Charles
Holden, Randolph
LaFlamme, Paul
McHugh, Claire
O'Brien, Lori
Slocum, Lee
Tate, Joan

MERRIMACK

Daniels, Eric
Langer, Ray
Nutter, Edward

Field, William
Leber, William
Oliver, James

Foley, Albert
Marple, Richard
Soltani, Tony

Kennedy, Richard
McCormick, Tom

ROCKINGHAM

Allen, Mary
Clark, Vivian
Dumaine, Dudley
Hutchinson, Karen

Bicknell, Elbert
DiFruscia, Anthony
Fesh, Bob
Introne, Robert

Cady, Harriet
Doyle, Christopher
Gilbert, Karl
Itse, Daniel

Camm, Kevin
Duffy, James
Hughes, Daniel
Johnson, Rogers

Letourneau, Robert	Manning, John	McCann, Richard	McKinney, Betsy
McMahon, Charles	Packard, Sherman	Putnam, Ed II	Quandt, Matthew
Rausch, James	Roessner, Kurt	Smith, Donald	Tufts, J Arthur
Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert	Welch, David
Weldy, Norman Jr	Weyler, Kenneth	Wiley, Robert	Winchell, George

STRAFFORD

Bemis, Alan	Bickford, David	Cataldo, Sam	Easson, Timothy
Harrington, Michael	Newton, Clifford	Scott, David	Twombly, James
Woods, Phyllis			

SULLIVAN

Rodeschin, Beverly
and the majority report was adopted.

HB 747, establishing the crime victim employment leave act. **INEXPEDIENT TO LEGISLATE**

Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: Although the committee saw merit in the bill, there was no hard data or any study done to show that it was necessary. Vote 11-7.

Reps. Peter Sullivan and DeJoie spoke against.

Rep. Adams spoke in favor and yielded to questions.

Rep. Newton spoke in favor.

Rep. Peter Sullivan requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 223 NAYS 129

YEAS 223

BELKNAP

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Lawton, David
Nedeau, Stephen	Rice, Thomas	Russell, David	Thomas, John
Wendelboe, Fran	Whalley, Michael		

CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	Kenney, Bettie	McConkey, Mark	Merrow, Harry
Mock, Henry	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

CHESHIRE

Dexter, Judson	Hunt, John	Laurent, John	Liebl, George
Royce, H Charles	Smith, Edwin		

COOS

Brady, Mark	King, Frederick	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Woodward, David		

GRAFTON

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
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Dudley, Terri
Giuda, Robert
Williams, Burton

Eaton, Stephanie
Ingbretson, Paul

Gilman, G Michael
Maybeck, Margie

Gionet, Edmond
Sorg, Gregory

HILLSBOROUGH

Adams, Jarvis
Balboni, Michael
Beaton, William
Bruno, Pierre
Carter, Mark

Allen, Timothy
Balcom, John
Bergeron, Jean-Guy
Buhlman, David
Cernota, Albert

Arnold, Thomas Jr
Barry, J Gail
Bouchard, David
Cail, Kenneth
Chabot, Robert

Artz, Lawrence
Batula, Peter
Brundige, Robert
Carter, Jeffrey
Christensen, D L
Chris

Christiansen, Lars
Fields, Dennis
Gibson, John
Hall, Charles

Coughlin, Pamela
Fletcher, Richard
Goyette, Peter Jr
Hallyburton,
Margaret

Drisko, Richard
Ford, Nancy
Graham, John
Hansen, Ryan

Emerton, Larry
Gargasz, Carolyn
Greenberg, Gary
Harrington, Paul

Hawkins, Ken
Jasper, Shawn
Luebker, Bernard
Messier, Irene
Pappas, Marc
Ross, Lawrence
Spiess, Paul
Tate, Joan

Haytayan, Harry Jr
Kurk, Neal
McElroy, Henry Jr
Moran, Edward
Pepino, Leo
Rowe, Robert
Stepanek, Stephen
Vaillancourt, Steve

Hinkle, Peyton
LaFlamme, Paul
McRae, Karen
Mosher, William
Price, Pamela
Scanlon, Michael
Sullivan, Jeffrey
Wheeler, James

Infantine, William
Leach, Edward
Mercer, Robert
Ober, Russell III
Reeves, Sandra
Slocum, Lee
Tahir, Saghir
Wheeler, Robert

MERRIMACK

Anderson, Eric
Field, William
Hess, David
L'Heureux, Stephen
MacKay, James
Nutter, Edward

Currier, David
Foley, Albert
Jacobson, Alf
Langer, Ray
Marple, Richard
Oliver, James

Daniels, Eric
Fraser, Leo Jr
Kenison, Leon
Leber, William
Maxfield, Roy
Reed, Dennis

Dunne, Christopher
Hager, Elizabeth
Kennedy, Richard
Lockwood, Priscilla
McCormick, Tom
Soltani, Tony

ROCKINGHAM

Allen, Mary
Bridle, Russell
Clark, Vivian
Dodge, Robert
Fesh, Bob
Gilbert, Karl
Griffin, Mary
Hughes, Daniel
Itse, Daniel
Katsakiores, Phyllis
Major, Norman
McMahon, Charles
Packard, Sherman
Robertson, Carl
Tufts, J Arthur
Welch, David

Belanger, Ronald
Cady, Harriet
Cooney, Richard
Doyle, Christopher
Flanders, John Sr
Gillick, Thomas
Hamel, Albert
Hutchinson, Karen
Johnson, Robert
Kobel, Rudolph
Manning, John
Moore, Benjamin
Putnam, Ed II
Roessner, Kurt
Varrell, Thomas
Weldy, Norman Jr

Bicknell, Elbert
Camm, Kevin
Dalrymple, Janeen
Duffy, James
Francoeur, Sheila
Gleason, John
Headd, James
Ingram, Russell
Johnson, Rogers
Langley, Jane
McCann, Richard
Morris, Richard
Quandt, Matthew
Smith, Donald
Waterhouse, Kevin
Weyler, Kenneth

Bishop, Franklin
Casey, Kimberley
DiFruscia, Anthony
Dumaine, Dudley
Gilbert, Jeffrey
Gould, Kenneth
Holland, James Jr
Introne, Robert
Katsakiores, George
Letourneau, Robert
McKinney, Betsy
Noyes, Richard
Rausch, James
Stone, Joseph
Weare, E Albert
Wiley, Robert

STRAFFORD

Bemis, Alan
Cataldo, Sam

Bickford, David
Dunlap, Patricia

Brown, Julie
Easson, Timothy

Campbell, W Packy
Harrington, Michael

Keans, Sandra
Twombly, James

Musler, George
Woods, Phyllis

Newton, Clifford

Scott, David

SULLIVAN

Flint, Gordon Sr

Rodeschin, Beverly

NAYS 129

BELKNAP

Pilliod, James

CARROLL

Olimpio, J Lisbeth

CHESHIRE

Allen, Peter
Fish, Douglas
Pratt, Irene
Slack, Pamela

Dunn, James
Meader, David
Pratt, John
Tilton, Anna

Eaton, Daniel
Mitchell, McKim
Richardson, Barbara
Webber, Amy

Espiefs, Peter
Parkhurst, Henry
Robertson, Timothy
Weed, Charles

COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

GRAFTON

Almy, Susan
Diamond, Estelle
Scovner, Nancy

Benn, Bernard
Hammond, Lee
Sokol, Hilda

Bleyler, Ruth
Naro, Debra
Solomon, Peter

Cooney, Mary
Nordgren, Sharon

HILLSBOROUGH

Allan, Nelson
Buckley, Raymond
Cote, Peter
Elliott, Larry
Haley, Robert
Jean, Claudette
Lefebvre, Roland
Michon, Stephen
Palangas, Eric
Shaw, Barbara

Baroody, Benjamin
Clayton, William
Craig, James
Gonzalez, Carlos
Holden, Randolph
Johnson, Lionel
Malloy, Chris
Mooney, Maureen
Pappas, Christopher
Sullivan, Francis

Bergin, Peter
Clemons, Jane
Dionne, Kimberley
Gorman, Mary
Hopper, Gary
Kopka, Angeline
Martin, Mary Ellen
Movsesian, Lori
Pilotte, Maurice
Sullivan, Peter

Brassard, Paul
Cote, David
Dokmo, Cynthia
Hagan, Barbara
Irwin, Anne-Marie
Lasky, Bette
McHugh, Claire
O'Brien, Lori
Schulze, Joan
Sweeney, Cynthia

MERRIMACK

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Davis, Frank

DeJoie, John
Hamm, Christine
Reardon, Tara

DeStefano, Stephen
Osborne, Jessie
Rush, Deanna

French, Barbara
Perkins, Randy
Seldin, Gloria

Gile, Mary
Potter, Frances
Wallner, Mary Jane

ROCKINGHAM

Blanchard, MaryAnn
McEachern, Paul

Coes, Betsy
Norelli, Terie

Corbin, Corey
Pitts, Jacqueline

Kelley, Jane
Shultis, Elizabeth

Splaine, James

Vallone, Matthew

Winchell, George

STRAFFORD

Berube, Roger
Heon, Richard
Knowles, William
Schmidt, Peter
Taylor, Katherine

Callaghan, Frank
Hofemann, Roland
Miller, Joseph
Smith, Marjorie
Taylor, Kathleen

Creteau, Irene
Johnson, Nancy
Pelletier, Arthur
Snyder, Clair
Wall, Janet

Grassie, Anne
Kaen, Naida
Rous, Emma
Spang, Judith

SULLIVAN

Allison, David
Ferland, Brenda
Jones, Constance

Burling, Peter
Franklin, Peter
Leone, Richard

Cloutier, John
Harris, Joseph
Phinizy, James

Donovan, Thomas
Harris, Sandra

and the committee report was adopted.

The House recessed at 12:10 p.m.

RECESS

(Speaker Chandler in the Chair)

The House reconvened at 1:15 p.m.

REGULAR CALENDAR (CONT'D)

HB 803-FN-A-L, establishing the New Hampshire downtown development program.

WITHOUT RECOMMENDATION

Rep. Patten moved Ought to Pass with Amendment and offered floor amendment (2550h).

Floor Amendment (2550h)

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

AN ACT relative to the establishment of municipal economic development and revitalization districts by municipalities.

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

1 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed ~~[1-½]~~ **5** percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed ~~[3]~~ **10** percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed ~~[5]~~ **8** percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed ~~[40]~~ **16** percent of the most recent total assessed value of taxable real property in the municipality.

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

AMENDED ANALYSIS

This bill changes the limitations for municipalities that may create a municipal economic development and revitalization district under RSA 162-K.

Rep. Patten spoke in favor.

On a division vote, 239 members having voted in the affirmative and 62 in the negative, the floor amendment (2550h) was adopted.

Rep. Gillick offered floor amendment (2571h).

Floor Amendment (2571h)

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

1 Purpose and Findings. New Hampshire's urban, town, and village centers ("downtowns") are of critical importance to maintaining the long-term health and livability of our communities and our state. Our downtowns are an integral part of New Hampshire's social fabric. However, the trend toward low-density, automobile-dependent sprawl development that has taken root over the past decades has left many of our downtowns struggling to reach their full potential. The goal of this chapter is to address the public purpose and need to provide new tools for communities to encourage the development and revitalization of downtowns that are economically, culturally, and socially vibrant, pedestrian-friendly places in which to live, work, and recreate. This chapter is premised on the notion that communities that are committed to enhancing the viability and livability of their downtowns should be provided new tools to foster downtown development and revitalization through enhanced access to funding and through the authority to implement new funding and planning mechanisms.

2 New Chapter; New Hampshire Downtown Development Program. Amend RSA by inserting after chapter 162-O the following new chapter:

CHAPTER 162-P

NEW HAMPSHIRE DOWNTOWN DEVELOPMENT PROGRAM

162-P:1 Definitions. In this chapter:

I. "Designated downtown" means all or a portion of an urban, town, or village center designated by the local legislative body of a municipality for purposes of encouraging compact, mixed-use, pedestrian-friendly development consistent with the purpose and goal of this chapter.

II. "Downtown development and revitalization" means development, infrastructure improvements, operations, and planning activities that foster the creation or maintenance of a designated downtown that contains a mix of residential, retail, and commercial uses laid out in a compact, pedestrian-friendly manner. Such development and revitalization includes, but is not limited to, public or private projects that:

- (a) Rehabilitate and reuse existing buildings within the designated downtown;
- (b) Develop vacant lots, including brownfields, within the designated downtown;
- (c) Increase the availability of housing within the designated downtown;
- (d) Improve transportation infrastructure and systems in a manner that fosters a pedestrian-friendly environment within the designated downtown; or
- (e) Increase the capacity of infrastructure, that may or may not be located in the designated downtown, to support higher density development within the designated downtown.

III. "Downtown development and revitalization fund" means a fund established by a city or town with a designated downtown, to be administered by the local downtown committee, as designated agent, for the sole purpose of fostering, supporting, and funding downtown development and revitalization within the designated downtown, consistent with goals of the downtown development and revitalization strategy adopted by the municipality. Such funds may be used as partial funding to support an application to the New Hampshire Main Street Center for designation as a Main Street Community, and as funding to support downtown development and revitalization projects under the Main Street program. Such funds also may be used to provide loans or other assistance for downtown development and revitalization projects on private property within the designated downtown, or on public property subsequently sold or leased to private interests, provided that the local downtown committee, following a public hearing, determines that the project will serve a public use and provide a public benefit, that it will not be primarily of benefit to private persons or uses even though such benefits may incidentally result, and that it will directly further the strategy adopted by the city or town for fostering downtown development and revitalization

within the designated downtown and the public purpose of this chapter. A downtown development and revitalization fund within the meaning of this chapter shall be continuous and non-lapsing, such that any and all revenues placed in such a fund shall be allowed to accumulate without lapsing to a municipal general fund.

IV. "Downtown transportation projects" means any transportation infrastructure or operations designed to improve access to or within a designated downtown, such as through enhanced parking, public transit, and bicycle/pedestrian facilities, as well as streetscape improvements and measures designed to control or slow traffic to enhance pedestrian safety. Such projects shall not interfere with the character and pedestrian environment of the designated downtown.

V. "Local downtown committee" means a committee appointed by the governing body, or a subcommittee of a planning board, municipal agency, or governing body established for the purpose of recommending to the local legislative body the area to be delineated as a designated downtown, and a strategy for fostering downtown development and revitalization within the designated area.

162-P:2 Establishment of Designated Downtowns by Local Legislative Bodies.

I. A municipality may establish a designated downtown for purposes of this chapter by:

(a) Establishing a local downtown committee, which shall develop and submit to the local legislative body a recommendation of the area to be delineated as a designated downtown, as well as a strategy for fostering downtown development and revitalization within the designated downtown. Prior to submitting its recommendations to the local legislative body, the local downtown committee shall hold at least one public hearing to discuss the boundaries of the designated downtown and the strategy for fostering downtown development and revitalization within it.

(b) Designating an appropriate area as a designated downtown, and adopting a strategy for fostering downtown development and revitalization within the designated area. This shall be accomplished in the following manner:

(i) In a town, the questions whether to establish a particular designated downtown, and whether to adopt a strategy for fostering downtown development and revitalization therein, shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(ii) In a city or a town with a town council, the legislative body may consider and act upon the questions in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the questions on the official ballot for any regular municipal election.

II. No area of a city or town shall be deemed a designated downtown for purposes of this chapter unless and until:

(a) The boundaries of the area to be established as a designated downtown are delineated on a map adopted as part of the municipality's zoning ordinance.

(b) There is established a special downtown zoning district, local historic district, central business district or downtown overlay district that is co-extensive with the designated downtown, or of which the designated downtown is a part. Such district or districts shall contain provisions allowing or encouraging a mix of residential, retail, and commercial uses in a compact, pedestrian-friendly manner consistent with the goal of downtown development and revitalization within the meaning of this chapter. A designated downtown shall not include areas not contained within one or more of the above districts.

(c) There is a local downtown committee that is responsible for implementing the downtown development and revitalization strategy, including efforts to adopt and implement tools provided in this chapter, in the short and long-term.

III. Any municipality that has established a designated downtown shall notify the office of state planning and energy programs of such designation.

IV. Official designation of a downtown within the meaning of this chapter shall expire 5 years from the date of designation. Any municipality may renew designation of the downtown prior to a 5-year expiration, to continue the designation in full force and effect, by following the procedures set forth in paragraphs I-III of this section, and may do so unlimited times. Any legislation, planning tools, or programs adopted by a municipality by virtue of its designation of a downtown, including the establishment of a downtown development and revitalization fund and any moneys contained therein, shall continue from one 5-year period to subsequent, consecutive 5-year periods. If a municipality does not renew designation prior to the expiration of a 5-year period, any legislation, tools, or programs adopted by a municipality by virtue of its designation of a downtown, including any downtown development and revitalization fund and moneys contained therein, shall remain in effect for a period of one year following the 5-year expiration date, during which time a municipality's designation status may be renewed pursuant to the procedures set forth in paragraphs I-III of this section, except that a municipality may terminate its designation status at an earlier time, in the same manner in which such status was adopted. If a municipality does not renew designation status within one year of a 5-year expiration date, or terminates the designation, any funding mechanisms, planning tools, or programs established solely by virtue of this chapter shall terminate, except that any money in a downtown development and revitalization fund shall continue to be used for downtown revitalization and development purposes.

162-P:3 Priority Consideration for Grant and Loan Programs.

I. Consistent with the policy of RSA 9-B and the provisions of RSA 9-B:4, all state agencies may, when awarding grants or providing funding assistance, give priority consideration to projects that contribute to downtown development and revitalization in designated downtowns.

II. To obtain priority consideration in applications for grants or funding assistance, a municipality shall provide, with any such funding application, documentation of the establishment of a designated downtown. Such documentation shall consist of documentation of the official local legislative action establishing the designated downtown, a copy of a map delineating the designated downtown, a list of members of the local downtown development committee and a statement of their support for the funding request, and a copy of the municipality's downtown development and revitalization strategy.

III. For purposes of this section, "priority consideration" means that a project's contribution to downtown development and revitalization in a designated downtown shall be a factor weighing in favor of an application for funding or other financial assistance. Priority consideration shall not require an agency to grant a request in all circumstances; however, all other factors being equal, it may result in a successful funding application for a project contributing to downtown development and revitalization in a designated downtown, as compared to projects not located within or otherwise enhancing a designated downtown. When a project that contributes to downtown development and revitalization in a designated downtown is unsuccessful in an application for funding assistance, the agency rendering the unfavorable decision shall explain, in writing, why the project was not funded.

162-P:4 Revenue Plan; Local Option.

I. The city or town in which a designated downtown is located may adopt a revenue plan, dedicated to downtown development and revitalization. Revenues shall be deposited in a continuous, non-lapsing downtown development and revitalization fund, to be administered by the local downtown committee, as designated agent. The annual report of any municipality adopting a revenue plan shall contain a financial report relative to the administration of the downtown development and revitalization fund. Such financial report shall include an accounting of the amount and source of revenues within the fund, and the amount and purpose of the expenditures, including the manner in which such expenditures

further the goals of the downtown development and revitalization strategy adopted by the municipality. Revenue sources for the fund may include one or more of the following:

(a) Dedication of a portion of revenues collected pursuant to the land use change tax under RSA 79-A:25, II.

(b) A surcharge on motor vehicle registration fees of up to \$10 per vehicle to support downtown transportation projects, under RSA 261:153, VII.

(c) A surcharge of up to \$100 per 1,000 square feet on building permits issued by the municipality for commercial and/or residential structures located outside the designated downtown.

(d) General fund appropriations, donations, public or private grants, and other revenue funds, not specifically designated, including fines and forfeitures for violation of municipal ordinances.

II. Any town or city may adopt the provisions of paragraph I in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(b) In a city or a town with a town council, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the question on the official ballot for any regular municipal election.

III. The vote shall specify the provisions of the revenue plan provided in paragraph I. The revenue plan shall take effect in the tax year beginning April 1 following its adoption.

IV. A municipality may rescind all or a portion of any revenue plan established pursuant to this section in the manner described in paragraph II.

162-P:5 Enhanced Planning Tools; Local Option. A municipality that includes a designated downtown may, with the consent of the local governing body of the municipality:

I. Assess the property owners of historic buildings within the designated downtown that are substantially rehabilitated, at the pre-rehabilitation assessed value, for a period of up to 10 years. For purposes of this section, historic building means any building listed on, or eligible for listing on, the national or state historic register, or any building designated by a local historic district commission.

II. Establish speed limits of less than 25 miles-per-hour on state and local roads within the designated downtown.

162-P:6 Priority Consideration for the Siting of State Buildings and Programs.

I. State agencies seeking to lease, expand, or locate offices or other buildings appropriate for downtowns shall coordinate with the department of administrative services to give priority consideration to designated downtowns, with detailed consideration given to the leasing or use of existing structures as a first priority, and the construction of new structures within a designated downtown as a second priority. In constructing new buildings within a designated downtown, state agencies shall strive to adhere to applicable local regulations to ensure that new construction is consistent with the scale and character of the surrounding building environment and the city or town's goals for downtown development and revitalization.

II. In this section, "priority consideration" means that qualification status shall be a factor weighing heavily in favor of continuing the lease or use of existing offices and buildings, or siting new or expanded offices or buildings, within a designated downtown. Although priority consideration shall not mandate the retention or siting of offices or buildings within a designated downtown, the relevant state agency, in coordination with the department of administrative services, shall give detailed consideration to designated downtowns and, if electing to relocate or construct new offices or buildings in locations that are not designated downtowns, shall explain its decision in writing to the local downtown committee for the designated downtown, and to the council on resources and development.

3 State Economic Growth, Resource, Protection, and Planning Policy; Expenditure of Funds; Priority Consideration for Designated Downtowns. Amend RSA 9-B:4 to read as follows:

9-B:4 Expenditure of State or Federal Funds. All state agencies shall give due consideration to the state's policy on smart growth under RSA 9-B:2 when providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities. The intent of this action is that new investments and grants for existing sites and buildings in existing community centers will be given preference over investments in outlying areas where that is a practical solution for the use and community in question. ***All state agencies may give priority consideration, as defined in RSA 162-P:3, III, to projects that contribute to downtown development and revitalization in designated downtowns, within the meaning of RSA 162-P.***

4 New Paragraph; Land Use Change Tax; Local Option to Dedicate to Downtown Development and Revitalization. Amend RSA 79-A:25,II to read as follows:

II. The legislative body of the town or city may, by majority vote, elect to place the whole or a specified percentage, amount, or any combination of percentage and amount, of the revenues of all future payments collected pursuant to this chapter in a conservation fund in accordance with RSA 36-A:5, III, ***and/or in a downtown development and revitalization fund pursuant to RSA 162-P:4.*** The whole or specified percentage or amount, or percentage and amount, of such revenues shall be deposited in the conservation fund ***and/or downtown development and revitalization fund*** at the time of collection.

5 New Paragraph; Title and Registration; Fees for Registration Permits; Additional Fee for Downtown Development. Amend RSA 261:153 by inserting after paragraph VI the following new paragraph:

VII. Pursuant to RSA 162-P:4, I(b), a city or town that includes a qualified downtown may direct the city clerk or town clerk to collect, in addition to the fees imposed in RSA 261:153, an additional fee, not to exceed \$10 per vehicle, the revenues from which shall be deposited in a downtown development and revitalization fund and used to support downtown transportation projects under RSA 162-P.

6 Establishment of State Speed Zones; Exception for Designated Downtowns. Amend RSA 265:62, IV to read as follows:

IV.(a) The commissioner of transportation, upon the petition of the governing body of a municipality, shall determine if any prima facie speed limit hereinbefore set forth should be reduced to provide reasonable and safe conditions upon any part of the state highway system within the compact part of cities or towns; provided, however, the resulting speed limit ***for parts of the state highway system not located within designated downtowns, as defined in RSA 162-P:1,*** shall not be less than 25 miles per hour.

(b) The petition shall designate the area of the state highway system and the reasons for the reduction in the speed limit. The review of the petition shall include an engineering and traffic investigation and consultation with the petitioners. The commissioner shall provide the petitioners, in writing, the results of his findings. The commissioner may recommend a decrease in the posted prima facie speed limit, but, ~~in no case shall the resulting speed limit be~~ ***with the exception of areas of the state highway system located within designated downtowns, as defined in RSA 162-P:1, the resulting speed limit shall not be*** below 25 miles per hour.

7 New Subparagraph; Alteration of Limits; Local Authority to Set Speed Limit in Designated Downtown. Amend RSA 265:63, I by inserting after subparagraph (d) the following new subparagraph:

(d) Decreases the limit within any designated downtown, as defined in RSA 162-P:1.

8 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed [~~1 1/2~~] **5** percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed [~~3~~] **10** percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed [~~5~~] **8** percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed [~~10~~] **16** percent of the most recent total assessed value of taxable real property in the municipality.

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

AMENDED ANALYSIS

This bill establishes the New Hampshire downtown development program in which municipalities choosing to designate their downtown or town or village center for participation in the program may receive priority consideration for state grants and loans and siting of government facilities, and are provided local options to adopt planning tools and revenue raising measures dedicated to downtown development and revitalization.

The bill also changes the limitations for municipalities that may create a municipal economic and development district under RSA 162-K.

Rep. Gillick spoke in favor.

Rep. Hughes spoke against and yielded to questions.

Rep. Schmidt spoke in favor and yielded to questions.

Rep. Buhlman requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (2571h).

YEAS 145 NAYS 197

YEAS 145

BELKNAP

Flanders, Donald	Laflam, Robert	Russell, David
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CARROLL

Derby, Mark	McConkey, Mark	Olimpio, J Lisbeth
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CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Liebl, George	Meader, David	Mitchell, McKim	Parkhurst, Henry
Pratt, Irene	Pratt, John	Richardson, Barbara	Robertson, Timothy
Slack, Pamela	Tilton, Anna	Webber, Amy	Weed, Charles

COOS

King, Frederick	Mears, Edgar	Poulin, Richard	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Theberge, Robert	

GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Hammond, Lee
Naro, Debra	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter	Williams, Burton		

HILLSBOROUGH

Baroody, Benjamin	Bergin, Peter	Buckley, Raymond	Carter, Mark
Christensen, D L	Clayton, William	Clemons, Jane	Cote, David
Chris			
Cote, Peter	Craig, James	Dokmo, Cynthia	Ford, Nancy
Gorman, Mary	Haley, Robert	Hallyburton, Margaret	Holden, Randolph
Infantine, William	Irwin, Anne-Marie	Jean, Claudette	Kopka, Angeline
Lasky, Bette	Leach, Edward	Lefebvre, Roland	Malloy, Chris
Martin, Mary Ellen	Michon, Stephen	Movsesian, Lori	O'Brien, Lori
Palangas, Eric	Pappas, Christopher	Pilotte, Maurice	Scanlon, Michael
Schulze, Joan	Shaw, Barbara	Sullivan, Francis	Sullivan, Peter

MERRIMACK

Blanchard, Elizabeth	Brueggemann, Donald	Clarke, Claire	Davis, Frank
DeJoie, John	DeStefano, Stephen	French, Barbara	Gile, Mary
Hamm, Christine	Jacobson, Alf	Kenison, Leon	Osborne, Jessie
Perkins, Randy	Potter, Frances	Rush, Deanna	Wallner, Mary Jane

ROCKINGHAM

Blanchard, MaryAnn	Bridle, Russell	Carson, Sharon	Casey, Kimberley
Coes, Betsy	Cooney, Richard	DiFruscia, Anthony	Gilbert, Jeffrey
Gillick, Thomas	Gleason, John	Gould, Kenneth	McEachern, Paul
Norelli, Terie	Pitts, Jacqueline	Robertson, Carl	Roessner, Kurt
Shultis, Elizabeth	Splaine, James	Vallone, Matthew	

STRAFFORD

Bemis, Alan	Berube, Roger	Brown, Julie	Callaghan, Frank
Campbell, W Packy	Creteau, Irene	Grassie, Anne	Heon, Richard
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Miller, Joseph	Pelletier, Arthur	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Wall, Janet

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph
Harris, Sandra	Leone, Richard	Phinizy, James	

NAYS 197

BELKNAP

Ahern, Omer Jr	Bartlett, Gordon	Clark, Charles	Fitzgerald, James
Holbrook, Robert	Lawton, David	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Thomas, John	Wendelboe, Fran	Whalley, Michael

CARROLL

Babson, David Jr	Brown, Carolyn	Dickinson, Howard
Kenney, Bettie	Morrow, Harry	Mock, Henry
Philbrick, Donald	Stevens, Stanley	

CHESHIRE

Dexter, Judson
Royce, H Charles

Fish, Douglas
Smith, Edwin

Hunt, John

Laurent, John

COOS

Brady, Mark

Woodward, David

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
Artz, Lawrence
Batula, Peter
Bruno, Pierre
Chabot, Robert
Drisko, Richard
Fletcher, Richard
Goyette, Peter Jr
Hall, Charles
Hinkle, Peyton
Kurk, Neal
McHugh, Claire
Mooney, Maureen
Pepino, Leo
Slocum, Lee
Tahir, Saghir
Wheeler, Robert

Allan, Nelson
Balboni, Michael
Beaton, William
Buhlman, David
Christiansen, Lars
Elliott, Larry
Gargas, Carolyn
Graham, John
Hansen, Ryan
Hopper, Gary
LaFlamme, Paul
McRae, Karen
Moran, Edward
Price, Pamela
Souza, Kathleen
Tate, Joan

Allen, Timothy
Balcom, John
Bergeron, Jean-Guy
Carter, Jeffrey
Coughlin, Pamela
Emerton, Larry
Gibson, John
Greenberg, Gary
Harrington, Paul
Jasper, Shawn
Luebker, Bernard
Mercer, Robert
Mosher, William
Reeves, Sandra
Spiess, Paul
Vaillancourt, Steve

Arnold, Thomas Jr
Barry, J Gail
Brundige, Robert
Cernota, Albert
Dionne, Kimberley
Fields, Dennis
Gonzalez, Carlos
Hagan, Barbara
Hawkins, Ken
Johnson, Lionel
McElroy, Henry Jr
Messier, Irene
Ober, Russell III
Rowe, Robert
Stepanek, Stephen
Wheeler, James

MERRIMACK

Anderson, Eric
Field, William
Kennedy, Richard
Lockwood, Priscilla
McCormick, Tom
Reed, Dennis

Bouchard, Candace
Foley, Albert
L'Heureux, Stephen
MacKay, James
Nutter, Edward
Soltani, Tony

Currier, David
Fraser, Leo Jr
Langer, Ray
Marple, Richard
Oliver, James

Daniels, Eric
Hess, David
Leber, William
Maxfield, Roy
Reardon, Tara

ROCKINGHAM

Allen, Mary
Cady, Harriet
Dalrymple, Janeen
Fesh, Bob
Griffin, Mary
Hughes, Daniel
Itse, Daniel
Katsakiores, Phyllis
Letourneau, Robert
McKinney, Betsy
Packard, Sherman
Smith, Donald
Waterhouse, Kevin
Weyler, Kenneth

Belanger, Ronald
Camm, Kevin
Dodge, Robert
Flanders, John Sr
Hamel, Albert
Hutchinson, Karen
Johnson, Robert
Kelley, Jane
Major, Norman
McMahon, Charles
Putnam, Ed II
Stone, Joseph
Weare, E Albert
Wiley, Robert

Bicknell, Elbert
Clark, Vivian
Duffy, James
Francoeur, Sheila
Headd, James
Ingram, Russell
Johnson, Rogers
Kobel, Rudolph
Manning, John
Moore, Benjamin
Quandt, Matthew
Tufts, J Arthur
Welch, David
Winchell, George

Bishop, Franklin
Corbin, Corey
Dumaine, Dudley
Gilbert, Karl
Holland, James Jr
Introne, Robert
Katsakiores, George
Langley, Jane
McCann, Richard
Morris, Richard
Rausch, James
Varrell, Thomas
Weldy, Norman Jr

STRAFFORD

Bickford, David	Cataldo, Sam	Dunlap, Patricia	Easson, Timothy
Harrington, Michael	Knowles, William	Musler, George	Newton, Clifford
Scott, David	Taylor, Kathleen	Twombly, James	Woods, Phyllis

SULLIVAN

Jones, Constance Rodeschin, Beverly
and floor amendment (2571h) failed.

The question now being adoption of the motion Ought to Pass as Amended.

On a division vote, 244 members having voted in the affirmative and 100 in the negative, the motion was adopted.

Ordered to third reading.

SB 74-FN-A-L, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Thomas J. Gillick for the Majority of Municipal and County Government: In order to provide for records management and preservation, a plan presented by the town clerk needs to be voted on by the local legislative body at an annual town meeting pursuant to RSA 31:95-c, II(c). The requirement to preserve these records is an obligation for the municipalities as set forth in RSA 41:58 and 41:59. The fund mechanism is to add a one-dollar fee onto the preparation fee already established in RSA 261:152, Motor Vehicles; Preparation of Documents. Half of the fee (\$.50) will be kept at the local level for the management and preservation of all town documents and the other half (\$.50) will be sent to the state to supplement the Local Government Records Management Improvement Fund established under RSA 5:48. The committee heard compelling testimony from state and local officials on the need for additional local funding sources to enable towns to preserve their records. Vote 11-4.

Rep. David L. Buhlman for the Minority of Municipal and County Government: The funding mechanism attached to this bill is an extra dollar on the vehicle registration fee. This is just another way for municipalities to extract more money from citizens. Since nearly everyone pays the vehicle registration fee, there is no escape from paying the additional dollar. With taxes as high as they are, there ought to be enough money in the municipal budgets for record preservation without having to take more money from drivers, who may or may not live in the municipality.

Majority Amendment (2490h)

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

1 Motor Vehicles; Preparation of Documents. Amend RSA 261:152 to read as follows:
261:152 Preparation of Documents.

I. Permits shall be in the form prescribed by the director and shall be issued with such duplicates as ~~he~~ **the director** shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter **or in an electronic format**. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$1 for each application. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

II. This paragraph shall apply only to towns that have adopted a records management and records preservation fund under RSA 31:95-c, II (c). Permits shall be in the form prescribed by the director and shall be issued with such duplicates as

the director shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter or in an electronic format. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$2 for each application. Fifty cents of this amount shall be used to support records management and records preservation programs in local government adopted pursuant to RSA 31:95-c and RSA 31:95-d, and \$.50 shall be deposited in the local government records management improvement fund established under RSA 5:48. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

2 New Subparagraph; Special Revenue Funds; Records Management and Records Preservation. Amend RSA 31:95-c, II by inserting after subparagraph (b) the following new subparagraph:

(c) Provide records management and records preservation plan from funds received by town clerk under RSA 261:152, II, provided that an up-to-date records management plan has been approved by the local legislative body at an annual meeting.

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

On a division vote, 177 members having voted in the affirmative and 165 in the negative, the majority amendment was adopted.

Rep. Cady spoke against.

Rep. Buhlman requested a roll call; sufficiently seconded.

The question being adoption of the majority report.

YEAS 132 NAYS 209

YEAS 132

BELKNAP

Flanders, Donald Thomas, John

CARROLL

Brown, Carolyn Hatch, Paul Patten, Betsey Stevens, Stanley

CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Richardson, Barbara	Robertson, Timothy	Royce, H Charles	Slack, Pamela
Webber, Amy	Weed, Charles		

COOS

Mears, Edgar Poulin, Richard Theberge, Robert Woodward, David

GRAFTON

Benn, Bernard	Bleyler, Ruth	Cooney, Mary	Densmore, Edward
Diamond, Estelle	Dudley, Terri	Eaton, Stephanie	Hammond, Lee
Naro, Debra	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter			

HILLSBOROUGH

Bergin, Peter
Cote, David
Gargas, Carolyn
Jean, Claudette
Michon, Stephen
Pilotte, Maurice
Spiess, Paul

Buckley, Raymond
Dokmo, Cynthia
Graham, John
Kopka, Angeline
Palangas, Eric
Scanlon, Michael
Sullivan, Francis

Carter, Mark
Emerton, Larry
Haley, Robert
Kurk, Neal
Pappas, Christopher
Schulze, Joan
Sullivan, Peter

Clayton, William
Ford, Nancy
Hallyburton, Margaret
Malloy, Chris
Pepino, Leo
Shaw, Barbara
Vaillancourt, Steve

MERRIMACK

Bouchard, Candace

Davis, Frank
Hamm, Christine
Lockwood, Priscilla
Potter, Frances

Brueggemann, Donald
Fraser, Leo Jr
Jacobson, Alf
MacKay, James
Reardon, Tara

Clarke, Claire

French, Barbara
Kenison, Leon
Osborne, Jessie
Rush, Deanna

Currier, David

Gile, Mary
L'Heureux, Stephen
Perkins, Randy
Wallner, Mary Jane

ROCKINGHAM

Blanchard, MaryAnn
Coes, Betsy
Hughes, Daniel
McEachern, Paul
Rausch, James
Tufts, J Arthur

Bridle, Russell
Gilbert, Jeffrey
Johnson, Robert
Moore, Benjamin
Shultis, Elizabeth
Vallone, Matthew

Casey, Kimberley
Gillick, Thomas
Langley, Jane
Norelli, Terie
Splaine, James

Clark, Vivian
Gould, Kenneth
Major, Norman
Pitts, Jacqueline
Stone, Joseph

STRAFFORD

Brown, Julie
Grassie, Anne
Keans, Sandra
Pelletier, Arthur
Spang, Judith

Callaghan, Frank
Hofemann, Roland
Knowles, William
Schmidt, Peter
Taylor, Kathleen

Creteau, Irene
Johnson, Nancy
Miller, Joseph
Smith, Marjorie
Wall, Janet

Dunlap, Patricia
Kaen, Naida
Musler, George
Snyder, Clair

SULLIVAN

Allison, David
Franklin, Peter

Burling, Peter
Rodeschin, Beverly

Cloutier, John

Donovan, Thomas

NAYS 209

BELKNAP

Ahern, Omer Jr
Fitzgerald, James
Nedeau, Stephen
Wendelboe, Fran

Bartlett, Gordon
Holbrook, Robert
Pilliod, James
Whalley, Michael

Boyce, Laurie
Laflam, Robert
Rice, Thomas

Clark, Charles
Lawton, David
Russell, David

CARROLL

Babson, David Jr
McConkey, Mark
Philbrick, Donald

Derby, Mark
Merrow, Harry

Dickinson, Howard
Mock, Henry

Kenney, Bettie
Olimpio, J Lisbeth

CHESHIRE

Dexter, Judson
Liebl, George

Fish, Douglas
Pratt, John

Hunt, John
Smith, Edwin

Laurent, John
Tilton, Anna

COOS

Brady, Mark
Stohl, Eric

King, Frederick

Pratt, Leighton

Richardson, Herbert

GRAFTON

Akins, Ralph
Dorsett, Andrew
Ingbretson, Paul

Alger, John
Gilman, G Michael
Maybeck, Margie

Almy, Susan
Gionet, Edmond
Sorg, Gregory

Barker, Robert
Giuda, Robert
Williams, Burton

HILLSBOROUGH

Adams, Jarvis
Artz, Lawrence
Barry, J Gail
Brundige, Robert
Cernota, Albert

Allan, Nelson
Balboni, Michael
Batula, Peter
Bruno, Pierre
Chabot, Robert

Allen, Timothy
Balcom, John
Beaton, William
Buhlman, David
Christensen, D L
Chris

Arnold, Thomas Jr
Baroody, Benjamin
Bergeron, Jean-Guy
Carter, Jeffrey
Christiansen, Lars

Clemons, Jane
Dionne, Kimberley
Fletcher, Richard
Goyette, Peter Jr
Harrington, Paul
Hopper, Gary
Johnson, Lionel
Lefebvre, Roland
McHugh, Claire
Moran, Edward
Ober, Russell III
Slocum, Lee
Tate, Joan

Cote, Peter
Drisko, Richard
Gibson, John
Hagan, Barbara
Hawkins, Ken
Infantine, William
LaFlamme, Paul
Luebkert, Bernard
McRae, Karen
Mosher, William
Price, Pamela
Souza, Kathleen
Wheeler, James

Coughlin, Pamela
Elliott, Larry
Gonzalez, Carlos
Hall, Charles
Hinkle, Peyton
Irwin, Anne-Marie
Lasky, Bette
Martin, Mary Ellen
Mercer, Robert
Movsesian, Lori
Reeves, Sandra
Stepanek, Stephen
Wheeler, Robert

Craig, James
Fields, Dennis
Gorman, Mary
Hansen, Ryan
Holden, Randolph
Jasper, Shawn
Leach, Edward
McElroy, Henry Jr
Mooney, Maureen
O'Brien, Lori
Rowe, Robert
Tahir, Saghir

MERRIMACK

Anderson, Eric
DeStefano, Stephen
Kennedy, Richard
Maxfield, Roy
Reed, Dennis

Blanchard, Elizabeth
Field, William
Langer, Ray
McCormick, Tom
Seldin, Gloria

Daniels, Eric
Foley, Albert
Leber, William
Nutter, Edward
Soltani, Tony

DeJoie, John
Hess, David
Marple, Richard
Oliver, James

ROCKINGHAM

Allen, Mary
Cady, Harriet
Corbin, Corey
Dumaine, Dudley
Gilbert, Karl
Headd, James
Introne, Robert
Katsakiores, Phyllis
Manning, John
Morris, Richard
Robertson, Carl
Waterhouse, Kevin
Weyler, Kenneth

Belanger, Ronald
Camm, Kevin
DiFruscia, Anthony
Fesh, Bob
Gleason, John
Holland, James Jr
Itse, Daniel
Kelley, Jane
McCann, Richard
Packard, Sherman
Roessner, Kurt
Weare, E Albert
Wiley, Robert

Bicknell, Elbert
Carson, Sharon
Dodge, Robert
Flanders, John Sr
Griffin, Mary
Hutchinson, Karen
Johnson, Rogers
Kobel, Rudolph
McKinney, Betsy
Putnam, Ed II
Smith, Donald
Welch, David
Winchell, George

Bishop, Franklin
Cooney, Richard
Duffy, James
Francoeur, Sheila
Hamel, Albert
Ingram, Russell
Katsakiores, George
Letourneau, Robert
McMahon, Charles
Quandt, Matthew
Varrell, Thomas
Weldy, Norman Jr

STRAFFORD

Bemis, Alan	Berube, Roger	Bickford, David	Campbell, W Packy
Cataldo, Sam	Easson, Timothy	Harrington, Michael	Heon, Richard
Newton, Clifford	Rous, Emma	Scott, David	Twombly, James
Woods, Phyllis			

SULLIVAN

Ferland, Brenda	Flint, Gordon Sr	Harris, Joseph	Harris, Sandra
Jones, Constance	Leone, Richard	Phinizy, James	

and the majority report failed.

Rep. Buhlman moved Inexpedient to Legislate.
Adopted.

SB 95-FN-L, relative to the development of workforce housing within municipalities.
MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Robert W. Brundige for the Majority of Municipal and County Government: The committee amendment to SB 95 expands the definition of “inclusionary zoning” in RSA 674:21, IV(a) to include workforce housing which allows the municipalities to adopt this zoning at the local level. This amendment clearly establishes “workforce housing” to be “housing that is affordable to a household with the income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published in the US Department of Housing and Urban Development in the Federal Register”. The regional planning commissions may compile a regional housing needs assessment that would include housing for persons and families of all levels of income. Also, the Office of State Planning and Energy will assist municipalities by developing, in conjunction with the New Hampshire Housing Finance Authority, a recommended uniform methodology for the development of regional housing needs assessment and provide guidelines for the development of municipal master plans that promote workforce housing. A three-year priority for financial grants to regional planning commissions granted by the Office of State Planning and Energy was also established. Vote 9-6.

Rep. Mary R. Cooney for the Minority of Municipal and County Government: The amendment replacing SB 95 removes all the definitions of workforce housing and removes the expedited court process for court cases involving denial of developers’ approvals by local planning boards. This bill was the result of a study committee. The court case Britton vs. the Town of Chester established that a municipality cannot zone out what is now termed workforce (or affordable) housing. The goal of SB 95 was to codify the case law. There are no definitions in law for what is “workforce” or “affordable”. The original bill established those parameters. Planning boards have expressed a need for guidelines so they will know if they are complying with the no exclusionary zoning statute and court decision. As is now and with the current amendment, the courts will have to decide case by case whether or not a municipality is in compliance. An important piece of the original bill was an expedited court process. One of the problems has been that local boards hold up a developer’s plan for so long in the planning process, and the courts are so slow to hear a case, that the developer cannot afford to proceed. It is a tactic used to discourage development. The lack of codification will result in more lawsuits and various judicial interpretations of the law as it exists. When one town illegally restricts development, it pushes the needed development to neighboring towns. The original amended SB 95 set guidelines the courts need to be able to decide court cases quickly. The way it is now, the court must decide each individual case, thereby further defining the parameters only by case law. The original SB 95 does not mandate any zoning changes on municipalities, it simply defines what constitutes compliance with current law. It

allows municipalities to exercise local judgement concerning development.

Majority Amendment (2491h)

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

AN ACT relative to workforce housing within municipalities.

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

1 Innovative Land Use Controls; Inclusionary Zoning; Workforce Housing. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, ***or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units.*** Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

2 New Subparagraph; Workforce Housing Defined. Amend RSA 674:21, IV by inserting after subparagraph (b) the following new subparagraph:

(c) "Workforce housing" means housing which is affordable to a household with income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission may compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674:21, IV(c), which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

4 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph:

V. Assist municipalities by:

(a) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment under RSA 36:47, II.

(b) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

5 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities for the development of workforce housing.

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

AMENDED ANALYSIS

This bill authorizes municipal land use ordinances to be used for the creation of workforce housing. This bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance. Rep. Patten spoke against.

Majority amendment failed.

Rep. Patten offered floor amendment (0106h).

Floor Amendment (0106h)

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

AN ACT relative to workforce housing within municipalities.

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

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing an acute shortage of housing that is affordable to a large number of working households.

II. The acute shortage of housing affordable to working households poses a grave threat to the state's continued economic growth. It presents a serious barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely impacts the ability of many communities to host new businesses.

III. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

IV. The purpose of this act is to clarify the requirements established in *Britton v. Chester* (134 N.H. 439 (1991)) and provide additional guidance regarding compliance with those requirements to local officials and the public.

V. This act is intended to provide the maximum feasible flexibility to municipalities in exercising the zoning powers delegated to them by RSA 674 consistent with their obligation to provide reasonable opportunities for the development of workforce housing, and is not intended to create a system of statewide land use regulation or a statewide zoning process.

2 New Subdivision; Municipal Workforce Housing. Amend RSA 674 by inserting after section 54 the following new subdivision:

Municipal Workforce Housing

674:55 Municipal Workforce Housing Opportunity.

I. Consistent with RSA 672:1, III-e, in every municipality that exercises the power to adopt land use ordinances and regulations pursuant to authority granted in RSA 674, such ordinances and regulations shall not prohibit or discourage the reasonable and realistic opportunities for the siting of workforce housing, including multifamily workforce housing. In order to provide such realistic opportunities, lot size and overall density requirements for workforce housing shall be reasonable. Municipalities shall not use unreasonable requirements for inclusionary zoning to prevent the development of projects that include workforce housing supported by higher income housing.

II. Definitions. In this section:

(a) "Multi-family housing" means a building or structure containing 6 or more dwelling units, each designed for occupancy by an individual household.

(b) "Reasonable and realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of the municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic.

(c) "Workforce housing" means housing which is affordable to a household with income of no more than 80 percent of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register. Housing developments that exclude minor children from more than 20

percent of the units, or in which more than 50 percent of the dwelling units have fewer than 2 bedrooms, shall not constitute workforce housing for the purposes of this chapter.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(I), each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, pursuant to RSA 674:55, which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

II-a. Subject to available state funding, each regional planning commission shall review the local land use regulations of any municipality in its region within 6 months of receiving a written request from the planning board, selectmen, or city council and make suggestions concerning the exclusionary effects of the ordinances and the ordinances' compliance with the municipality's obligation under RSA 674:55. As part of such review the regional planning commission shall make recommendations concerning ways in which the ordinances could be changed to bring the municipality into compliance.

4 Innovative Land Use Controls; Inclusionary Zoning; Workforce Units Required. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control ~~[regulations which]~~ ***ordinances that*** provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, ***or which require that workforce housing units as provided in RSA 674:55 be included in any housing development that contains more than a specified number of total dwelling units; provide, however, that such requirements shall not mandate that more than 20 percent of the units in any such housing development be workforce housing.*** Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

5 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph.

V. Assist municipalities by:

(a) Making available, upon request from a municipality, data produced or collected by state, local, or federal government agencies in determining its need for workforce housing.

(b) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment required by RSA 36:47, II.

(c) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

6 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities in meeting their legal obligations to provide realistic and reasonable opportunities for the development of workforce housing.

7 Office of State Planning and Energy Programs; Study of Impacts of Types of Development.

I. Subject to the availability of funding, the office of state planning and energy programs shall study the following issues:

(a) The relationship between various types of development (e.g., residential, commercial, and industrial) and demands for municipal services and the added costs thereof;

(b) The relationship between affordable housing development and population changes within and among municipalities;

(c) Consumer preferences for housing types, including smart growth/low impact development alternatives;

(d) Identification of ordinances, regulations, and practices used by municipalities that have the effect of excluding the development of workforce and affordable housing;

(e) Identification of model local land use ordinances and regulations that could be used by municipalities to provide reasonable and realistic opportunities for the development of workforce housing; and

(f) Identification of strategies that can be used to address negative perceptions of the impact of workforce and affordable housing upon communities.

II. The office of state planning and energy programs shall report its findings to the general court on or before June 1, 2005.

8 Effective Date.

I. RSA 674:55, II as inserted by section 2 of this act shall take effect June 1, 2006.

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

AMENDED ANALYSIS

This bill provides for municipal land use ordinances to provide for the creation of workforce housing. The bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.

Rep. Hughes spoke against.

Rep. Patten spoke in favor and yielded to questions.

Floor amendment (0106h) failed.

The question now being Ought to Pass.

Motion failed.

Rep. Newton moved Inexpedient to Legislate.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being adoption of Inexpedient to Legislate.

YEAS 201 NAYS 135

YEAS 201

BELKNAP

Ahern, Omer Jr
Fitzgerald, James
Lawton, David
Russell, David

Bartlett, Gordon
Flanders, Donald
Nedeau, Stephen
Thomas, John

Boyce, Laurie
Holbrook, Robert
Pilliod, James
Wendelboe, Fran

Clark, Charles
Laflam, Robert
Rice, Thomas
Whalley, Michael

CARROLL

Babson, David Jr
Kenney, Bettie
Philbrick, Donald

Brown, Carolyn
Morrow, Harry
Stevens, Stanley

Dickinson, Howard
Mock, Henry

Hatch, Paul
Olimpio, J Lisbeth

CHESHIRE

Dexter, Judson

Fish, Douglas

Hunt, John

Laurent, John

Liebl, George

Pratt, John

Royce, H Charles

Smith, Edwin

COOS

Brady, Mark
Stohl, Eric

King, Frederick
Woodward, David

Pratt, Leighton

Richardson, Herbert

GRAFTON

Alger, John
Gionet, Edmond
Sorg, Gregory

Barker, Robert
Giuda, Robert
Williams, Burton

Dorsett, Andrew
Ingbretson, Paul

Gilman, G Michael
Maybeck, Margie

HILLSBOROUGH

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

Allen, Timothy
Balcom, John
Bergin, Peter
Carter, Jeffrey
Christensen, D L
Chris

Arnold, Thomas Jr
Barry, J Gail
Brundige, Robert
Carter, Mark
Christiansen, Lars

Artz, Lawrence
Batula, Peter
Bruno, Pierre
Cernota, Albert
Coughlin, Pamela

Dionne, Kimberley
Emerton, Larry
Gibson, John
Hagan, Barbara
Hawkins, Ken
Kurk, Neal
McElroy, Henry Jr
Mosher, William
Pepino, Leo
Scanlon, Michael
Tahir, Saghir
Wheeler, Robert

Dokmo, Cynthia
Fields, Dennis
Gonzalez, Carlos
Hall, Charles
Hopper, Gary
Leach, Edward
McHugh, Claire
Movsesian, Lori
Price, Pamela
Slocum, Lee
Tate, Joan

Drisko, Richard
Fletcher, Richard
Goyette, Peter Jr
Hansen, Ryan
Jasper, Shawn
Luebkert, Bernard
McRae, Karen
O'Brien, Lori
Reeves, Sandra
Souza, Kathleen
Vaillancourt, Steve

Elliott, Larry
Ford, Nancy
Graham, John
Harrington, Paul
Johnson, Lionel
Martin, Mary Ellen
Moran, Edward
Ober, Russell III
Rowe, Robert
Stepanek, Stephen
Wheeler, James

MERRIMACK

Anderson, Eric
Fraser, Leo Jr
L'Heureux, Stephen
Marple, Richard
Reed, Dennis

Currier, David
Hess, David
Langer, Ray
Maxfield, Roy
Soltani, Tony

Field, William
Jacobson, Alf
Leber, William
Nutter, Edward

Foley, Albert
Kennedy, Richard
Lockwood, Priscilla
Oliver, James

ROCKINGHAM

Allen, Mary
Carson, Sharon
Duffy, James
Gilbert, Karl
Hamel, Albert
Hutchinson, Karen
Johnson, Robert
Kelley, Jane
Major, Norman
McMahon, Charles
Quandt, Matthew
Smith, Donald
Waterhouse, Kevin
Weyler, Kenneth

Belanger, Ronald
Clark, Vivian
Fesh, Bob
Gillick, Thomas
Headd, James
Ingram, Russell
Johnson, Rogers
Kobel, Rudolph
Manning, John
Moore, Benjamin
Rausch, James
Stone, Joseph
Weare, E Albert
Wiley, Robert

Bicknell, Elbert
DiFruscia, Anthony
Flanders, John Sr
Gould, Kenneth
Holland, James Jr
Introne, Robert
Katsakiores, George
Langley, Jane
McCann, Richard
Packard, Sherman
Robertson, Carl
Vallone, Matthew
Welch, David

Bridle, Russell
Dodge, Robert
Francoeur, Sheila
Griffin, Mary
Hughes, Daniel
Itse, Daniel
Katsakiores, Phyllis
Letourneau, Robert
McKinney, Betsy
Putnam, Ed II
Roessner, Kurt
Varrell, Thomas
Weldy, Norman Jr

STRAFFORD

Bemis, Alan
Easson, Timothy
Twombly, James

Bickford, David
Harrington, Michael
Woods, Phyllis

Callaghan, Frank
Newton, Clifford

Cataldo, Sam
Scott, David

SULLIVAN

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

NAYS 135

BELKNAP

None

CARROLL

Derby, Mark

McConkey, Mark

Patten, Betsey

CHESHIRE

Allen, Peter
Meader, David
Richardson, Barbara
Webber, Amy

Dunn, James
Mitchell, McKim
Robertson, Timothy
Weed, Charles

Eaton, Daniel
Parkhurst, Henry
Slack, Pamela

Espiefs, Peter
Pratt, Irene
Tilton, Anna

COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

GRAFTON

Akins, Ralph
Cooney, Mary
Hammond, Lee
Sokol, Hilda

Almy, Susan
Densmore, Edward
Naro, Debra
Solomon, Peter

Benn, Bernard
Diamond, Estelle
Nordgren, Sharon

Bleyler, Ruth
Dudley, Terri
Scovner, Nancy

HILLSBOROUGH

Allan, Nelson
Clemons, Jane
Gargas, Carolyn
Hinkle, Peyton
Kopka, Angeline
Malloy, Chris
Palangas, Eric
Shaw, Barbara

Baroody, Benjamin
Cote, David
Gorman, Mary
Infantine, William
LaFlamme, Paul
Mercer, Robert
Pappas, Christopher
Spiess, Paul

Beaton, William
Cote, Peter
Haley, Robert
Irwin, Anne-Marie
Lasky, Bette
Michon, Stephen
Pilotte, Maurice
Sullivan, Francis

Buckley, Raymond
Craig, James
Hallyburton, Margaret
Jean, Claudette
Lefebvre, Roland
Mooney, Maureen
Schulze, Joan
Sullivan, Peter

MERRIMACK

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Clarke, Claire

Daniels, Eric
French, Barbara
MacKay, James
Potter, Frances
Wallner, Mary Jane

Davis, Frank
Gile, Mary
McCormick, Tom
Reardon, Tara

DeJoie, John
Hamm, Christine
Osborne, Jessie
Rush, Deanna

DeStefano, Stephen
Kenison, Leon
Perkins, Randy
Seldin, Gloria

ROCKINGHAM

Bishop, Franklin	Blanchard, MaryAnn	Camm, Kevin	Casey, Kimberley
Coes, Betsy	Cooney, Richard	Corbin, Corey	Gilbert, Jeffrey
Gleason, John	McEachern, Paul	Morris, Richard	Norelli, Terie
Pitts, Jacqueline	Shultis, Elizabeth	Splaine, James	Tufts, J Arthur
Winchell, George			

STRAFFORD

Berube, Roger	Brown, Julie	Campbell, W Packy	Creteau, Irene
Dunlap, Patricia	Grassie, Anne	Heon, Richard	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Musler, George	Pelletier, Arthur	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Harris, Joseph	Harris, Sandra
Phinizy, James			

and Inexpedient to Legislate was adopted.

HB 143-FN, relative to the registration fees and requirements for snow traveling vehicles.

MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. David H. Russell for the Majority of Resources, Recreation and Development: The committee chose to retain this bill in order to give the new snowmobile laws a full calendar year to see how they work. The committee heard overwhelming testimony on the success of SB 315. Of 67,064 snowmobile registrations, 57,861 were members of a club, over 86%. The general consensus was that, in addition to the financial gain, the amount of volunteers also increased dramatically. Of particular interest was the case of the Pittsburg Ridge Runners, the largest club in the state. They were very skeptical of the bill initially, but since it has been in effect, the membership has increased over 400%. Also, they now have a full-time secretary, and for the first time in the club's history, they have not borrowed money in the fall for trail maintenance. For these reasons, the committee recommends we find HB 143 Inexpedient to Legislate. Vote 9-7.

Rep. Richard T. Cooney for the Minority of Resources, Recreation and Development: This bill would remove the \$30 differential snowmobile fee levied on registrants who are not members of a snowmobile club. The bill also adds \$10 to each registration fee to get needed money in the hands of clubs which do trail maintenance. The minority feels that the Legislature should not be forcing snowmobile owners to pay an extra \$30 to join a club. The minority also recognizes the clubs' need for more money to maintain the trails and feels a \$10 fee increase across the board should be sufficient for the short term. Snowmobile clubs should recruit members the old fashioned way – they should earn new members.

Majority report adopted.

HB 516-L, relative to the standard of review for requests for excavating and dredging

permits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kevin L. Camm for the Majority of Resources, Recreation and Development: This bill removes the Wetlands Bureau at the Department of Environmental Services from the tasks of substantiating bridge and highway designs such as public need, traffic counts, and traffic projections. The Department testified they do not have the expertise for bridge and highway design and they are in favor of the amendment. No environmental aspect of review regarding

soils, wetlands, habitat, etc. is affected. The second part of this amendment confirms the need to dredge the Seabrook Harbor in the timeframe necessary, by the end of March 2004. The money is already appropriated in the capital budget. The Department testified in favor of this part of the amendment, as well. Vote 14-2.

Rep. Donald Brueggemann for the Minority of Resources, Recreation and Development: As written, this bill significantly circumscribes the ability of local communities to question many aspects of projects brought by the Department of Transportation. By limiting the scope of appeal on Department of Transportation projects, these local concerns may not be given the weight they deserve, thereby limiting the breadth of vision and experience that is brought to a particular project. In the end, better project designs will result by including more and varied voices which this bill seeks to silence.

Majority Amendment (2508h)

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

AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

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

1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:

I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, the department of environmental services shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, the council shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, the court shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish

piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion \$18,300,000

Total state appropriation section 5 \$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of [~~\$1,000,000~~] **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor [~~provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects~~] **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.**)

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.

This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

Rep. Moore spoke in favor.

Majority amendment adopted.

Rep. Soltani offered floor amendment (0033h).

Floor Amendment (0033h)

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

AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

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

1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:

I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is

unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion \$18,300,000

Total state appropriation section 5 \$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of [~~\$1,000,000~~] **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor [~~provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects~~] **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.**)

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2005.

AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.

This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

Rep. Soltani spoke in favor and yielded to questions.

Rep. Royce spoke in favor.

Floor amendment (0033h) adopted.
Majority report adopted and ordered to third reading

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard T. Cooney for the Majority of Resources, Recreation and Development: This bill, as introduced in the Senate, would put in statute the provisions of Governor Shaheen's Executive Order 2002-Y, dated May 15, 2002. This order requires the Department of Environmental Services to notify owners of property with wells within 500 feet of a well which is found to be contaminated. Radon and arsenic are naturally occurring contaminants and not covered by this process. This notification is intended to warn well owners of potential contamination and to suggest that their wells be tested. This process is intended to protect public health. The amendment improves on this process by shortening the time delay in the notification and by requiring notification of remediation when it occurs. The Senate added a provision to require a report on a Department of Environmental Services plan to opt out of the MtBE program. The committee amendment clarifies this requirement by referring to RSA 485:16-b, which requires the Department to have a plan in place by January 1, 2004 to opt out of the MtBE program. Vote 9-7.

Rep. Pierre W. Bruno for the Minority of Resources, Recreation and Development: This bill creates legislation that codifies an Executive Order of former Governor Shaheen. The minority of the committee feels that SB 19, though well intentioned, does not serve the public good. The language requires that notification of groundwater contamination be made to all property owners within 500 feet of the contaminated well, regardless of the actual distance to their wells, and regardless of the position of those wells with respect to the actual presence of contamination. Such notification tends to incite concerns that may not be grounded in scientific reality and will unnecessarily place a stigma on many unaffected properties. Such stigma does little to protect public health, while undermining the property values of adjoining properties even if they are not contaminated. Department of Environmental Services (DES) rules that have existed since prior to the Executive Order require that owners of contaminated groundwater identify and remediate the source of contamination, as well as require the testing of water supply wells that are potential receptors of that contamination. SB 19 would even require notification to well owners that are up hydraulic gradient ("uphill") of a groundwater contamination source. DES issues "no further action at this time" when the standards are met. The caveat of "at this time" means that those property owners who were unnecessarily notified will always have an unnecessary stigma attached to their property. Since DES is complying with the Executive Order, there is no need to codify something that will cost \$63,500 in FY 2004 and increase by 3% annually in FY 2005 and each year thereafter.

Majority Amendment (2426h)

Amend RSA 485-C:14-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Notification shall be made in writing within 45 days after the department receives analytical data indicating the presence of the contamination. Each property owner or public water supplier shall be notified at least once upon the discovery of contamination in an area. The commissioner shall provide the notification and shall provide additional notification as the extent of contamination at a site is further determined and remediation occurs.

Amend the bill by replacing section 2 with the following:

2 Department of Environmental Services Report; MTBE. The commissioner of the department of environmental services shall report to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state

library by July 1, 2004 relative to the status of department's plan to opt out of the MTBE additive to gasoline program by January 1, 2004, pursuant to RSA 485:16-b.

Amend the bill by replacing section 4 with the following:

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

Majority amendment adopted.

Majority report adopted and ordered to third reading.

HB 366, relative to mercury reduction. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Roy D. Maxfield for the Majority of Science, Technology and Energy: This bill establishes certain restrictions on the sale, distribution and use of mercury added products for which non-mercury alternatives exist. The majority of the Science, Technology and Energy Committee agrees that these actions will reduce incidental exposure to mercury, reduce mercury in the solid waste stream, and facilitate the recycling of mercury-containing products. Several states in the northeast region are taking similar action to ban specific products containing mercury and we are concerned that these products could be promoted in states that do not take action. Approximately 20% of the mercury deposited in the northeast originates from sources within the region. The committee held nine public hearings on this bill and concluded that this amended version will continue our commitment during the past several years for emissions reductions. The committee rejected an outright disposal ban proposed by the bill sponsor because of 28-a issues associated with monitoring, collection and disposal. Vote 10-1.

Rep. Lee G. Slocum for the Minority of Science, Technology and Energy: This bill bans the most commonly used thermostat, the round Honeywell thermostat, that is known for stability and efficiency. Inexpensive substitutes result in temperature fluctuations, which tend to cause the user to raise the temperature setting. The net effect is that more energy is consumed which generates more pollution, which increases the mercury in New Hampshire lakes and streams. This bill also bans switches used in gas ranges which have no electrical supply and bans certain pressure-sensitive switches which, according to industry spokesmen, have no substitute and involve significant safety issues. Finally, the bill bans several types of medical equipment which are, by law, already disposed of properly by medical providers and are, in some cases, the most reliable. While we can all agree that we need to reduce mercury in New Hampshire waters, this is clearly not the way to go about it.

Majority Amendment (2480h)

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

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or
- (2) The switch, relay, or thermostat is integrated and not physically separate

from other components of the larger product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

(a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(b) One of the following applies:

- (1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or
- (2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and]~~, use ~~[it appropriately so that no person is exposed to the mercury]~~, **and otherwise handle and dispose of it in accordance with state and federal law;** and

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

AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.

Rep. Thomas spoke in favor.

Majority amendment adopted.

Rep. Phinizy offered floor amendment (2551h).

Floor Amendment (2551h)

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

AN ACT relative to mercury reduction and the disposal of mercury-added products.

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

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or
- (2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of

environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

(a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(b) One of the following applies:

(1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or

(2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and]~~, use ~~[it appropriately so that no person is exposed to the mercury]~~, **and otherwise handle and dispose of it in accordance with state and federal law**; and

4 New Section; Disposal of Mercury-added Products. Amend RSA 149-M by inserting after section 57 the following new section:

149-M:58 Disposal Ban. Owners and operators of solid waste landfills, transfer stations, and incinerators may develop programs to sort, collect, and recycle or dispose of mercury-added products in accordance with applicable laws and regulations, and beginning January 1, 2006:

I. No person shall knowingly dispose of mercury-added products in solid waste landfills, transfer stations, or incinerators.

II. Except as otherwise provided by this section, every person who discards solid waste within the state shall separate mercury-added products from that solid waste for recycling or disposal as a hazardous waste. Any contractor who replaces or removes mercury-added products shall assure the proper separation and recycling or the disposal as a hazardous waste of any discarded mercury-added product.

III. After proper separation of mercury-added products, each person who discards that waste shall either:

(a) Set that waste in a designated area for collection by a hauler who shall deliver that waste to a facility that is legally authorized and permitted to accept that waste; or

(b) Deliver that waste to a facility that is legally authorized and permitted to accept that waste.

IV. Owners and operators of solid waste transfer, incineration, and landfill facilities shall not be found to have knowingly accepted or disposed of mercury-added products if, at a minimum, the facility has implemented all of the following mechanisms as required:

(a) Posting of signs at the facility providing notice of the prohibition against the disposal and incineration of mercury-added products.

(b) Written notification to, or agreements with, the facility's customers, providing notice of the prohibition against the disposal and incineration of mercury-added products.

(c) Implementation of a procedure, approved by the department, for periodically monitoring incoming wastes to detect the presence of mercury-added products at the facility and for separating out observed mercury-added products for return to the generator, recycling, or disposal as a hazardous waste.

(d) Provide customers with information about collection programs or facilities that are permitted to accept mercury-added products for recycling or disposal as a hazardous waste.

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

AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.

This bill also prohibits the disposal of mercury-added products after January 1, 2006. Rep. Phinizy spoke in favor and yielded to questions.

Rep. Kennedy spoke in favor.

Rep. Thomas spoke against.

On a division vote, 139 members having voted in the affirmative and 181 in the negative, floor amendment (2551h) failed.

The question now being adoption of the majority report.

Reps. Wendelboe and Adams spoke against.

Rep. Slocum spoke in against and yielded to questions.

Rep. Maxfield spoke in favor and yielded to questions.

Rep. Burling requested a roll call; sufficiently seconded.

The question being adoption of the majority report.

YEAS 206 NAYS 114

YEAS 206

BELKNAP

Fitzgerald, James
Rice, Thomas

Laflam, Robert
Russell, David

Nedeau, Stephen
Thomas, John

Pilliod, James
Whalley, Michael

CARROLL

Brown, Carolyn
Kenney, Bettie
Patten, Betsey

Derby, Mark
McConkey, Mark
Philbrick, Donald

Dickinson, Howard
Merrow, Harry
Stevens, Stanley

Hatch, Paul
Olimpio, J Lisbeth

CHESHIRE

Allen, Peter
Meader, David
Pratt, John
Slack, Pamela
Weed, Charles

Dunn, James
Mitchell, McKim
Richardson, Barbara
Smith, Edwin

Eaton, Daniel
Parkhurst, Henry
Robertson, Timothy
Tilton, Anna

Espieffs, Peter
Pratt, Irene
Royce, H Charles
Webber, Amy

COOS

Poulin, Richard

Richardson, Herbert Stohl, Eric

GRAFTON

Akins, Ralph
Cooney, Mary
Hammond, Lee
Solomon, Peter

Almy, Susan
Densmore, Edward
Nordgren, Sharon

Benn, Bernard
Diamond, Estelle
Scovner, Nancy

Bleyler, Ruth
Dudley, Terri
Sokol, Hilda

HILLSBOROUGH

Allan, Nelson
 Bergin, Peter
 Christensen, D L
 Chris
 Craig, James
 Emerton, Larry
 Gargas, Carolyn
 Hagan, Barbara

Jean, Claudette
 LaFlamme, Paul
 Michon, Stephen
 Pilote, Maurice
 Shaw, Barbara
 Sullivan, Peter

Arnold, Thomas Jr
 Brundige, Robert
 Cote, David

Dionne, Kimberley
 Fields, Dennis
 Gonzalez, Carlos
 Hallyburton,
 Margaret

Johnson, Lionel
 Leach, Edward
 Movsesian, Lori
 Price, Pamela
 Spiess, Paul
 Sweeney, Cynthia

Baroody, Benjamin
 Buckley, Raymond
 Cote, Peter

Dokmo, Cynthia
 Fletcher, Richard
 Gorman, Mary
 Infantine, William

Kopka, Angeline
 Malloy, Chris
 Palangas, Eric
 Reeves, Sandra
 Stepanek, Stephen
 Tahir, Saghir

Beaton, William
 Carter, Jeffrey
 Coughlin, Pamela

Drisko, Richard
 Ford, Nancy
 Graham, John
 Irwin, Anne-Marie

Kurk, Neal
 Martin, Mary Ellen
 Pappas, Christopher
 Schulze, Joan
 Sullivan, Francis
 Wheeler, Robert

MERRIMACK

Anderson, Eric

Clarke, Claire
 DeJoie, John
 Hager, Elizabeth
 Kenison, Leon
 MacKay, James
 Perkins, Randy
 Seldin, Gloria

Blanchard, Elizabeth
 Currier, David
 DeStefano, Stephen
 Hamm, Christine
 Kennedy, Richard
 Maxfield, Roy
 Potter, Frances
 Wallner, Mary Jane

Bouchard, Candace
 Daniels, Eric
 French, Barbara
 Hess, David
 Leber, William
 Nutter, Edward
 Reardon, Tara

Brueggemann,
 Donald
 Davis, Frank
 Gile, Mary
 Jacobson, Alf
 Lockwood, Priscilla
 Osborne, Jessie
 Rush, Deanna

ROCKINGHAM

Belanger, Ronald
 Carson, Sharon
 Dodge, Robert
 Gleason, John
 Hughes, Daniel
 Katsakiores, Phyllis
 Manning, John
 Packard, Sherman
 Roessner, Kurt
 Tufts, J Arthur
 Winchell, George

Blanchard, MaryAnn
 Casey, Kimberley
 Flanders, John Sr
 Gould, Kenneth
 Introne, Robert
 Kelley, Jane
 McEachern, Paul
 Pitts, Jacqueline
 Shultis, Elizabeth
 Vallone, Matthew

Bridle, Russell
 Coes, Betsy
 Gilbert, Jeffrey
 Griffin, Mary
 Johnson, Robert
 Langley, Jane
 McKinney, Betsy
 Quandt, Matthew
 Splaine, James
 Weare, E Albert

Cady, Harriet
 Corbin, Corey
 Gillick, Thomas
 Headd, James
 Katsakiores, George
 Letourneau, Robert
 Norelli, Terie
 Robertson, Carl
 Stone, Joseph
 Welch, David

STRAFFORD

Bemis, Alan
 Dunlap, Patricia
 Kaen, Naida
 Pelletier, Arthur
 Snyder, Clair

Berube, Roger
 Heon, Richard
 Keans, Sandra
 Rous, Emma
 Spang, Judith

Cataldo, Sam
 Hofemann, Roland
 Knowles, William
 Schmidt, Peter
 Wall, Janet

Creteau, Irene
 Johnson, Nancy
 Miller, Joseph
 Smith, Marjorie

SULLIVAN

Allison, David
 Ferland, Brenda
 Harris, Sandra

Burling, Peter
 Flint, Gordon Sr
 Jones, Constance

Cloutier, John
 Franklin, Peter
 Leone, Richard

Donovan, Thomas
 Harris, Joseph
 Phinizy, James

BELKNAP

Ahern, Omer Jr
Holbrook, Robert

Bartlett, Gordon
Lawton, David

Boyce, Laurie
Wendelboe, Fran

Clark, Charles

CARROLL

Babson, David Jr

Mock, Henry

CHESHIRE

Dexter, Judson
Liebl, George

Fish, Douglas

Hunt, John

Laurent, John

COOS

Brady, Mark

King, Frederick

Pratt, Leighton

GRAFTON

Alger, John
Gilman, G Michael
Maybeck, Margie

Barker, Robert
Gionet, Edmond
Naro, Debra

Dorsett, Andrew
Giuda, Robert
Sorg, Gregory

Eaton, Stephanie
Ingbretson, Paul
Williams, Burton

HILLSBOROUGH

Adams, Jarvis
Balcom, John
Buhlman, David
Elliott, Larry
Harrington, Paul
Luebker, Bernard
Mercer, Robert
O'Brien, Lori
Slocum, Lee
Wheeler, James

Allen, Timothy
Barry, J Gail
Carter, Mark
Gibson, John
Hawkins, Ken
McElroy, Henry Jr
Mooney, Maureen
Ober, Russell III
Souza, Kathleen

Artz, Lawrence
Bergeron, Jean-Guy
Cernota, Albert
Goyette, Peter Jr
Hopper, Gary
McHugh, Claire
Moran, Edward
Pepino, Leo
Tate, Joan

Balboni, Michael
Bruno, Pierre
Christiansen, Lars
Hall, Charles
Jasper, Shawn
McRae, Karen
Mosher, William
Scanlon, Michael
Vaillancourt, Steve

MERRIMACK

Field, William
Marple, Richard
Soltani, Tony

Foley, Albert
McCormick, Tom

Fraser, Leo Jr
Oliver, James

Langer, Ray
Reed, Dennis

ROCKINGHAM

Allen, Mary
Clark, Vivian
Gilbert, Karl
Ingram, Russell
Major, Norman
Putnam, Ed II
Waterhouse, Kevin

Bicknell, Elbert
DiFruscia, Anthony
Hamel, Albert
Itse, Daniel
McCann, Richard
Rausch, James
Weldy, Norman Jr

Bishop, Franklin
Fesh, Bob
Holland, James Jr
Johnson, Rogers
McMahon, Charles
Smith, Donald
Weyler, Kenneth

Camm, Kevin
Francoeur, Sheila
Hutchinson, Karen
Kobel, Rudolph
Morris, Richard
Varrell, Thomas
Wiley, Robert

STRAFFORD

Bickford, David
Harrington, Michael
Twombly, James

Brown, Julie
Newton, Clifford
Woods, Phyllis

Campbell, W Packy
Scott, David

Easson, Timothy
Taylor, Kathleen

SULLIVAN

Rodeschin, Beverly
and the majority report was adopted.
Ordered to third reading.
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HCR 10, recognizing New Hampshire's ratification of the original Thirteenth Amendment to the United States Constitution. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Peter M. Sullivan for the Majority of State-Federal Relations and Veterans Affairs: This bill calls upon the Legislature to recognize the ratification of the so-called "original Thirteenth Amendment". This issue may have a place in the internet political discussion groups, but does not receive the support of the committee.. Vote 7-4.

Rep. Richard Marple for the Minority of State-Federal Relations and Veterans Affairs: Page 101 of the House Journal of December 9, 1812 recorded that the committee assigned to report on this amendment was, "in their opinion, not expedient to adopt". The innate wisdom of the entire General Court ignored the committee's opinion, and it was ratified as recorded on Page 101 as aforesaid. The minority asks that the current General Court emulate their forebearers and do likewise.

Rep. Marple spoke against.

Rep. Peter Sullivan spoke in favor.

On a division vote, 256 members having voted in the affirmative and 41 in the negative, the majority report was adopted.

HCR 11, relative to state and federal government relations. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter M. Sullivan for the Majority of State-Federal Relations and Veterans Affairs: In the 1860's, the United States fought a civil war over the issue of state vs. federal authority. In the 1950's, southern segregationists cited "State's Rights" in a failed effort to deny millions of Americans their God-given rights. Now, HCR 11 once again joins the battle over state vs. federal sovereignty. This resolution would have the New Hampshire Legislature second-guess the United States Supreme Court. To allow such activity is to undermine the rule of law and to turn our backs on over two centuries of established Constitutional principles. Vote 9-2.

Rep. Henry W. McElroy for the Minority of State-Federal Relations and Veterans Affairs: In 1787, the peoples' representatives for the thirteen sovereign states in session in Philadelphia in the Continental Congress took materials from several sources, including their then-existing State Constitutions, and wrote the United States Constitution. In this United States Constitution, the thirteen sovereign states spelled out precisely what the states wanted the federal government to do for them in Article 1, Section 8, Clauses 1-18. All other powers as stated in the 10th Amendment would remain with the sovereign states, respectively, or to the people. The states were to be the ultimate authority. HCR 11 states that any activity on the part of any United States government official or function that is deemed as unconstitutional by the New Hampshire General Court shall not have any authority in New Hampshire.

Rep. McElroy spoke against.

Rep. Headd spoke in favor.

Majority report adopted.

SPECIAL ORDER

Without objection, the Speaker made the remainder of bills on today's calendar Special Orders for the next session day, Thursday, January 29, 2004 in their Regular Calendar order.

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, January 29, 2004 at 10:00 a.m.
Adopted.

LATE SESSION

Third reading and final passage

HB 803-FN-A-L, relative to the establishment of municipal economic development and revitalization districts by municipalities.

HB 516-L, relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

HB 366, relative to mercury reduction.

PERSONAL PRIVILEGE

Rep. Slocum 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 4:10 p.m.

RECESS