

HOUSE RECORD

First Year of the 159th General Court Calendar and Journal of the 2005 Session

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Concord, N.H.

Wednesday, March 30, 2005

No. 29

HOUSE JOURNAL No. 9 (cont.)

Wednesday, March 23, 2005

Rep. O'Neil moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 10

Wednesday, March 30, 2005

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

His Excellency, Governor John H. Lynch, joined the Speaker on the podium for the day's opening ceremonies.

Prayer was offered by Guest Chaplain Gayle Murphy, Pastor of the Northwood Congregational Church in Northwood.

As this morning dawns with hope for spring and new beginnings, we gather in this place of power, of honor and of service. Be with these women and men. Guide them in the hard work of governing. Keep them focused on the needs of the least among us. Help them fight for justice so that the common good can be done.

We acknowledge in prayerful trust how difficult the work done here is. The long days require the gift of Your patience. The budget to balance with conflicting needs and limited funding calls upon the promise that You continue to work in miraculous ways. The health of some of these men and women call for Your healing touch. The promise of the good that can be done calls us to cling to hope in You.

Bless these good people. Guide in the good work they do. We pray this through our faith in You. Amen.

Rep. David L. Babson, Jr. led the Pledge of Allegiance.

The National Anthem was sung by Kaleb Wells, 7th grade student at Hampstead Middle School and grandson of Rep. Roger Wells.

LEAVES OF ABSENCE

Reps. Albert, Alger, Claire Clarke, Peter Cote, Dyer, Egbers, Hall, Oliver, Palangas, Palazzo and Ulery, the day, illness.

Reps. Bicknell, Bridle, William Chase, Clayton, Gonzalez, Hellwig, Hilliard, Hollinger, Millham and Burton Williams, the day, important business.

Reps. Hagan and Hutchinson, the day, illness in the family.

Rep. Paula Johnson, the day, death in the family.

INTRODUCTION OF GUESTS

Daniel and Erika, Jameson and Trevor, and Lois Wells, parents, brothers and great-grandmother of today's singer, guests of the House.

John and Brenda Davis, and Kelsea Goulden, guests of Rep. Headd. Glen, Anne-Marie and Michelle Morse, guests of Reps. DeJoie and Infantine. Henry and Carrie Klementowicz, Jane Flegal and Olga Usyck, children and guests of Rep. Rosenwald. Rick Zeller, son-in-law of Rep. Lockwood.

TARTAN DAY RECOGNITION PROGRAM

Reps. John Hunt and Paul Smith introduced special guests who performed for the House in honor of New Hampshire Tartan Day:

Pipers Tammy Pratt, Elliott Smith and Campbell Webster played "Scotland the Brave" as the Highland Dancers from the New Hampshire School of Scottish Arts, Marielle Webster, Ashley Gilmour, Bonnie Heplar, Shona MacWhirter, Victoria Leeming, Isabel Leeming, Natalie Maynard, Jillian Peters, Hannah Marcel and Rachel Matheson danced the Highland Fling. Tammy Pratt piped "Flowers of the Forest" in honor of the United States troops in Afghanistan and Iraq and "Amazing Grace" at the close of the program.

MOTION TO VACATE

Rep. Babson moved that the House vacate the reference of **SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas, to the Committee on Environment and Agriculture.

Motion adopted.

The Speaker referred SB 140 to the Committee on Resources, Recreation and Development.

SUSPENSION OF RULES

Reps O'Neil and Craig moved that the Rules deadlines be so far suspended as to permit consideration and referral to a second committee at the present time of the following House Bills:

HB 643-FN, establishing an integrated criminal justice information system.

HB 718, relative to group life insurance for New Hampshire citizens serving in the military reserves or national guard and making an appropriation therefore.

HB 25-FN-A, making appropriations for capital improvements.

HB 687-FN, relative to tuition waivers for children and spouses of members of the armed forces who die while on active duty.

HB 137-FN, relative to unemployment benefit eligibility.

HB 209-FN, relative to unborn victims of violence.

Adopted by the necessary two-thirds.

COMMITTEE REPORTS

CONSENT CALENDAR

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

HB 717, prohibiting cancellation of property and liability insurance on the basis of certain political activities, removed by Rep. DeJoie.

HB 635-FN-L, relative to education funding, removed by Rep. Hughes.

HB 270, relative to procedures of the legislative ethics committee, removed by Rep. Jasper.

HB 371, relative to mercury reduction, removed by Rep. Maxfield.

HB 158, relative to the Auburn District Court, removed by Rep. Paul Smith.

HB 536, relative to excluding deductions from compensation from all elected state, county, and local officials, removed by Rep. Marple.

HCR 9, commending the New Hampshire Fisher Cats on their championship, removed by Rep. Vaillancourt.

HB 537, relative to liens filed with public servants, removed by Rep. Marple.

HB 710-FN, establishing property appraisals for the taxation of property based upon its current use as a residence for persons over 65, removed by Rep. Patten.

SB 23, relative to membership on the public water access advisory board, removed by Rep. Currier.

HCR 3, urging Congress to require the Department of Justice to conduct a review and release information to the public regarding mistreatment and restrictions placed on Italian-American citizens of the United States during World War I, removed by Rep. Pepino

HCR 5, recognizing New Hampshire's ratification of the original Thirteenth Amendment to the United States Constitution, removed by Rep. Marple.

HCR 6, urging Congress to enact legislation to make English the official language of the United States, removed by Rep. Pillotte.

HCR 7, urging the United States Congress to establish and revise the current drug policy, removed by Rep. Pillotte.

HB 720-FN, relative to special number plates, removed by Rep. Gibson.
Consent Calendar adopted.

HB 120, relative to the definition of child abuse and the identity of a person filing a report of suspected child abuse. **INEXPEDIENT TO LEGISLATE**

Rep. Mary Stuart Gile for Children and Family Law: This bill defines the circumstances that indicate or threaten physical harm to a child's life, health or welfare and requires that the person reporting/filing a report provide their name and address. The committee appreciates the sponsor's intent to clarify child abuse and neglect reporting laws, however, the committee decided to support current law which guarantees anonymity to persons reporting because it is in the best interest of the child. Vote 13-1.

HB 214, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. **OUGHT TO PASS**

Rep. Harriet E. Cady for Children and Family Law: This bill provides that a sexual assault victim age 16 or younger at the child's request and with the prosecutor's approval shall be allowed to have the parents or legal guardians to remain with the victim during the entire court proceedings. This bill gives the necessary support to a child during the court process. Vote 13-1.

HB 220, establishing a committee to study the ability of homeless youth in New Hampshire to make a successful transition to adulthood. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mary Stuart Gile for Children and Family Law: This bill establishes a committee to study the ability of homeless youth in New Hampshire to make a successful transition to adulthood. Testimony confirmed that the numbers of homeless teens in New Hampshire are increasing for a variety of reasons. The study committee will investigate the accuracy of

reports (data), consolidate various studies on teen homelessness, and request evaluations of existing programs and report findings and recommendations for future legislation by November 1, 2005. Vote 14-0.

Amendment (0495h)

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall:

I. Investigate the number of homeless youth in the state and the extent of any current or prior relationship to the division of children, youth and families or the division for juvenile justice services.

II. Investigate the needs of homeless youth for employment, education, transportation, housing, nutrition, mental health services, medical and dental care, legal services, and other support services from adults, including the current availability and accessibility of such services.

III. Solicit testimony from youth and young adults who are or have been homeless, and from agencies and organizations that provide services to homeless youth and young adults, including school assistance and other educational programs, runaway and homeless youth programs, health, mental health and substance abuse prevention and treatment programs, and from other sources as deemed helpful by the committee.

IV. Seek information relative to the needs of adolescents, as they transition to adulthood, from the following organizations: the Adolescence Resource Center of the university of New Hampshire, the New Hampshire Medical Society, the New Hampshire Coalition Against Domestic and Sexual Violence, the department of education, the department of health and human services office of homeless, housing, and transportation services, New Hampshire Legal Assistance, and others as may be appropriate.

V. Study the effect that homeless teens have on society, including the social and financial costs associated with inadequate transitional services for teens who leave the foster care system and special education system without the necessary skills or supports to become self-sufficient.

Amend the bill by replacing section 6 with the following:

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005. The report shall include, to the extent practicable, the estimated cost of both implementing and not implementing the committee's recommendations.

HB 405, relative to discovery depositions in criminal cases of persons under 16 years of age. **INEXPEDIENT TO LEGISLATE**

Rep. Edward P. Moran for Children and Family Law: This bill would permit children under the age of 16 to be deposed in criminal cases. Children would be subject to a wide array of questions under oath without a judge present. Unless they hire private counsel, the child would be forced to respond without the protection afforded by legal representation. There already are existing means for obtaining information from a child witness. Current law provides for video taped depositions with both a judge and parent present. After review by a judge, confidential documents may be given to the defense. Court rules require that all witness statements made by children be given to the defense. And, of course, a child may be required to testify and be subject to cross examination at trial. This bill is unnecessary and has potential to cause great harm to children. The Attorney General opposes this bill. Vote 12-2.

HB 476, revising the definition of adultery. **INEXPEDIENT TO LEGISLATE**

Rep. Anne C. Grassie for Children and Family Law: This bill was initiated pursuant to a Supreme Court decision which rested on the majority interpretation of adultery as defined in

RSA 645:3. The committee felt the alternative definition proposed, the language of RSA 649-A:2,III, was inappropriately broad. The committee majority decided, given the options, it concurred with the Supreme Court majority. Vote 14-1.

HB 510, relative to financial affidavits in domestic relations cases. **OUGHT TO PASS**

Rep. Barbara Hull Richardson for Children and Family Law: This bill was introduced at the request of the Department of Health and Human Services to correct an unintended consequence of HB 384 which was passed last year. This bill provides that in divorce and custody cases otherwise confidential financial affidavits are accessible to those employees responsible for the administration and enforcement of child support obligations. It is basically housekeeping legislation. Vote 14-1.

HB 511, relative to the confidentiality of records pertaining to the support of dependent children. **OUGHT TO PASS**

Rep. Barbara Hull Richardson for Children and Family Law: This bill was requested by the Department of Health and Human Services and the courts. This bill permits the court and its authorized personnel limited access to child support records maintained by the Department for the administration of cases where an application for child support services has been received and accepted by the Department for Social Security Act, Title IV-D services. Currently New Hampshire is failing to maximize on capturing available IV-D funding largely because of limitations in ability to identify IV-D cases for federal reimbursement. Vote 14-1.

HB 585, relative to grounds for termination of parental rights. **OUGHT TO PASS WITH AMENDMENT**

Rep. Anthony P. Matarazzo, Sr. for Children and Family Law: This bill adds to the grounds for termination of parental rights, namely, conviction for felony assault of a sibling. The amendment simply says the bill shall take effect upon passage rather than 1 January 2006. Vote 14-0.

Amendment (0833h)

Amend the bill by replacing section 3 with the following:

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

HB 586, relative to the periodic review of child support guidelines. **OUGHT TO PASS**

Rep. Harriet E. Cady for Children and Family Law: This bill clarifies that child support guidelines be reviewed by the Department of Health and Human Services not less than once every four years in order to determine appropriate child support awards. It also requests that the department use the review by the commission on child support and related child custody issue to meet state and federal law requirements. HB 586 meets the request of the commission on child support and related child custody issues. Vote 14-0.

HB 640-FN, relative to parental rights and responsibilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This bill places laws governing custody of children under a separate chapter. The term custody changes to "rights and responsibilities" and requires parents to file "parenting plans" with the court and allows the court to order a session of mediation. Vote 16-0.

Amendment (0896h)

Amend RSA 461-A:4, II as inserted by section 1 of the bill by replacing it with the following:

II. A parenting plan may include provisions relative to:

- (a) Decision-making responsibility and residential responsibility.
- (b) Information sharing and access, including telephone and electronic access.
- (c) Legal residence of a child for school attendance.
- (d) Parenting schedule, including:
 - (1) Holiday, birthday, and vacation planning.
 - (2) Weekends, including holidays, and school in-service days preceding or

following weekends.

- (e) Transportation and exchange of the child.
- (f) Relocation of parents.
- (g) Procedure for review and adjustment of the plan.
- (h) Methods for resolving disputes.

Amend RSA 461-A:6, III as inserted by section 1 of the bill by replacing it with the following:

III. In determining parental rights and responsibilities under this section, including residential responsibility, the court shall not apply a preference for one parent over the other because of the sex of the child, the sex of a parent, or the financial resources of a parent.

Amend RSA 461-A:7, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Reasons the court may choose not to order mediation include, but are not limited to, the following:

- (a) A showing of undue hardship to a party.
- (b) An agreement between the parties for alternate dispute resolution

procedures.

- (c) An allegation of abuse or neglect of the minor child.
- (d) A finding of alcoholism, drug abuse, or domestic abuse as defined in RSA 173-B:1, unless all parties agree to mediation.
- (e) An allegation of serious psychological or emotional abuse.
- (f) Lack of an available, suitable mediator within a reasonable time period.

Amend the bill by inserting after section 19 the following and renumbering the original sections 20-21 to read as 21-22, respectively:

20 Legal Residence Required; Residential Responsibility. Amend RSA 193:12, II(a)(2) to read as follows:

(2) In a divorce decree where parents are awarded ***joint decision making responsibility or*** joint legal custody, the legal residence of a minor child is the residence of the parent with whom the child resides. If a parent is awarded sole or primary ***residential responsibility or*** physical custody by a court of competent jurisdiction in this or any other state, legal residence of a minor child is the residence of the parent who has sole or primary ***residential responsibility or*** physical custody. If the parent with sole or primary physical custody lives outside the state of New Hampshire, the pupil does not have residence in New Hampshire. ***If the court order is for equal or approximately equal periods of residential responsibility, the child's legal residence for school attendance purposes shall be as stated in the order.***

Amend the bill by replacing section 22 with the following:

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

HB 104, requiring insurance coverage for infertility treatments. INEXPEDIENT TO LEGISLATE

Rep. Stephen B. Stepanek for Commerce: The committee has had this issue several times in the past. Testimony was presented that this mandate would increase the cost of health insurance for everyone in the small group market. Although we are very sensitive to the situation of infertile couples, our concern is that the out of control cost of health care is having a devastating impact on our small businesses and their employees. It has reached a crisis situation where companies and/or their employees are being forced to decisions to continue health coverage or not based upon their ability to pay for it. An additional increase will simply push more people out of the insurance market. We should be looking for ways to

stabilize the cost of good basic health insurance. This bill has the opposite effect at a time when our small businesses can ill afford another mandate. Vote 17-1.

HB 262, creating a cause of action relative to the discharge of mortgages. **INEXPEDIENT TO LEGISLATE**

Rep. Tara G. Reardon for Commerce: The committee reviewed the existing New Hampshire law with regard to mortgage discharge and found that the mechanism created by the Commerce Committee in a past session is sufficient to remedy this situation. New Hampshire law provides for a discharge by affidavit to clear titles encumbered by mortgages that have been satisfied. Vote 19-0.

HB 274, relative to notice of the availability of automobile gap insurance. **INEXPEDIENT TO LEGISLATE**

Rep. Donald H. Flanders for Commerce: This type of insurance, although available through insurance agents, is usually offered by automobile dealers and financial institutions that are aware of the personal financial situation of the buyer. Normally, insurance agents, brokers and salespeople are not aware of the amount being financed by their clients. Although they can and do offer the coverage, it is rarely purchased by their clients and requiring a mandatory written offer and signoff for this type of coverage where such is not required on other perils would be cost prohibitive and unreasonable. Vote 20-0.

HB 296, relative to bonding requirements for private detectives. **INEXPEDIENT TO LEGISLATE**

Rep. Matthew J. Quandt for Commerce: The State of New Hampshire requires that private detectives have a \$50,000 surety bond. This legislation allows a private detective to purchase and maintain liability insurance in lieu of a surety bond. Although the sponsor was well intentioned, the committee felt that liability insurance does not have the same protection as a surety bond. Vote 19-0.

HB 299, relative to mechanics' liens. **OUGHT TO PASS WITH AMENDMENT**

Rep. Tara G. Reardon for Commerce: The bill as introduced sought to make several improvements to RSA 447 regarding mechanics' liens. The testimony at both the public hearing and subcommittee indicated there was not only disagreement about the provisions in the bill, but also other parts of RSA 447. All parties agree that a broader look is necessary and a study committee is the best approach. Vote 17-0.

Amendment (0843h)

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

AN ACT establishing a committee to study state laws governing liens for labor and materials.

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

1 Committee Established. There is established a committee to study state laws governing liens for labor and materials.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study the need to revise RSA 447, relative to liens for labor and materials. The review shall include, but shall not be limited to: including equipment in addition to labor and materials in a lien filed pursuant to RSA 447:2, the

treatment of leasehold interests, and the bonding of liens. The committee shall solicit information and testimony from such organizations and individuals as may assist the committee in the performance of its duties, including: the Home Builders and Remodelers' Association of New Hampshire, the Association of Builders and Contractors, the Association of General Contractors of New Hampshire, and the Bankers' Association.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005.

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

AMENDED ANALYSIS

This bill establishes a committee to study the laws relative to liens for labor and materials.

HB 337, establishing a committee to study small group health insurance and the small brokerage health insurance community. **INEXPEDIENT TO LEGISLATE**
Rep. Donald H. Flanders for Commerce: The committee felt that this bill was unspecific as to its objectives. Testimony provided at the hearing concentrated on areas relating to rebating and unfair trade practices. These areas were addressed in the last session under SB 42 which completely updated both regulations to reflect current practices, and, according to the insurance department, are working well. In addition to this, anything that may need further study can be addressed under other bills currently being considered. Vote 13-5.

HB 348, relative to mortgages held by parties to a divorce. **OUGHT TO PASS WITH AMENDMENT**

Rep. Tara G. Reardon for Commerce: This bill was amended to provide clarification of a bill passed by this house last session. The Commerce Committee added a requirement to durable powers of attorney that required a disclosure of the grantor of the power that he/she was granting broad powers to the agent named in that document. As an unintended consequence, special limited powers of attorney, used mainly in real estate transactions, were caught up in the change because they contain durable language. This bill corrects that by clarifying the language for those transactions done since the effective date of the change and in the future. Vote 18-0.

Amendment (0660h)

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

AN ACT relative to real and personal property conveyances made under powers of attorney.

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

1 Powers of Attorney; Clarification of Legislative Intent.

I. The general court declares that its intent in enacting and amending RSA 506:6, VI, VII, and VIII(b), and RSA 506:7, IV(b), under 2001, 257, and 2003, 312, was not to impose the requirements of principal disclosure statement and agent acknowledgment on powers of attorney that are by their terms limited to a specified transaction or series of transactions such as representing a principal in a sale of a parcel of real estate or lots in a subdivision, but rather to impose the new requirements on durable powers of attorney that are general in nature, and thus more vulnerable to possible misuse.

II. The general court further declares that its intent in enacting and amending the statutes referred to in paragraph I was not to invalidate conveyances made to bona fide

purchasers under powers of attorney that fail to comply with RSA 506:6, VI or VII, or both, where reasonable consideration is paid and the purchaser has no actual knowledge or reason to believe that the agent is misusing the power of attorney.

III. This act clarifies the original legislative intent of the above-referenced statutes, and effectuates such intent in regard to conveyances that have occurred prior to the effective date of this act.

2 Powers of Attorney; Disability or Incompetence of Principal; Disclosure Statement. Amend RSA 506:6, VI(a) to read as follows:

VI.(a) A disclosure statement, signed by the principal, in substantially the following form, shall be affixed to a durable **general** power of attorney:

INFORMATION CONCERNING THE DURABLE POWER OF ATTORNEY
THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS
DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent" or "Attorney in Fact") to make decisions, including, but not limited to, decisions concerning your money, property, or both, and to use your money, property, or both on your behalf. If this written Durable Power of Attorney does not limit the powers that you give to your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property, and to spend your money without advance notice to you or approval by you. Under this document, your agent will continue to have these powers after you become incapacitated, and unless otherwise indicated your Agent will have these powers before you become incapacitated. You have the right to retain this Power and not to release this Power until you instruct your attorney or any other person who may hold this Power of Attorney to so release it to your Agent pursuant to written instructions. You have the right to revoke or take back this Durable Power of Attorney at any time, so long as you are of sound mind. If there is anything about this Durable Power of Attorney that you do not understand, you should seek professional advice.

Principal

3 Powers of Attorney; Disability or Incompetence of Principal; Acknowledgment. Amend RSA 506:6, VII(a) to read as follows:

VII.(a) An agent shall have no authority to act as agent under [the] **a durable general** power of attorney unless the agent has first executed and affixed to the power of attorney an acknowledgment in substantially the following form:

I, _____, have read the attached power of attorney and am the person identified as the Agent for the Principal. I hereby acknowledge that when I act as Agent or "attorney in fact," I am given power under this Durable Power of Attorney to make decisions about money, property, or both belonging to the Principal, and to spend the Principal's money, property, or both on the Principal's behalf, in accordance with the terms of this Durable Power of Attorney. This Durable Power of Attorney is valid only if the Principal is of sound mind when the Principal signs it. When acting in the capacity of Agent, I am under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person, which means the use of those powers that is reasonable in view of the interests of the Principal and in view of the way in which a person of ordinary judgment would act in carrying out that person's own affairs. If the exercise of my acts is called into question, the burden will be upon me to prove that I acted under the standards of a fiduciary. As the Agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the Durable Power of Attorney specifically gives me the authority to do so. As the Agent, my authority under this Durable Power of Attorney will end when the Principal dies and I will not have authority to manage or dispose of any property or administer the estate unless I am authorized to do so by a New Hampshire Probate Court. If I violate my fiduciary duty under this Durable Power of Attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about this Durable Power of Attorney, or my

duties under it, that I do not understand, I understand that I should seek professional advice.

Agent

4 Powers of Attorney; Disability or Incompetence of Principal; Validity. Amend RSA 506:6, VIII(b) to read as follows:

(b) Failure to comply with paragraph VI **or VII** shall not invalidate an otherwise valid durable **general** power of attorney, subject to the provisions of RSA 506:7, IV(b).

5 New Subparagraph; Powers of Attorney; Disability or Incompetence of Principal; Validity of Conveyances to Bona Fide Purchasers. Amend RSA 506:6, VIII by inserting after subparagraph (b) the following new subparagraph:

(c) Notwithstanding the provisions of paragraph VI or VII or RSA 506:7, IV(b), a conveyance of real or personal property to a bona fide purchaser for reasonable consideration under an otherwise valid durable general power of attorney that failed to comply with RSA 506:6, VI or VII, or both, shall not be set aside on account of such failure unless the purchaser had actual knowledge or good reason to believe that the agent was misusing the power of attorney in making the conveyance. This subparagraph shall apply to every conveyance made on or after January 1, 2004, unless an action to set aside such conveyance has been filed prior to the effective date of this subparagraph.

6 New Paragraphs; Powers of Attorney; Disability or Incompetence of Principal; Definitions; Validity Amend RSA 506:6 by inserting after paragraph IX the following new paragraphs:

X.(a) "Durable power of attorney" as used in this chapter means a power of attorney described in paragraph I.

(b) "Durable general power of attorney" as used in this chapter means a durable power of attorney that is not limited by its terms to a specified transaction or series of transactions.

XI. Any durable power of attorney limited by its terms to a specified transaction or series of transactions and executed before the effective date of this paragraph shall not be deemed invalid or affected in any way because it does not comply with paragraph VI or VII.

7 Powers of Attorney; Limitations on the Agent; Presumption of Lawfulness. Amend RSA 506:7, IV(b) to read as follows:

(b) When a gift or transfer made by an agent **under a durable general power of attorney** is challenged in a petition filed under paragraph III of this section, the gift or transfer shall be presumed to be lawful if the durable power of attorney is accompanied by the disclosure statement and acknowledgement drafted in accordance with RSA 506:6, VI and VII, and explicitly authorizes such gifts or transfers as set forth in RSA 506:6, V. However, if the petitioner establishes that the agent made a transfer for less than adequate consideration, and the transfer is not explicitly authorized by a durable power of attorney drafted in accordance with RSA 506:6, VI and VII, the agent shall be required to prove by a preponderance of evidence that the transfer was authorized and was not a result of undue influence, fraud, or misrepresentation.

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

AMENDED ANALYSIS

This bill:

I. Declares the legislative intent concerning the disclosure statement required under a durable general power of attorney and the acknowledgement required under a durable general power of attorney.

II Clarifies that certain conveyances of real and personal property are not invalid because of failure to follow the technical form prescribed in statute.

HB 364, establishing a committee to study adopting the uniform securities act.
INEXPEDIENT TO LEGISLATE

Rep. Stephen B. Stepanek for Commerce: The committee has retained HB 716 which deals with the review and restructuring of the Uniform Securities Act. Therefore the committee felt that HB 364 dealing with the same issue would be redundant and not necessary at this time. Vote 20-0.

HB 422, relative to exemptions from the consumer protection act. **INEXPEDIENT TO LEGISLATE**

Rep. James R. Martin for Commerce: This bill would exempt from the Consumer Protection Act any business that is in compliance with the rules and regulations of the Bank Commissioner, Director of Securities Regulation, Insurance Commissioner, Public Utilities Commission and similar regulators of other states or the federal government. The bill changes existing law which exempts only those businesses that are subject to the jurisdiction of those regulators. This bill would exempt any business not subject to regulations by any of the named regulators. Thus, under this bill, any business not subject to regulation would be exempt from the Consumer Protection Act. Vote 16-4.

HB 423, relative to insurance premiums for medical malpractice liability insurance. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen B. Stepanek for Commerce: This bill requires malpractice insurance rates in New Hampshire to be based only on New Hampshire malpractice statistics. The committee heard testimony that due to its small size there would be little or no malpractice statistics in many areas of medical practice. It would therefore be impossible to rate these areas for insurance purposes. Although well intended, this bill would have the unintended effect of further restricting the availability of malpractice insurance and of also increasing its cost. Vote 18-2.

HB 469, regulating disputes between homeowners and contractors relative to residential construction defects. **OUGHT TO PASS WITH AMENDMENT**

Rep. Matthew J. Quandt for Commerce: This bill is the product of many hours of work by a subcommittee, the Attorney General's Office of Consumer Protection and the homebuilder industry, and was introduced to address the concerns of the numerous contractor scams that New Hampshire homeowners have experienced in the recent past. The legislation mandates a written contract between a homeowner and contractor outlining basic terms of their agreement. The law also provides the Attorney General's Office with the enforcement tools they need to prosecute those contractors that prey on consumers. The final version addresses the desire of the homebuilders to protect the reputation of the majority of the good contractors working in New Hampshire, while also allowing the attorney general to pursue those whose intent are to defraud. Vote 20-0.

Amendment 0670h)

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

1 New Chapter; Residential Construction Defects; Dispute Resolution. Amend RSA by inserting after chapter 359-F the following new chapter:

CHAPTER 359-G

RESIDENTIAL CONSTRUCTION DEFECTS; DISPUTE RESOLUTION

359-G:1 Purpose. In order to encourage the out-of-court resolution of disputes between homeowners and contractors relative to residential construction defects, this chapter provides a framework for discussion about an alleged defect. As part of this process, RSA 359-G:5, IV allows a homeowner to provide access to the residence for an inspection. Since an inspection is likely to lead to the timely resolution of the problem, homeowners are encouraged, but not required, to provide access for an inspection.

359-G:2 Definitions. In this chapter:

I. "Action" means any civil lawsuit, judicial action, or arbitration proceeding asserting a claim, in whole or in part, for damages or other relief in connection with a residence caused by an alleged construction defect.

II. "Homeowner" means any person, company, firm, partnership, corporation, or association who contracts with a contractor for the construction, sale, substantial remodel or repair, or construction and sale of a residence. Homeowner includes, but is not limited to, an authorized assignee, agent, or subsequent purchaser of a residence from any homeowner.

III. "Construction defect" has the meaning assigned by a written, express warranty either provided by the contractor or required by applicable statutory law. If no written, express warranty or applicable statutory warranty provides a definition, then "construction defect" means a matter concerning the design, construction, modification, or repair of a residence on which a person has a complaint against a contractor. The term may include any physical damage to the residence, any appurtenance, or the real property on which the residence or appurtenance are affixed, proximately caused by a construction defect.

IV. "Contractor" means any person, firm, partnership, corporation, association or other organization that is engaged in the business of designing, developing, or constructing a residence, modification, repair of a new or existing residence, or construction, alteration, addition, or repair of an appurtenance to a new or existing residence.

V. "Residence" means a single-family house, duplex, or multifamily unit designed for residential use in which title to each individual unit is transferred to the owner under a condominium or cooperative system and shall include common areas and improvements that are owned or maintained by an association or by members of an association. A residence includes the systems, other components, improvements, other structures, or recreational facilities that are appurtenant to the house, duplex, or multifamily unit at the time of its initial sale, but not necessarily a part of the house, duplex, or multifamily unit.

VI. "Serve" or "Service" means delivery by certified mail, return receipt requested, or in-hand service, to the last known address or place of business of the addressee.

359-G:3 Action; Stay Without Prejudice. If a homeowner files an action without first complying with the requirements of this chapter, on application by a party to the action, the court or arbitrator shall stay the action, without prejudice, until the homeowner has complied with the requirements of this chapter. The stay shall not exceed the 60 day period set forth in RSA 359-G:4, I, and no attachments against the contractor shall be granted until the stay expires.

359-G:4 Notice and Opportunity to Repair.

I. In every action subject to this chapter, the homeowner shall, no later than 60 days before initiating an action against a contractor, provide service of written notice of claim on that contractor. The notice of claim shall state that the homeowner asserts a construction defect claim and is providing notice of the claim pursuant to the requirements of this chapter. The notice of claim shall describe the claim in detail sufficient to explain the nature of the alleged construction defect and the result of the defect. In addition, the homeowner shall provide to the contractor any evidence in possession of the homeowner that depicts the nature and cause of the construction defect.

II. Within 30 days after service of the notice of claim by the homeowner required in paragraph I, each contractor that has received the notice of claim shall serve on the homeowner, and on any other contractor that has received the notice of claim, a written response to the claim or claims, which discloses any evidence in the possession of the contractor that depicts the nature and cause of the construction defect, and:

- (a) Offers to settle the claim by monetary payment, the making of repairs, or a combination of both, without inspection;
- (b) Proposes to inspect the residence that is the subject of the claim; or
- (c) Wholly rejects the claim.

III. Notwithstanding any other provision of this chapter, if the contractor fails to respond to the homeowner under paragraph II, wholly rejects the claim, or will neither

remedy the alleged construction defect nor settle the claim, the homeowner may immediately bring an action against the contractor for the claims described in the notice of claim without further notice except as otherwise provided under applicable law.

IV. If a proposal for inspection is made pursuant to subparagraph II(b), the homeowner may, within 15 days of receiving contractor's proposal, provide the contractor and its subcontractors, agents, experts, and consultants prompt and complete access to the residence to inspect the residence, document any alleged construction defect, and, if authorized in writing by the homeowner, perform any destructive or non-destructive testing required to fully and completely evaluate the nature, extent, and cause of the claimed defect and the nature and extent of any repairs or replacements that may be necessary to remedy the alleged defect. If destructive testing is authorized in writing by the homeowner, the contractor shall give the homeowner advance notice of such tests and shall, after completion of the testing, return the residence to as close as reasonably practicable to its pre-testing condition. If any inspection or testing reveals a condition that requires additional testing to allow the contractor to fully and completely evaluate the nature, cause, and extent of the construction defect, the contractor shall provide notice to the homeowner of the need for such additional testing and, if the homeowner consents in writing to such additional testing, the homeowner shall provide access as provided under this section. If a claim is asserted on behalf of owners of multiple residences, or multiple owners of units within a multi-family complex, then the contractor shall be entitled to inspect each of the residences or units, with the written consent of the unit owner.

V. Within 15 days following completion of the inspection and testing under paragraph IV, the contractor shall serve on the homeowner a response disclosing any inspection or testing records in the possession of the contractor that depict the nature and cause of the construction defect, and:

(a) A written offer to fully or partially remedy the construction defect at no cost to the homeowner. Such offer shall include a description of any additional construction necessary to remedy the defect described in the claim, and an anticipated timetable for the completion of such construction;

(b) A written offer to settle the claim by monetary payment;

(c) A written offer including a combination of repairs and monetary payment; or

(d) A written statement that the contractor will not proceed further to remedy the defect.

VI. If a homeowner accepts a contractor's offer made pursuant to subparagraph VI(a), (b), or (c) and the contractor does not proceed to make the monetary payment or remedy the construction defect within the agreed timetable, the homeowner may bring an action against the contractor for the claim described in the notice of claim without further notice except as otherwise provided by applicable law. In such situation, the homeowner may also file the contractor's offer and homeowner's acceptance, and such offer and acceptance will create a rebuttable presumption that a binding and valid settlement agreement has been created and should be enforced by the court or arbitrator.

VII. If a homeowner receives a written statement that the contractor will not proceed further to remedy the defect, the homeowner may bring an action against the contractor for the claim described in the notice of claim without further notice except as otherwise provided by applicable law.

VIII. If the homeowner rejects the offer made by the contractor to remedy the construction defect or to settle the claim by monetary payment or a combination of each, the homeowner may serve written notice of the homeowner's rejection on the contractor.

IX. If the value of the offer that the homeowner rejects under this section is greater than any judgment awarded in an ensuing civil proceeding, then the contractor shall be deemed the prevailing party for the purpose of determining the taxation of costs in the proceeding.

X. Any homeowner accepting the offer of the contractor to remedy a construction defect shall do so by serving the contractor with a written notice of acceptance within a reasonable period of time after receipt of the contractor's settlement offer, but no later than 30 days after receipt of the offer. If no response is served upon contractor within the 30-day period, then the offer shall be deemed rejected.

XI. If a homeowner accepts a contractor's offer to repair a construction defect described in a notice of claim, the homeowner shall provide the contractor and its subcontractors, agents, experts, and consultants prompt and reasonable access to the residence to perform and complete the construction by the timetable stated in the settlement offer.

XII. Service of a written notice of claim pursuant this chapter shall automatically toll the expiration of an applicable limitations period for a period of 60 days. This paragraph shall not be construed to:

- (a) Extend any tolling of expiration beyond 60 days;
- (b) Revive any statute of limitation that expired prior to service of a notice of claim; or
- (c) Extend any applicable statute of repose.

XIII. A homeowner and a contractor may alter, by written mutual agreement, the procedure for the notice of claim process described in this section. The altered process may follow customer dispute resolution guidelines outlined by recognized third party insured warranty programs licensed or approved by the state of New Hampshire.

XIV. In an action relating to a residence involving a construction defect, a contractor shall not be liable for any portion of a homeowner's damages caused by:

(a) Normal shrinkage due to drying or settlement of construction components within the tolerance of normally accepted building industry standards or standards agreed upon in the contract between the homeowner and the contractor.

(b) The contractor's reasonable reliance on written information relating to the residence that was obtained from official government records or provided by a government entity.

(c) The contractor's reasonable reliance on applicable building codes in effect at the start of the construction, except to the extent the homeowner and the contractor had agreed in writing to exceed the construction standards set forth in the applicable building codes.

(d) Any construction defect that was known by or disclosed to a homeowner in writing prior to the homeowner's purchase of the residence, and that was not caused to worsen or otherwise exacerbated by acts or omissions of the contractor.

(e) If the homeowner is not the first owner of the residence, any construction defect known by the homeowner or that could have been discovered by the homeowner through the exercise of reasonable diligence prior the homeowner's purchase of the residence, and that was not caused to worsen or otherwise exacerbated by acts or omissions of the contractor.

(f) Refusal of the homeowner or homeowner's agent to allow the contractor or contractor's agents to perform their warranty service work.

(g) Normal wear, tear, and deterioration of building components.

(h) Comparative negligence or failure to perform normal and reasonable maintenance of the residence on the part of the homeowner.

(i) Alteration of contractor's work by homeowner without contractor's written consent.

359-G:5 Additional Construction Defects; Additional Notice and Opportunity to Repair Required. A construction defect that is discovered after a homeowner has provided a contractor with the initial claim notice and is substantially related to the factual circumstances, acts or omissions giving rise to the construction defects alleged in the initial

notice may be alleged in an action involving the claims alleged in the initial notice without following the notice of claim procedure provided in RSA 359-G:4.

359-G:6 Release; Insurance. If a homeowner accepts an offer made in compliance with this act and the contractor fulfills the offer in compliance with this act, the homeowner shall thereafter be barred from bringing an action for the claim.

359-G:7 Contract of Sale.

I. Upon entering into a purchase agreement or contract for the construction or improvement of a residence in which the contract amount exceeds \$5,000, the contractor shall provide written notice to the owner of the residence of the contractor's right to resolve alleged construction defects before a homeowner may commence litigation against the contractor. Such notice shall be conspicuous and may be included as part of the contract.

II. Contracts providing third party insured warranty programs must provide homeowners with warranty documents and claim procedures at or before closing or first occupancy.

III. The notice required by paragraph I shall be in substantially the following form:

NEW HAMPSHIRE LAW, RSA 359-G, CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO CONSTRUCTED, REMODELED, OR REPAIRED YOUR HOME. SIXTY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

359-G:8 Miscellaneous; Applicability of Chapter.

I. Nothing in this chapter shall create any cause of action on behalf of any homeowner or contractor.

II. This chapter shall not apply to a contractor's right to seek contribution, indemnity, or recovery against a subcontractor, supplier, or design professional for any claim made against a contractor by a homeowner.

III. Nothing in this chapter shall prohibit a homeowner from taking such actions as necessary to prevent unsafe conditions or further deterioration of a residence.

2 Applicability. This act shall apply to all contracts entered after the effective date.

3 Effective Date. This act shall take effect January 1, 2006.

HB 490, relative to law enforcement access to financial records under the New Hampshire right to privacy act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Fran M. Egbers for Commerce: This bill clarifies law enforcement access to financial records under the New Hampshire Right to Privacy Act. The amendment removes Sections 2 and 3 from the bill. The committee believed the subpoena powers in these sections were reaching too far into the financial privacy of individuals. Vote 20-0.

Amendment (0820h)

Amend the bill by deleting sections 2 and 3 and renumbering the original section 4 to read as 2

.AMENDED ANALYSIS

This bill clarifies law enforcement access to financial records under the New Hampshire right to privacy act.

HB 575, establishing a committee to examine a restructuring of the state health insurance programs. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen B. Stepanek for Commerce: In the public hearing on HB 575 the sponsor

wanted to accomplish a number of things. It appeared from the testimony that the sponsor needed to take several additional steps before this study committee would be needed and could be effective. As the old saying goes, this bill would be putting the cart before the horse. Vote 20-0.

HB 577, relative to requirements for debt collection by telephone. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen B. Stepanek for Commerce: Although this bill was well intentioned, there are already a significant number of laws on the book regulating collection companies. Many, if not all, of the complaints we heard concerned activities that violate existing laws. The real issue is about the enforcement of existing laws not the creation of new ones. In addition, this law would have the same enforcement problem current laws have; that is, they only cover those collection companies located within the State of New Hampshire. As we all know most collection companies are located outside of New Hampshire and increasingly outside of the United States. The committee felt this law was unnecessary. Vote 19-0.

HB 583, establishing an oversight committee to study medical malpractice insurance rates in this state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen B. Stepanek for Commerce: The amendment to this bill more clearly defines how the Medical Malpractice Insurance Oversight Committee would be formed and more clearly defines what its charge would be. This amendment addresses a concern about the committee's ability to collect all of the data. Under this amendment the insurance department would collect the data. This amendment is supported by both the sponsor and the insurance department. Everyone is in agreement that we need a legislative committee to study the information and determine what legislation might be needed to correct the situation. Vote 20-0.

Amendment (0741h)

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

1 New Subdivision; Medical Malpractice Insurance Oversight Committee. Amend RSA 519-A by inserting after section 10 the following new subdivision:

Medical Malpractice Insurance Oversight Committee

519-A:11 Medical Malpractice Insurance Oversight Committee.

I. There is established a committee to study medical malpractice insurance rates in this state.

II. The committee shall consist of 4 members of the house of representatives, appointed by the speaker of the house of representatives and 3 members of the senate, appointed by the president of the senate.

III. The members of the committee shall elect a chairperson from among the members. Five members of the committee shall constitute a quorum.

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

V. The committee shall review and analyze detailed information provided by the administrative office of the courts and the insurance department related to medical injury liability claim activity, the condition of the medical malpractice insurance market and current rate levels and pricing of medical malpractice insurance products.

VI.(a) The committee shall analyze the information it receives under paragraph V and from the insurance commissioner and report it annually to the speaker of the house of representatives, the senate president, the house clerk, and the senate clerk.

(b) The committee shall make an interim report of its findings about medical insurance rates and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2007.

(c) The committee shall make a final report of its findings about medical insurance rates and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2009.

519-A:12 Reports.

I.(a) The administrative office of the courts shall collect data on medical injury claims and submit a report to the committee established in RSA 519-A:11 and to the insurance commissioner on or before September 30 of each year.

(b) The report shall include the number of medical injury cases filed, pending, and resolved during the fiscal year ending on the June 30 preceding the report date.

(c) The report shall also include, for medical injury cases resolved during the fiscal year:

(1) The mean and median lengths of time from initial filing to final resolution.

(2) The number and average settlement amount of cases that were resolved prior to trial.

(3) The number and average settlement amount of cases that were resolved by or after a jury verdict.

(d) To the extent possible, the report shall include comparative data from the previous 5 years.

II.(a) The insurance commissioner shall report to the committee, established in RSA 519-A:11, annually, on or before November 1 of each year, on the medical malpractice market and the current rate levels and pricing of medical malpractice insurance products. Such reports shall include, but not be limited to, average rate comparisons of medical liability insurance for categories of medical providers and specialties identified by the insurance commissioner, the frequency and severity of medical injury claims, the time for resolution of medical injury claims from first notice to final resolution, and other factors influencing the pricing of medical malpractice insurance products.

(b) The insurance commissioner may adopt rules to collect the data from insurers necessary to prepare the report required by this section. To the extent the commissioner collects information from insurers regarding individual claims, loss adjustment and other expenses, reserves, indemnity payments, or other financial information that is not otherwise reported to the commissioner and available to the public, such information shall be treated as examination materials, kept confidential and not be subject to RSA 91-A.

2 First Meeting of Committee. The first meeting of the committee established in section 1 of this act shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

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

HB 615-FN, relative to insurance coverage for court-ordered counseling services.

INEXPEDIENT TO LEGISLATE

Rep. Charles L. Clark for Commerce: This bill would prohibit carriers from denying coverage for mental health services on the basis that there is a court order for counseling or a psychiatric evaluation as part of a divorce or custody proceeding. In order to be covered, these services still must meet medical necessity criteria. The committee notes that in many instances psychiatric evaluations ordered as part of custody proceedings would not meet medical necessity criteria. For example, in order for psychological testing to be considered a medical necessity, it must be intended to move an individual's medical treatment forward in some way, as opposed to only meeting some other need to help a court determine custody issues. Vote 18-2.

HB 631-FN, relative to the time after which certain unclaimed property is presumed abandoned. **INEXPEDIENT TO LEGISLATE**

Rep. James F. Headd for Commerce: The committee met with a representative of the consumer protection division of the attorney general's office, and with the state treasurer. Both indicated their objections to reducing the holding period of securities to one year, but would not object to a three year holding period which would bring it in line with federal statutes. Otherwise, they saw no benefit to the general public to change existing rules. There is no statute of limitation on claiming unclaimed property so heirs, successors or assignees of the property can claim it at any time. Vote 20-0.

HB 714-FN, adopting the Uniform Partnership Act (1997). **INEXPEDIENT TO LEGISLATE**

Rep. Tara G. Reardon for Commerce: This bill attempts to update our current version of the Uniform Partnership Act to reflect the most recent version of the model act promulgated by the Commissioners on Uniform Law. Our current statute includes many changes made to the prior version of the Uniform Law. The updated Uniform Law presented did not include these New Hampshire nuances. The Secretary of State Corporate Division stated the bill as presented required extensive review and revision to adapt it suitably for New Hampshire, and this currently is a low priority for them. The committee expects an improved version of this bill will be filed in an upcoming session. Vote 20-0.

HB 68, relative to the enforcement of disorderly conduct by reason of noise. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl for Criminal Justice and Public Safety: This bill as amended by the committee provides for the enforcement of loud or unreasonable noise when observed by a law enforcement officer. Prior to these amendments, a person other than a law enforcement officer had to be the complainant and this resulted in an often unenforceable situation due to the fear that some form of retribution would result. The complainant might not be willing to go forward due to the fear that some action would be taken against hi or her. The bill holds responsible the person who has control of the place where the loud, or unreasonable noise originates or the actual person creating the disturbance. Vote 17-1.

Amendment (0065h)

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

1 Disorderly Conduct; Noise. Amend RSA 644:2, III(a) to read as follows:

(a) Making ***or allowing to be made*** loud or unreasonable noises in a public place, or making ***or allowing to be made*** loud or unreasonable noises in a private place which can be heard in a public place or other private places, which noises would disturb a person of average sensibilities; or

2 New Subparagraph; Disorderly Conduct; Noise. Amend RSA 644:2, IV by inserting after subparagraph (b) the following new subparagraph:

(c) When noise under subparagraph II(f) or III(a) is emanating from a residence or its curtilage, or from a vehicle or its sound system, and can be plainly heard from a distance of 50 feet or more, a law enforcement officer shall be considered a person of average sensibilities for purposes of determining whether there is a breach of the peace, public inconvenience, annoyance, or alarm, and the officer may take enforcement action to abate such noise upon detecting the noise, or upon receiving a complaint from another person.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 5:

3 Disorderly Conduct; Gender Neutral Language Added. Amend the introductory paragraph of RSA 644:2, II to read as follows:

II. He ***or she***:

4 New Subparagraph; Disorderly Conduct; Noise; Knowingly Causing. Amend RSA 644:2, II by inserting after subparagraph (e) the following new subparagraph:

(f) Knowingly causes a breach of the peace, public inconvenience, annoyance, or alarm by allowing loud or unreasonable noises to be made in a private place under his or her control, which can be heard in a public place or other private places, which noises would disturb a person of average sensibilities.

AMENDED ANALYSIS

This bill allows a law enforcement officer to take enforcement action to abate loud or unreasonable noises with or without a complaint from another person.

HB 125, requiring ignition interlock devices for certain persons who drive after suspension or revocation. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl for Criminal Justice and Public Safety: This bill requires in the case of that any person who has been convicted of the offense of driving after suspension or revocation, resulting from a conviction for DWI, the court shall order the installation of an ignition interlock on the vehicle registered to or primarily used by that person. The court may order such installation as a condition of bail. It further reinforces that a person ordered by the court to install an interlock device shall not drive any other vehicle not so equipped. Vote 16-2.

Amendment (0031h)

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

AN ACT relative to ignition interlock devices.

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

1 New Paragraph; Alcohol Ignition Interlock Program; Driving After Revocation or Suspension. Amend RSA 265:93-a by inserting after paragraph I the following new paragraph:

I-a. Any person who is convicted of driving while under suspension or revocation resulting from a DWI offense shall be required by the court to install an ignition interlock device in any vehicle registered to that person or used by that person on a regular basis, for the remaining period of suspension or revocation plus an additional period not less than 6 months nor more than 2 years. The court may order such installation on a temporary basis prior to conviction as a condition of bail.

2 Alcohol Ignition Interlock Circumvention. Amend RSA 265:93-b, I to read as follows:

I. Any person required by the court to ~~drive only a motor vehicle equipped with~~ **install** an ignition interlock device shall not drive any motor vehicle not equipped with this device.

3 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill requires an ignition interlock device on any vehicle registered to or regularly used by a person who drives after a suspension or revocation resulting from a DWI offense. This bill also prohibits persons required to install an ignition interlock device from driving a motor vehicle not equipped with this device.

HB 294, relative to criminal records and evidence. **OUGHT TO PASS WITH AMENDMENT**

Rep. William V. Knowles for Criminal Justice and Public Safety: The current statute requires a person whose arrest has resulted in a finding of not guilty to file a petition for annulment of the arrest record by paying a fee of \$100.00 and waiting for the Department of Corrections to investigate the facts of the case to make a recommendation to the court whether the arrest records should be annulled or not. The majority of the committee felt that a charge resulting in a verdict of not guilty by a jury or judge should be immediately annulled by the court without requiring a petition or payment of a fee. The remainder of the statute RSA 651:5, II has been changed to RSA 651:5, II-a. The wording in this section has not been changed and states that any person whose case was dismissed or not prosecuted

may petition for annulment of the arrest record at any time in accordance with the provisions of this section. Vote 10-5.

Amendment (0663h)

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

AN ACT relative to annulment of arrest records.

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

1 Annulment of Arrest Records. Amend RSA 651:5, II to read as follows:

II. *The arrest record of a person whose arrest has resulted in a verdict of not guilty by a jury or judge shall be immediately annulled by the court without requiring a petition.*

II-a. Any person whose ~~[arrest has resulted in a finding of not guilty, or whose]~~ case was dismissed or not prosecuted, may petition for annulment of the arrest record at any time in accordance with the provisions of this section.

2 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill requires the court to automatically annul the arrest record upon acquittal of any defendant.

HB 440, relative to hearing ear dogs, guide dogs, and service dogs. OUGHT TO PASS WITH AMENDMENT

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill is long overdue and provides that those who interfere, or attempt to interfere, with a service dog, as defined in RSA 167-D: 1, IX, will now be guilty of a misdemeanor. Those who willfully torture, beat, kick, strike, mutilate, injure, disable, or otherwise mistreat a service dog shall be guilty of a class B felony. There was no testimony opposed to this bill. Those who use service dogs, gave testimony of how these dogs are their eyes and ears and in some cases they are helpless without their dogs. The amendment takes out the provision in the original bill of a defendant having to make full restitution of a service dog, which included the value of the service dog to the service animals user, any and all veterinary expenses and compensation for wages, or earned income lost by the animal user, which the committee felt was not reasonable. Vote 14-0.

Amendment (0645h)

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

1 New Paragraph; Prohibited Acts. Amend RSA 167-D:7 by inserting after paragraph II the following new paragraph:

III. It is unlawful for any person to willfully interfere or attempt to interfere with a service dog, as defined in RSA 167-D:1, IX.

2 Penalty. Amend RSA 167-D:9 to read as follows:

167-D:9 Penalty.

I. Any person violating any provision of this chapter shall be guilty of a misdemeanor.

II. *Any person who willfully tortures, beats, kicks, strikes, mutilates, injures, disables, or otherwise mistreats a service dog, or who willfully causes the death of a service dog shall be guilty of a class B felony.*

3 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill clarifies the penalty for interference with a service dog and for mistreating such dogs.

HB 468, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff. OUGHT TO PASS WITH AMENDMENT

Rep. William V. Knowles for Criminal Justice and Public Safety: This legislation is proposed to clarify legislative intent after a Supreme Court decision *State v. Kidder* outlining guidelines which must be adhered to by attorneys, or any person on an attorney's behalf, who is representing the defendant in an action brought under the domestic violence statute RSA 173-B, or the stalking statute RSA 633:3-a, where a protective order is in force, and contact by such authorized individual with the plaintiff for a legitimate purpose is desired. Any person who knowingly fails to comply with the requirements of this section when making contact with the plaintiff shall be guilty of a violation of a protective order. Vote 16-0.

Amendment (0583h)

Amend RSA 173-B:5-a as inserted by section 1 of the bill by replacing it with the following:
173-B:5-a Permissible Contact.

I. A protective order issued pursuant to RSA 173-B:4 or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact; and, if an attorney, acts in accordance with the Rules of Professional Conduct.

II. Any person who knowingly fails to comply with the requirements of this section when making contact with the plaintiff shall be guilty of a violation of a protective order under RSA 173-B:9.

Amend RSA 633:3-a, III-c, as inserted by section 1 of the bill by replacing it with the following:

III-c.(a) A protective order issued pursuant to this section, RSA 173-B:4, or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact; and, if an attorney, acts in accordance with the Rules of Professional Conduct.

(b) Any person who knowingly fails to comply with the requirements of this paragraph when making contact with the plaintiff shall be guilty of a violation of a protective order under RSA 173-B:9.

AMENDED ANALYSIS

This bill sets forth conditions under which permissible contact may occur between the agent of a defendant subject to a protective order and the plaintiff.

HB 486, establishing a committee to study firearms confiscation practices in domestic violence matters. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill would establish a committee to study firearms confiscation practices in domestic violence matters. The current law is the end result of two years of work where these issues were studied in depth. There

was strong testimony from several groups that had participated in the earlier studies that the concerns expressed by the sponsor had been addressed already and that this bill is unnecessary. Vote 15-1.

HB 527, relative to protective orders and possession of firearms. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill makes several major changes to the domestic violence statute as it currently exists. These changes would seriously dilute the protection provided in RSA 173-B in particular as it pertains to the confiscation of the defendant's firearms. The law as written provides a showing of immediate and present danger of abuse. The proposed bill would allow confiscation only after a hearing and a finding by clear and convincing evidence that failure to relinquish the weapons places the plaintiff in immediate physical danger. The purpose of a temporary order is to protect the plaintiff from further abuse. Removing weapons as part of a temporary order is both reasonable and prudent. The defendant has opportunity at the final hearing to put forth arguments as to why his or her weapons should be returned. Vote 16-0.

HB 531, relative to application for a writ of habeas corpus. **INEXPEDIENT TO LEGISLATE**

Rep. Gene P. Charron for Criminal Justice and Public Safety: This bill wishes to further provide definition as to who may apply for a writ of habeas corpus by using the term "human being" as opposed to "person" in RSA 534:3. Testimony from the Attorney General's office indicated that the bill is unnecessary. The committee felt that since Black's Law Dictionary defines person as a "Human Being" and the possibility that allowing anyone to file writs on behalf of a person could result in a flood of Habeas Corpus writs being filed unnecessarily, that the current statute should not be changed. Vote 15-0.

HB 533-FN, relative to penalties for aggravated felonious sexual assault. **OUGHT TO PASS**

Rep. William V. Knowles for Criminal Justice and Public Safety: This legislation was proposed by the Department of Justice. In 1992 the penalties for aggravated felonious sexual assault (AFSA) were revised. The legislature was troubled by the high incidence of repeat offenders, noting that on average, convicted rapists have committed seven other rapes for which they were not arrested or prosecuted. In RSA 632-A: 10-a, III we provided that if the court finds that a defendant has previously been convicted of two or more offenses under RSA 632-A: 2, the defendant shall be sentenced to life imprisonment and shall not be eligible for parole at any time. We defined "previously convicted" as any conviction obtained by trial on the merits, or negotiated plea with the assistance of counsel and evidencing a knowing and voluntary waiver of the defendant's rights, provided, however, that previous imprisonment is not required. The case of State of New Hampshire v. Melvin was heard in the Supreme Court. In 1986, Mr. Melvin pled guilty to two counts of aggravated felonious sexual assault. He was sentenced to four to twelve years for one charge and received a suspended sentence of seven and one-half to fifteen years on the other charge. The offenses occurred on February 13 and April 4 of 1985 charging he sexually penetrated the same eight year old victim. In 2001 he pled guilty to fifteen counts of A.F.S.A. and one count for felony exposure. Based upon the two convictions in 1986, the Superior Court sentenced him to life imprisonment without parole. The 2001 charges involved three different victims between September 1999 and August 2000. The sentence was upheld. The court ruled that when two offenses occurring at different times are consolidated, upon conviction of both, one of the convictions may be used as the prior conviction for the other. A hypothetical question was posed to the court asking the consequences if a defendant assaulted three different victims six separate times in one episode. The court pointed out that if this defendant were convicted of a "single criminal episode," such conviction would only constitute a single

conviction for sentencing purposes. This bill should clarify legislative intent. It reads as follows: If the court finds that a defendant has been previously convicted of 2 or more offenses under RSA 632-A:2 or any other statute prohibiting the same conduct in another state, territory or possession of the United States, and at last 2 offenses of which were committed against different victims, neither of whom was the victim of the offense for which the defendant is being sentenced, the defendant shall be sentenced to life imprisonment and shall not be eligible for parole at any time. If the court finds that a defendant has been previously convicted of 2 or more offenses under RSA 632-A: 2 or any other statute prohibiting the same conduct in another state, territory, or possession of the United States, and the prior convictions do not satisfy the requirements of this paragraph, the court may impose a sentence of up to life without parole, but shall impose a minimum sentence of not less than 25 years. Vote 16-0.

HB 558, relative to the circumstances constituting sexual assault. **OUGHT TO PASS WITH AMENDMENT**

Rep. William V. Knowles for Criminal Justice and Public Safety: The current statute, RSA 632-A: 4 on sexual assault, has a loophole that this bill attempts to solve. The statute applies to cases of sexual contact. Current law does not allow prosecution of a case of a victim who is 13 years of age and under 16 years of age, unless by force or coercion. The age of consent is 16. There have been numerous cases we have been told, that if the juvenile permits someone to touch his or her genitalia, no chargeable crime has been committed. The majority of the committee feels that this should be corrected. This bill accomplishes that end. There is a provision in the bill pertaining to sexual contact between the actor and the person who is age 13 or older and under 16 years of age, and the age difference between the actor and the other person is 3 years or less. If charges are brought forth, it shall be a class B misdemeanor which provides for no jail time. Without this provision, it would be a class A misdemeanor which could require jail time. If there was no penalty at all for this age group, it might lead to abuse of the statute. Vote 14-2.

Amendment (0584h)

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

II. A person found guilty under subparagraph ~~I(b)]~~ **I(c) or paragraph I-a** of this section shall not be required to register as a sexual offender under RSA 651-B.

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-3 to read as 3-4, respectively:

2 New Paragraph; Sexual Assault; Class B Misdemeanor Offense. Amend RSA 632-A:4 by inserting after paragraph I the following new paragraph:

I-a. When the actor subjects another person, other than the actor's legal spouse who is 13 years of age or older and under 16 years of age, to sexual contact and the age difference between the actor and the other person is 3 years or less, the actor shall be guilty of a class B misdemeanor.

HB 643-FN, establishing an integrated criminal justice information system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: This bill creates the "one network environment for justice," an integrated criminal justice information system known as J-One, for the following purposes: To promote the efficiency of state government by reducing the cost of collecting, retrieving, and disseminating criminal justice information by criminal justice agencies; improving public safety and domestic security by allowing criminal justice agencies to record, share and retrieve criminal justice information in a timely fashion and providing criminal justice agencies, legislators and the public with statistical information about the criminal justice system for analysis and development of public policy

initiatives. The bill further promotes the administration of justice for all citizens by increasing efficiency in the collection and maintenance of criminal justice information and by improving the accuracy, timeliness and transmission of information among criminal justice agencies. The bill will enhance the public's understanding of the criminal justice system and the development of sound public policy in the area of criminal justice by making available comprehensive statistical information on the arrest, prosecution and disposition of individuals charged with crimes in the state of New Hampshire. The bill specifically strives to protect personal privacy by restricting access to the database. The amendment requires that on a monthly basis any name in the master index that has had no activity for five years be expunged from the database further protecting personal privacy. Vote 14-0.

Amendment (0520h)

Amend RSA 106-J:3, VI(e) as inserted by section 2 of the bill by replacing it with the following:

(e) J-One shall, on a monthly basis, expunge from the master name index any name that has had no activity for 5 years. For purposes of this subparagraph, "activity" means any submission of additional information or query on the name with a new agency case number.

Referred to the Committee on Finance.

HB 667-FN, relative to reckless conduct. **INEXPEDIENT TO LEGISLATE**

Rep. James H. Oliver for Criminal Justice and Public Safety: This bill is intended to expand Reckless Conduct with use of a vehicle as a deadly weapon in D.W.I. pursuit, or as a weapon. Though well intended to enhance penalties to help law enforcement, the committee feels RSA 631:3 and RSA 625:11 are adequate to meet this need. Vote 15-0.

HB 706-FN, relative to the cost of storage of firearms which are voluntarily surrendered to local law enforcement agencies. **INEXPEDIENT TO LEGISLATE**

Rep. Jordan G. Ulery for Criminal Justice and Public Safety: The committee reviewed existing procedures and found that current practice was what the bill attempted to do. Local police have the ability to sell confiscated weapons in their possession, or turn them over to the New Hampshire State Police. If voluntarily surrendered to the State Police, the local agency does not participate in the proceeds. The local police have the option of undertaking the sale themselves. This bill does not appear to be necessary. Vote 14-0.

SB 76, relative to the extension of restraining orders under the domestic violence protection act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Lee M. Hammond for Criminal Justice and Public Safety: Persons suffering from domestic violence currently have to return to court annually to petition renewal of court orders protecting them from continued stalking. They are forced to face their persecutors at that time which is both emotionally devastating and financially draining for the victim and psychologically stimulating to the perpetrator, frequently resulting in an increase of the harassment. This bill would give a judge the discretion to renew the no contact order for a period of up to five years without a face-to-face court appearance having to occur every year. Vote 16-0.

Amendment (0635h)

Amend the bill by replacing section 3 with the following:

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

HB 248, authorizing semi-annual payments of school building aid. **OUGHT TO PASS**

Rep. Mark S. Carter for Education: This bill comes at the request of the Department of Education. The current method of distribution of school building aid is not working well. HB

248 returns distribution regulation to prior law and is more flexible and more accurate. The education committee unanimously agreed. Vote 20-0.

HB 301-L, relative to parent advisory councils for pupils with educational disabilities.
OUGHT TO PASS WITH AMENDMENT

Rep. Debra A. Naro for Education: The amended version of HB 301 allows school districts to establish parent advisory councils to advise school boards on matters pertaining to the education of students with disabilities. The committee heard compelling testimony that an active and effective special education advisory council can be a true asset to a school district by providing meaningful parent involvement and input on special education issues. The Parent Advisory Council also provides a mechanism for parent education that can make a positive difference in student achievement outcomes. One study, conducted over a seven year period, found a strong correlation between improved reading achievement and the presence of an active and strong local school council. This is especially significant as the 2004 NHEIAP assessments identified several New Hampshire schools as “in need of improvement,” based on the test scores of students with disabilities. While the confidentiality of children and their families is protected by the provisions of FERP, the practices and policies of the school district need transparency to ensure efficiencies and the delivery of a Free and Appropriate Public Education, as required by federal law. The Education Committee believes encouraging districts to establish parent advisory councils will promote dialogue and collaboration among stakeholders, and much needed accountability by the system. The committee voted OTP/A, 20-1. Vote 20-1.

Amendment (0810h)

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Parent Advisory Councils. Amend RSA 186-C by inserting after section 28 the following new subdivision:

Parent Advisory Councils

186-C:29 Parent Advisory Councils.

I. Every school board may establish a parent advisory council to advise the school board on matters pertaining to the education and safety of educationally disabled children.

II. The membership in the council shall be open to any parent or legal guardian of an educationally disabled child, as defined in RSA 186-C:2, I, and any other interested party appointed by the school board.

III. The council shall have no fewer than 5 members, and the school board may establish a maximum number of members on the council, provided that parents or legal guardians of educationally disabled children constitute a majority of the council's membership.

IV. A parent advisory council:

(a) Shall advise the school district on matters pertaining to the education and safety of educationally disabled children.

(b) Shall meet with school district officials provide input in the planning, development, and evaluation of the school district's education programs and services and recommend improvements or adjustments to such programs and services as deemed necessary.

(c) Shall establish bylaws for the conduct of internal operation and procedure.

(d) May report, in writing, non-binding recommendations for legislation and rules, to the school board, the school administrative unit, the department of education, and the state advisory council under RSA 186-C:3-b.

V. A school district shall:

(a) Work with its schools to ensure that all school-level parental involvement policies meet the requirements of the Elementary and Secondary Education Act of 1965

(ESEA), as reauthorized by the No Child Left Behind Act of 2001, and that each school includes, as a component, a school-parent compact consistent with the ESEA.

(b) Cooperate with the parent advisory council, which may conduct at least one workshop per year concerning the educational rights of educationally disabled children and their parents or legal guardians under federal and state education laws.

(c) Provide a parent with notification of the existence of the parent advisory council when the child is referred to special education.

VI. The school district shall provide meeting space and may provide administrative support to its parent advisory council.

AMENDED ANALYSIS

This bill requires a school district to establish a parent advisory council to advise the school district on matters pertaining to the education and safety of educationally disabled children.

HB 341, establishing a committee to study the curriculum content of an adequate education. INEXPEDIENT TO LEGISLATE

Rep. Clifford A. Newton for Education: This bill has many ambiguities and seeming inconsistencies, such as being composed of only six members, but has three subcommittees of three to five members. There is a statutory commission on adequate education that can study curriculum content and the committee has retained a bill to define an adequate education. Therefore, this bill, as written, is not necessary and the committee recommends inexpedient to legislate. Vote 18-0.

HB 389, relative to the duties of the postsecondary education commission. OUGHT TO PASS

Rep. Stephen R. L'Heureux for Education: This bill requires the postsecondary education commission to distribute financial aid to certain individuals based on residency in New Hampshire. Testimony revealed that during a Joint Legislative Committee on Administrative Rules hearing, it was unclear if the commission could determine residency. This bill allows the commission to adopt rules regarding residency and defines residency in New Hampshire as the previous 12 months prior to the distribution of financial aid. Vote 15-0.

HB 390, relative to the review and approval of individualized education plans. INEXPEDIENT TO LEGISLATE

Rep. Debra A. Naro for Education: This bill requires that an Individual Education Plan be reviewed by a school board or a sub-committee of a school board and shall be approved by a school board. This bill was motivated by a desire to involve local policymakers in individual special education decisions and in controlling costs. However, the requirements of this bill spotlighting individual students are in direct violation of state and federal special education laws. The review of Individual Education Plans (IEPs) and decision-making authority about a student's program and education placement are the exclusive responsibility of the IEP team (34 CFR 300.16 and 34CFR 300.344) which includes a regular educator, special educator, administrator, and the child's parents or guardian. Others with pertinent knowledge or special expertise about the child may be invited by the parents or the Local Education Agency (LEA), however, the process does not extend beyond the team. The confidentiality of children and their families is also protected by the provisions of FERPA. Furthermore, it is imperative that school board members remain neutral in the event of an appeal on disciplinary hearings. The involvement required by HB 390 in individual cases would prevent the necessary impartiality. Vote 17-0.

HB 395, relative to the adoption of a long-term contract by a school district. INEXPEDIENT TO LEGISLATE

Rep. Timothy E. Easson for Education: The prime sponsor gave a letter to the chair requesting that the bill and HB 396 be tabled or found inexpedient to legislate because the actions of the voters in Bedford made this piece of legislation unnecessary. Vote 17-0.

HB 396, relative to tuition contracts between schools. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy E. Easson for Education: The prime sponsor gave a letter to the chair requesting that this bill and HB 395 be tabled or found expedient to legislate because the actions of the voters in Bedford made this piece of legislation unnecessary. Vote 16-0.

HB 435, establishing a separate high school civics graduation requirement. **OUGHT TO PASS**

Rep. Timothy E. Easson for Education: The sponsors of the bill highlighted the lagging level of civics education in our schools. The committee believes that there needs to be a greater emphasis on civics education in the classroom. The committee also agrees with the prime sponsor when he said, "This country was founded on the classic liberal beliefs that those who would eventually lead the country must understand it and its workings ...we must make sure that we leave the trusteeship of government in capable, understanding and willing hands. The best way to ensure that is to make sure that they know the basic tenets, liberties, freedoms, and workings of our government, constitutions, and way of life." Although the committee heard testimony that these enhanced standards were likely to be included in the new proposed minimum standards by the state board of education, the committee believes that the high importance of civics education is worthy of being in statute. Vote 18-0.

HB 441, relative to the publication of honor rolls and academic awards. **INEXPEDIENT TO LEGISLATE**

Rep. Paul C. Ingbretson for Education: This bill is unnecessary because the Federal FERPA laws already cover all aspects of this issue. Vote 13-0.

HB 442, establishing a committee to study the feasibility and need for a vocational technical education program at Mascoma Valley regional high school. **INEXPEDIENT TO LEGISLATE**

Rep. Michael A. Balboni for Education: The committee believes that the goal of this bill can be accomplished locally without a legislative study committee. In addition, there is an existing statutory committee that can assist the community in determining the feasibility and need for a vocation technical education program at Mascoma Valley Regional High School. Vote 15-1.

HB 557, relative to the submission of data to the department of education. **OUGHT TO PASS**

Rep. J. Timothy Dunn for Education: This bill aligns and clarifies the language in current statutes to prevent confusion by bodies submitting reports to the departments, (section 189:28). It does the same for section 198:44-45. Language was added to cover maintenance and charter schools. Additionally, this repeals rules for department of education to define adequacy. Vote 17-0.

HR 12, proclaiming the first week of each school year as "Dictionary Week." **OUGHT TO PASS**

Rep. Timothy E. Easson for Education: This resolution seeks to encourage greater use of dictionaries in schools. The committee heard testimony that verbal and written skills have lagged among students at all levels and that knowledge of the correct definitions of words is essential to success in society. The committee believes that use of dictionaries and phonics enhances vocabularies and students who use dictionaries are more self-confident and

empowered to take active roles in their education. Vote 10-5.

HB 366, relative to maintenance of voter checklists. **OUGHT TO PASS WITH AMENDMENT**

Rep. William L. O'Brien for Election Law: Under the Help America Vote Act (HAVA), each state will be required to implement a statewide database of voters and to update it at least three times a year. For the reason that the secretary of state will then be able to sell the checklist, this enabling legislation is needed to set the terms and fees associated with that service. The bill, as amended, limits the secretary of state to providing electronic copies of the list to political committees of political parties and registered or nominated candidates in order to address privacy concerns. In addition, the secretary of state would not be allowed to sell less than a list of the full state in order to avoid loss of revenue to the towns and cities. Finally, the fee has been set in the bill at \$25 for lists up to 2500 names and one-twentieth of a cent for each name after 2500, which is an amount that the committee determined would cover costs but not result in a surplus. Vote 11-4.

Amendment (0871h)

Amend the bill by replacing section 1 with the following:

1 Reports of Transfer. Amend RSA 654:36 to read as follows:

654:36 Reports of Transfer. If the supervisors of the checklist have received a notice of transfer from another board of supervisors of the checklist in the state of New Hampshire that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. ~~[They shall retain the notice as proof of their reasoning in striking the name from the checklist.]~~ ***If the secretary of state receives notice from the election officials of any other state that a voter whose name is on the checklist of any town or ward in New Hampshire has been added to the checklist of any voting jurisdiction in any other state, the secretary of state shall cause that voter's name to be removed from the checklist of the town or ward where the voter had been registered as maintained in the centralized voter registration database established pursuant to RSA 654:45.***

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 9:

4 Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

I. The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The ***secretary of state or the supervisors of the checklist*** shall furnish one or more copies of the most recent checklist to any person requesting such copies. ~~[If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall be furnished copies in any of those forms according to his preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist, except that in no event shall the fee for paper copies of any single town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it. The fee shall be for the use of the town or city.]~~ ***Only the supervisors of the checklist may provide checklists of less than the entire state. The supervisors of the checklist may charge a fee of up to \$25 for each copy of the checklist for a town or ward. For checklists containing more than 2,500 names, the secretary of state or the supervisors of the checklist may charge a fee of up to \$25, plus \$0.0005 per name for each name in excess of 2,500, plus any shipping costs.***

II. The secretary of state may provide checklist information on computer disk, computer tape, electronic transfer, or any form other than paper only to a political committee of a political party as defined in RSA 664:2, V, or a candidate who has filed for consideration for any office in any primary or general election or who has been nominated for any office in a general election. The fee charged for checklists provided by the secretary of state or supervisors of the checklist in any form other than paper shall be based solely on the additional costs incurred to provide such checklists.

III. Fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under this section shall be for the use of the town or city.

5 Right to Know Exemption. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The ~~[information contained on the]~~ checklist **information** of a town or city, specifically, the name, street address, **mailing address**, town or city, **voter identification number, voter history**, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A, **if such information is available in the statewide centralized voter registration database. Any person may obtain a copy of any affidavit used by an applicant for registration as a voter; provided; that the applicant's place of birth is redacted.** All other information on the voter registration form, absentee registration affidavit, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution. **In this section, "voter history" means the elections at which the voter voted.**

6 Verification Every 4 Years. Amend RSA 654:39 to read as follows:

654:39 Verification Every 10 Years.

I. In addition to any verification carried out under the provisions of RSA 654:38, the supervisors shall verify the checklist in [1981] **2007, 2009**, and once every [10] **4** years thereafter.

II. Between April 1 and August 1 of [1981] **2007 and 2009** and thereafter in each year ending [with a one] **after a presidential election**, the supervisors shall advertise and post notice of their sessions at least twice in a newspaper of general circulation and at the office of the town or city clerk or at the town hall and hold sufficient sessions for verification of the checklist as in their opinion will enable all eligible voters in said town or ward to appear before them and register or reregister as the case may be. Whenever a person is reregistered, his **or her** party designation, if any, on the checklist undergoing revision shall not be changed except as provided in RSA 654:34.

III. Beginning June 1 of such year, the supervisors shall review the checklist and shall strike therefrom the names of all persons who have not registered or reregistered under paragraphs I and IV; provided, that there shall not be stricken from said checklist the name of any person duly qualified to vote unless such person, not less than 30 days prior to such action, shall have been sent notice by the supervisors at his **or her** last known address of his **or her** failure to reregister stating the procedure to be followed in order to reregister and have his **or her** name retained on said checklist nor unless such person shall have been given a reasonable opportunity to follow said procedure.

IV. For the purpose of this section, a person shall be deemed reregistered and need not appear before the supervisors if[-

(a)] the person voted in [~~either of the 2 previous state general elections immediately preceding a 10 year verification; or~~

(b) ~~The person voted in the annual town election in the year of a 10 year verification or, if in a city, the most recent regular city election held prior to the verification]~~ **the town or ward where he or she is registered at any election held within the previous 4 years.**

V. Upon completion of verification of the checklist, but in no event later than [September] **December** 1, the supervisors shall file with the secretary of state the following certificate: We, the supervisors of the checklist (or registrars of voters) of the town (or ward _____) of _____, do hereby certify that we have verified the checklist of registered voters in the town (or ward _____ of the city) of _____, pursuant to the provisions of RSA 654:39.

VI. In verifying the checklist in accordance with this section, the provisions of RSA 654:38, IV and V shall apply.

7 Centralized Voter Registration Database; Voter Identification Numbers. Amend RSA 654:45, I to read as follows:

I. The secretary of state is authorized to plan, develop, equip, establish, site, and maintain a statewide centralized voter registration database and communications system, hereinafter referred to as the voter database, connecting users throughout the state. The voter database shall include the information on the voter registration form and the voter checklists maintained by each city, ward, and town in the state. ***The secretary of state is authorized to assign unique voter identification numbers to registered voters in the voter database.***

8 Sending Absentee Ballots. Amend RSA 657:15 to read as follows:

657:15 Sending Absentee Ballots. When the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver or mail to the applicant the appropriate ballot and materials as described in RSA 657:7 through 657:9 or designate an assistant to deliver such materials to the applicant. The clerk may not designate as an assistant any person who is a candidate for nomination or office or who is working for such a candidate. Any ballots sent pursuant to the provisions of this section shall be mailed or delivered only by officials from the city or town clerk's office and delivered only to the applicant. If the address to which the absent voter's ballot is sent is outside the United States or Canada, such papers shall be sent by air mail. Said clerks shall keep lists of the names and addresses, arranged by voting places, of all applicants to whom official absent voting ballots have been sent, and shall identify those official absent voting ballots which have been returned to the clerk. Candidates whose names appear on the ballot and persons bearing notarized requests or copies of notarized requests from candidates whose names appear on the ballot may obtain copies of such lists; the lists shall not be available for public inspection at any time without a court order. ***The clerk shall charge a fee for copies of such lists of \$3 plus \$1 for every 50 names or portion thereof, plus any shipping costs.***

AMENDED ANALYSIS

This bill:

I. Establishes requirements for the secretary of state to cause the removal of certain names from voter checklists.

II. Modifies fees and procedures for obtaining copies of voter checklist information.

III. Changes the 10-year checklist verification to a 4-year checklist verification.

IV. Authorizes the secretary of state to assign voter identification numbers.

V. Establishes fees for absentee voter lists.

HB 381-FN, relative to special elections, voter lists, and conduct of elections. **OUGHT TO**

PASS WITH AMENDMENT

Rep. Richard B. Drisko for Election Law: This bill clarifies four functions of the secretary of state's office. First, it permits the secretary of state to make the state data base available to assist in the preparation of master jury lists pursuant to RSA 500-A and also to the U.S. District Court of New Hampshire to assist in the preparation of federal court jury lists. Further the bill addresses special elections and the desire to have them coincide with regular elections rather than standing alone at additional cost. The bill recommends timing for governor and council declaration of special election dates. The remaining two issues spoke to forbidding electioneering at polling places by election officers and electioneering by public employees. It contains a clear definition of "public employee." Vote 13-1.

Amendment (0733h)

Amend the bill by replacing section 2 with the following:

2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as follows:

VI. The voter database shall be private and confidential and shall not be subject to RSA 91-A and RSA 654:31. ***The secretary of state is authorized to provide voter database record data to the administrative office of the courts to assist in the preparation of master jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States for the District of New Hampshire to assist in the preparation of federal court jury lists.*** The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor.

AMENDED ANALYSIS

This bill:

- I. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.
- II. Permits certain special elections to coincide with regularly-scheduled elections.
- III. Modifies state electioneering prohibitions.
- IV. Makes technical changes to certain election laws.

HB 712-FN, relative to electioneering. INEXPEDIENT TO LEGISLATE

Rep. Richard B. Drisko for Election Law: This bill would broaden the applicability of the statute prohibiting certain electioneering by public employees. A new definition of public employee is contained in this bill. The unanimous opinion of the committee is that HB 381 covered the same ground in more detail with the necessary definitions. Vote 14-0.

HB 293, establishing a commission to study the development of a materials resource and recovery facility in Sullivan County. OUGHT TO PASS WITH AMENDMENT

Rep. Burton W. Williams for Environment and Agriculture: A state commission to study the development of a materials resource and recovery facility in Sullivan County has become necessary. Most municipalities in Sullivan County are currently involved in a cooperative incineration facility for which the contract is due to expire in 2007. A state commission would provide more credibility in helping them solve their problems. Vote 13-0.

Amendment (0807h)

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

AN ACT establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county.

Amend the bill by replacing section 1 with the following:

1 Commission Established. There is established a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall:

I. Determine the feasibility of developing a materials resource and recovery facility in Sullivan county.

II. If feasible, determine a site for the facility. Candidate sites shall include but not be limited to, brownfield sites within Sullivan county as well as the current Wheelabrator site in Claremont.

III. Study and identify disposal options.

IV. Explore all funding options for the construction and operation of a county-wide facility and the feasibility of a county-wide landfill.

Amend the bill by replacing section 5 with the following:

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the state library, and the municipalities located in Sullivan county on or before September 1, 2006.

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county.

HB 479, relative to tax bills for land use change taxes. **INEXPEDIENT TO LEGISLATE**
Rep. Jane E. Beaulieu for Environment and Agriculture: The committee felt that 60 days was not sufficient time to assess, record and mail current use change of use tax bills. Vote 13-0.

HB 560, relative to timber harvesting. **OUGHT TO PASS WITH AMENDMENT**
Rep. James F. Powers for Environment and Agriculture: This bill improves compliance with environmental rules by including procedures in the best management practices involving erosion control. It also allows the division of forest and lands to write cease and desist orders against a timber operation in violation of such procedures, where previously a warden had to work through the Department of Environmental Services. Vote 13-0.

Amendment (0786h)

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

1 Timber Harvesting; Terrain Alteration Permits. Amend RSA 485-A:17, III to read as follows:

III. Normal agricultural operations shall be exempt from the provisions of this section. The department may exempt other state agencies from the permit and fee provisions of this section provided that each such agency has incorporated appropriate protective practices in its projects which are substantially equivalent to the requirements established by the department under this chapter.

IV. Timber harvesting operations shall be exempt from the fee provisions of this section. ~~[Permits shall be granted for timber harvesting operations provided that the department of revenue administration's intent to cut form is completed.]~~ ***Timber harvesting operations shall be considered in compliance with this section and shall be issued a permit by rule provided such operations are in accordance with procedures prescribed in the Best Management Practices for Erosion Control on Timber Harvesting operations in New Hampshire, published by the department of resources and economic development, and provided that the department of revenue administration's intent to cut form is signed.***

2 Prosecution Authority. RSA 485-A:22-a is repealed and reenacted to read as follows:

485-A:22-a Cease and Desist Orders; Penalty. The director of the division of forests and lands, department of resources and economic development, or his ***or her*** authorized agents, may:

I. Issue a written cease and desist order against any timber operation in violation of this chapter. Any such violation may be enjoined by the superior court, upon application of the attorney general. A person failing to comply with the cease and desist order shall be guilty of a violation.

II. Prosecute any violation of this chapter as a violation. This provision shall not limit the state's enforcement authority under this chapter.

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

AMENDED ANALYSIS

This bill exempts certain timber harvesting operations from certain environmental laws.

This bill also grants the director of the division of forest and lands the ability prosecute certain violations of law.

HB 562, relative to eliminating certain mercury-added products. **OUGHT TO PASS**
Rep. Suzanne S. Butcher for Environment and Agriculture: This bill is a continuation of the state's mercury reduction policy. It creates a two-step program which will phase out sale or distribution of products containing more than 1,000 mg of mercury in 2007 and more than 100 mg in 2009. Pharmaceuticals, biological products, and certain specialty lamps are exempted. Button cell batteries and fluorescent tubes contain less than 100 mg of mercury and therefore would not be subject to the ban. Many products such as thermometers, pressure measuring devices, switches, relays, and thermostats already have economical, functional equivalents on the market. There is an exemption for devices for which there is not a suitable, economical alternative. In conjunction with HB 371, this is a further step toward eliminating man-made mercury releases as called for by New Hampshire's Mercury Reduction Strategy and the Regional Mercury Action Plan. It is supported by the Department of Environmental Services. Vote 13-0.

HB 573, establishing a committee to study automobile disposal fees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Burton W. Williams for Environment and Agriculture: Due to the complexities of our modern automobiles, and the many parts both hazardous and otherwise involved in the recycling process it has become necessary to establish a commission to study automobile disposal fees. Vote 18-0.

Amendment (0771h)

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

AN ACT establishing a commission to study automobile recycling issues, including disposal fees.

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

1 Commission Established. There is established a commission to study automobile recycling issues, including disposal fees.

2 Membership and Compensation.

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

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

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

(c) The commissioner of the department of environmental services, or designee.

(d) The commissioner of the department of safety, or designee.

(e) The commissioner of the department of transportation, or designee.

(f) One representative from the Auto Recyclers Association of New Hampshire, appointed by said association.

(g) One representative from the scrap processors industry, appointed by the speaker of the house of representatives.

(h) One representative from the Alliance of Automobile Manufacturers, appointed by the speaker of the house of representatives.

(i) One representative from the New Hampshire Auto Dealers Association, appointed by said association.

(j) One representative from the New Hampshire Municipal Association, appointed by said association.

(k) One representative from New Hampshire the Beautiful, Inc., appointed by said corporation.

(l) One representative from the insurance industry, appointed by the speaker of the house of representatives.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study automobile disposal or recycling fees, and whether said fees should be assessed at the time of purchase or at the time of disposal, and what department or entity should receive the fees and administer the program.

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

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005.

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

AMENDED ANALYSIS

This bill establishes a commission to study automobile recycling issues, including disposal fees.

HB 580, establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D, and providing joint and several liability on all municipalities from a dissolved solid waste management district. **OUGHT TO PASS WITH AMENDMENT**

Rep. Burton W. Williams for Environment and Agriculture: Over the years many solid waste management districts and interstate waste compacts have been formed. A commission to study the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compacts under RSA 53-D has become necessary. Vote 13-0.

Amendment (0741h)

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

AN ACT establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

Amend paragraph III of section 3 of the bill by replacing it with the following:

III. The effect of withdrawal of a majority of the members from a solid waste management district on the continuing environmental liabilities of the remaining district members.

Amend the bill by replacing section 5 with the following:

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, all member municipalities of the New

Hampshire/Vermont solid waste district, and the state library on or before November 1, 2005.

Amend the bill by deleting section 6 and renumbering the original section 7 to read as 6.

AMENDED ANALYSIS

This bill establishes a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

HB 114, relative to the regulation of pharmacists and pharmacy technicians by the pharmacy board. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charlotte Houde-Quimby for Executive Departments and Administration: This bill makes changes to the pharmacy bill to allow electronically transmitted prescriptions and seeks to list categories of personnel responsible for various aspects of issuing prescriptions. The bill also adds podiatrists under the sale of hypodermic syringes. The committee strongly urges the pharmacy board to present the legislature with an extensive list of definitions next time they come before the legislature for any reason. Vote 16-0.

Amendment (0864h)

Amend the bill by replacing section 13 with the following:

13 Flunitrazepam; Controlled Drug Act; GHB and Ketamine Hydrochloride Removed. RSA 318-B:1-c is repealed and reenacted to read as follows:

318-B:1-c Flunitrazepam.

I. The legislature intends that the provisions of paragraph III of this section shall remain in effect until such time as flunitrazepam is scheduled by the commissioner of the department of human services in accordance with and pursuant to RSA 318-B.

II. The legislature finds that flunitrazepam, marketed under the trade name rohypnol, which has a sedative, hypnotic, and amnesiac effect, has no acceptable medical uses in the United States and carries a high potential for abuse. Therefore, flunitrazepam meets the criteria for placement on schedule I of controlled drugs.

III. Notwithstanding the provisions of RSA 318-B:1-a, relative to scheduling by rulemaking of the commissioner of the department of health and human services, flunitrazepam shall be scheduled as a schedule I controlled drug:

HB 290-FN, relative to participation in health savings accounts. **INEXPEDIENT TO LEGISLATE**

Rep. Maurice L. Pilote for Executive Departments and Administration: The committee heard testimony reminding us that federal law already allows this type of health savings account provided they include a high deductible (\$1,000.00 minimum). The committee has further concerns about the ability of the State of New Hampshire to introduce these accounts absent their inclusion in the state employee negotiated contract. Vote 16-0.

HB 354, relative to the review, approval, and adoption of agency rules. **OUGHT TO PASS**

Rep. Nelson S. Allan for Executive Departments and Administration: This bill allows house and senate policy committees to vote for a joint resolution on final agency rules, makes various changes to the adoption procedure for rules, and extends the study committee on improving the rule making process. This legislation was the output of a study committee and was well received by the Executive Departments and Administration Committee. It provides for more involvement of the policy committees in final approval process of agency rules, the primary issue identified by the study committee. Vote 19-0.

HB 383, relative to vital records administration. **OUGHT TO PASS WITH AMENDMENT**

Rep. A. Laurie Harding for Executive Departments and Administration: This bill was a result of the transfer of the vital records from Health and Human Services to the Secretary of

State. During this past summer, this committee rewrote rules into statutes. This bill will accomplish this task. This bill was amended to further clarify how the two departments will work together. The amendment is the result of subcommittee meetings which included representatives from the secretary of state's office as well as representatives from Health and Human Services. The amendment covers the process of handling requests for data for health related research as well as the process for adding or deleting data fields. Also included is a new section which requires a memorandum of understanding (MOU). This memorandum addresses the role of each agency in maintaining the state's vital record system. The purpose of the MOU is to facilitate a working relationship between the two agencies. The MOU will be reviewed annually at the request of the advisory committee on the quality of vital records information. The bill was further amended to change the retention of a natural fetal death record from one year to permanently. Vote 20-0.

Amendment (0905h)

Amend RSA 5-C:3, II as inserted by section 1 of the bill by replacing it with the following:

II. The division shall:

- (a) Provide access to vital records and vital records data while assuring the privacy of all New Hampshire citizens.
- (b) Outline the confidentiality requirements for vital records.
- (c) Set forth the procedures, conditions, and criteria for release of information regarding vital records data and statistics.
- (d) Enforce the provisions of this chapter in regard to the collection, maintenance, and dissemination of vital records information.
- (e) Provide guidance to data collectors pursuant to this chapter.
- (f) Describe the informational requirements of the forms used by the division of vital records for the collection of vital records information.
- (g) Establish, in conjunction with the department of health and human services, the procedures, conditions, and criteria for release of information regarding vital records data and statistics for health-related research pursuant to RSA 126:24-d.

Amend RSA 5-C:5 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. The secretary of state shall not remove or add any data fields used for purposes of protecting the public health or to conduct health-related research without prior notice and agreement of the department of health and human services.

Amend RSA 5-C:9, V as inserted by section 1 of the bill by replacing it with the following:

V. Disclosure of certain information and statistical data to federal, state, or local agencies and research for legitimate purposes other than requests for vital records information for the purposes of health-related research under RSA 126:24-c may be authorized by the registrar under RSA 5-C:102-111.

Amend RSA 5-C:96, II(m) as inserted by section 1 of the bill by replacing it with the following:

(m) Fetal death report: retained permanently.

Amend RSA 5-C:102, III as inserted by section 1 of the bill by replacing it with the following:

III. In this chapter, the following persons shall be deemed to have a direct and tangible interest with regard to access to a vital record: the registrant; a member of the registrant's immediate family; the registrant's legal guardian; the registrant's legal representative; persons demonstrating a need for information for the determination or protection of a personal or property right; members of the press, radio, television, and other news media when the information requested by such media sources is of a public nature; persons authorized by the immediate family to conduct genealogical research; and the spouse

of a divorced or legally separated person whose former marriage has been legally dissolved who is requesting certified copies of such divorce, legal separation, or civil annulment record. Amend RSA 5-C:108 as inserted by section 1 of the bill by replacing it with the following:

5-C:108 Procedures for Requesting Vital Records Data for Health-Related Research. Vital records data or copies of vital records that directly or indirectly identify individuals shall be made available for health-related research purposes upon receipt of a written application and approval of the state's institutional review board pursuant to RSA 126:24-d. Amend RSA 5-C as inserted by section 1 of the bill by deleting RSA 5-C:109 and renumbering the original RSA 5-C:110-112 to read as RSA 5-C:109-111, respectively.

Amend RSA 5-C:110 as inserted by section 1 of the bill by replacing it with the following:

5-C:110 Public Use Statistical File. The department shall make available a public use statistical file containing vital record information of all New Hampshire residents. The public use statistical file shall not contain any identifying personal information or information to constructively identify an individual.

Amend the bill by inserting after section 10 the following and renumbering the original section 11 to read as 12:

11 New Section; Vital Records and Health Statistics; Memorandum of Understanding. Amend RSA126 by inserting after section 24-c the following new section:

126:24-cc Memorandum of Understanding. The commissioner and secretary of state shall enter into a memorandum of understanding to address the role of each agency in maintaining the state's vital record system. The memorandum shall facilitate a working relationship between the 2 agencies in meeting their respective responsibilities under this chapter and RSA 5-C. The memorandum shall be reviewed annually and may be modified at the request of either agency or at the request of the advisory committee on quality of vital records information under RSA 126:24-h.

AMENDED ANALYSIS

This bill repeals and reenacts RSA 5-C, relative to vital records administration. The bill removes the rulemaking authority of the secretary of state, division of vital records and codifies existing rules relative to vital records administration with certain technical changes, including that fetal death reports be retained permanently and that government agencies may make special arrangements to receive copies of vital records at a reduced cost. The bill also requires the secretary of state and the commissioner of the department of health and human services to enter into a memorandum of understanding relative to the state's vital record system.

HB 420, relative to licensing by the board of mental health practice. OUGHT TO PASS WITH AMENDMENT

Rep. James B. Coburn for Executive Departments and Administration: This bill adds language for procedures for receiving and addressing complaints against licensees who have had a personal or professional relationship with a board member, including guidelines for recusal and replacement of recused board members. The amendment has language proposed by the subcommittee and agreement by the board and others providing testimony. Vote 17-0.

Amendment (0881h)

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

AN ACT relative to receiving and addressing complaints against licensees by the board of mental health practice.

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

2 Mental Health Practice; Disciplinary Action; Agent of the Board. Amend RSA 330-A:27, IV to read as follows:

IV. No civil action shall be maintained against the board or any member of the board or its agents or employees with regard to any action or activity taken in the performance of

any duty or authority established by this chapter. No civil action shall be maintained against any organization or its members or against any other person for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter. ***Agents of the board granted immunity from civil action shall include persons assigned by the board to supervise disciplined licensees under board-imposed disciplinary requirements. Agents granted civil immunity shall not include supervisors of candidates for licensure. Any member of the board, employee, or agent shall comply with the ethical standards of his or her profession.***

3 New Paragraph; Mental Health Practice; Investigations and Complaints. Amend RSA 330-A:28 by inserting after paragraph I the following new paragraph:

I-a. Any board member who has had a personal relationship or has worked in a professional capacity with a complainant or with a licensee against whom a complaint has been filed or whose personal or professional views regarding the licensee or the complainant could prevent the board member from being impartial in considering the complaint shall recuse himself or herself from any investigation or disciplinary action against such licensee. If the chairman of the board is recused, the remaining board members shall elect an acting chairperson from among the board. The chairperson or acting chairperson shall appoint a former board member or a member from the appropriate advisory committee to replace the recused board member during the investigation and proceedings against the licensee. The replacement board member shall be from the same mental health discipline as the recused member.

4 Mental Health Practice; License Expirations. Amend RSA 330-A:31 to read as follows:

330-A:31 Expirations and Renewals. Licenses shall be valid for a period of 2 years and shall become invalid on the expiration date unless renewed. It shall be the duty of the board to notify every person licensed by the board under this chapter of the date of expiration of the license and the amount of the fee that shall be required for its renewal for 2 years. Such notice shall be mailed at least [~~one month~~] **2 months** in advance of the date of expiration of such license. Renewal shall be conditional upon filing a timely and complete renewal application and payment of the fee as set by the board.

5 Effective Date. This act shall take effect July 1, 2005.

HB 465-FN, authorizing the board of medicine to take non-disciplinary remedial action against physicians. **OUGHT TO PASS**

Rep. Ken Hawkins for Executive Departments and Administration: This bill allows the board of medicine to take non-disciplinary action against physicians. This would allow the board to have more options when dealing with a physician who has a physical or mental disability, disease or disorder. Currently, the only option is revocation. This bill gives the board of medicine four other options of actions, such as suspension, revocation, treatment care or practicing under the direction of another physician or a public or private health care program. Vote 13-0.

HB 481, establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, and RSA 171-B.

OUGHT TO PASS WITH AMENDMENT

Rep. Alida I. Millham for Executive Departments and Administration: This bill was requested by the Department of Health and Human Services for the purpose of establishing a commission to study the location of the secure psychiatric unit (SPU) and places where persons are committed under RSA 651:8-b (Persons Acquitted by Reason of Sanity); RSA 135-C (Mental Health Services System); RSA 171-B (Involuntary Admission for Persons Found not Competent to Stand Trial); RSA 623:1 (Correctional Facility Transfers). The SPU is currently located within the state prison. The study will examine locations that will enable medical reimbursement. Vote 13-0.

Amendment (0743h)

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

AN ACT establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1.

Amend the bill by replacing section 1 with the following:

1 Commission Established. There is established a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1.

Amend paragraph I of section 2 of the bill by inserting the following new subparagraph after subparagraph (d):

(e) A representative of the New Hampshire Association of Counties, correctional affiliate, appointed by the association.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1. The commission shall also examine the issue of federal reimbursement for the secure psychiatric unit.

AMENDED ANALYSIS

This bill establishes a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1.

HB 532, relative to the licensure of dentists by the board of dental examiners. OUGHT TO PASS WITH AMENDMENT

Rep. Charlotte Houde-Quimby for Executive Departments and Administration: This bill makes changes in the language for licensure of dentists requiring that an applicant for temporary licensure as a dentist in New Hampshire must be an active, inactive or former licensee in New Hampshire or in another state or Canadian province as determined by the board. Vote 14-0.

Amendment (0767h)

Amend the bill by replacing section 3 with the following:

3 Practice of Dentistry. Amend RSA 317-A:20, I(c)-(h) to read as follows:

(c) Directly or indirectly informs the public in any language, orally, in writing, or in printing, or by drawings, demonstrations, specimens, signs, or pictures that the person can perform or will attempt to perform dental operations of any kind; [or]

(d) Undertakes, by any means or method, ***including by use of electronic media***, gratuitously or for a salary, fee, money, or other reward paid or granted directly or indirectly to that person or to any other person, to diagnose or profess to diagnose, to treat or profess to treat, or prescribe for or profess to prescribe for any of the lesions, diseases, disorders, or deficiencies of the human oral cavity, teeth, gums, maxilla, or mandible or adjacent associated structures;

(e) [~~Extracts human teeth or corrects malpositions thereof or of the jaws~~]

Supervises a dentist within the scope of the practice of dentistry;

(f) Except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist, directly or indirectly by mail, carrier, personal agent, or by any other method, furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used and worn as substitutes for natural teeth, or adjusts the same; ***or***

(g) Administers dental anesthetics, either general or local[; ~~or~~]

~~(h) Engages in any of the practices included in the curricula of recognized dental colleges].~~

HB 595-FN, establishing the position of state meat inspector. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter F. Bergin for Executive Departments and Administration: The committee on Environment and Agriculture worked on reestablishing the position of state meat inspector as a classified state employee. The Executive Departments and Administration Committee listened to testimony and agreed with the Environment and Agriculture Committee that the position was needed. The said position shall be funded entirely through federal, state and private grants. Vote 19-0.

Amendment (0698h)

Amend the bill by replacing section 1 with the following:

1 Position Established. There is established in the department of agriculture, markets, and food, the position of state meat inspector who shall be a classified state employee. The state meat inspector shall enforce the provisions of RSA 427:1 through RSA 427:37. Said position shall be funded entirely through federal, state, and private grants.

AMENDED ANALYSIS

This bill establishes the position of state meat inspector. The position is funded by government and private grants.

HB 637-FN, relative to licensure of alcohol and drug abuse professionals. **OUGHT TO PASS WITH AMENDMENT**

Rep. Laurie A. Harding for Executive Departments and Administration: This bill amends RSA 330-c:9II(a), licensing requirements for alcohol and drug abuse professionals. The bill allows individuals who have gone through a masters degree program and who have had 2000 hours of supervised work experience sit for the licensing exam for alcohol and drug abuse professionals. Alcohol and drug abuse counselors have been licensed in New Hampshire since 1997. Prior to HB 637, all licensees including those that have a masters degree, were required to have 6000 hours of supervised work experience prior to taking the exam. HB 637 allows for another way to meet the licensing requirements. The amendment amends the original bill so that masters prepared individuals must take all the written and oral exams required of those individuals who get their licenses through 6000 hours of supervised work experience. Vote 14-0.

Amendment (0736h)

Amend the bill by replacing section 2 with the following:

2 Licensure as an Alcohol and Drug Counselor. RSA 330-C:9, II(a) is repealed and reenacted to read as follows:

(a) For licensure as an alcohol and drug counselor (LADC):

(1) Experience and competence-based licensure:

(A) 6,000 hours of supervised alcohol and drug abuse work experience;

(B) 270 hours of alcohol and drug abuse training and education;

(C) 300 hours of supervised practical training, which may be included as part of the requirements under subparagraph (a)(1)(A);

(D) Passing of the written ICRC test for alcohol and drug counselors; and

(E) Passing of the oral ICRC test for alcohol and drug counselors; or

(2) Master's degree licensure:

(A) A master's degree in clinically-based behavioral sciences or addiction counseling or a related field from an accredited college or university;

(B) 2,000 hours of supervised alcohol and drug abuse work experience, 1,000 of which shall be earned post-masters and 1,000 of which may be earned concurrent with the masters course of study.

(C) 270 hours of alcohol and drug abuse training and education;

(D) 300 hours of supervised practical training, which may be included as part of the requirements under (a)(2)(B);

(E) Passing of the written ICRC test for alcohol and drug counselors; and

(F) Passing of the oral ICRC test for alcohol and drug counselors.

HB 31-FN-A, relative to state matching funds for Federal Emergency Management Agency disaster assistance grants and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Robert L. Wheeler for Finance: The committee felt the frustration shared by the bill's sponsor in regard to timely re-imbursement of disaster expenses however there was little desire to use interest as a catalyst for payment. Vote 24-0.

HB 172, relative to periodic review of state contracts by the legislative fiscal committee. **INEXPEDIENT TO LEGISLATE**

Rep. Peter E. Franklin for Finance: The Finance Committee believes that the Fiscal Committee and the Governor and Executive Council have sufficient means to review state contracts, and therefore the bill is not needed. Vote 24-0.

HB 272-FN-A, making an appropriation to the barn preservation fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: The committee recognized the current financial circumstances of the State and desiring to keep the discussion going we submit the bill as Ought to Pass with Amendment with \$1 in it and ask for your support. Vote 22-2.

Amendment (0608h)

Amend the bill by replacing section 1 with the following:

1 Barn Preservation Fund; Appropriation. The sum of \$1 for the fiscal year ending June 30, 2006 is hereby appropriated to the barn preservation fund established in RSA 227-C:28, for the purpose of preserving historic barns and agricultural structures in New Hampshire. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill makes an appropriation of \$1 for the 2006 fiscal year to the barn preservation fund.

HB 547-FN, changing the funding limit for on-premise-use fuel oil storage facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kenneth L. Weyler for Finance: A tax on all heating oil entering New Hampshire is sent to a dedicated fund. There are three sub-funds, and this bill affects the Fuel Oil Discharge Cleanup Fund (FODCF). The board managing these funds felt that an increase in the disbursements to eligible private citizens was called for to conform with actual costs. Low income single family home-owners may apply for up to \$1,500 (increased from \$1,000) for upgrade replacement costs for heating oil storage tanks and related plumbing. Eligible recipients may also receive reimbursement for underground storage tank abandonment and removal. This program protects our ground water. The amendment corrects a typo and adds \$500 to make the \$2500. Vote 23-0.

Amendment (0541h)

Amend RSA 146-E:6, II as inserted by section 1 of the bill by replacing it with the following:

II. Owners of facilities or land eligible under this chapter may apply for reimbursement of court-ordered damages to third parties for bodily injury or property damage, and for the costs of on-site and off-site cleanup of fuel oil discharges in amounts not to exceed a total of \$500,000, incurred on or after October 1, 1992. Owners of on-premise-use facilities or land eligible under this chapter who have demonstrated financial need, may apply for reimbursement of costs to meet the requirements of RSA 146-E:4, I and II in amounts not to exceed a total of ~~[\$1,000]~~ ***\$1,500 and may apply for reimbursement of underground storage tank abandonment or removal costs in amounts not to exceed a total of \$2,500,*** incurred on or after ~~[July 1, 1999]~~ ***the effective date of this paragraph.***

HB 711-FN-A-L, making an appropriation for kindergarten in the town of Merrimack. **INEXPEDIENT TO LEGISLATE**

Rep. Linda T. Foster for Finance: Rather than approving a “legislative special”, the committee believes that the monies for Merrimack’s Kindergarten program are better placed in HB 2. Consequently, the committee voted HB 711-FN-A-L Inexpedient to Legislate and appropriated \$275,000. as an amendment to HB 2. Vote 21-1.

HB 140, prohibiting the use of drugs and poisons in hunting. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. L’Heureux for Fish and Game: This bill would have prohibited the use of any kind of poison or tranquilizer for the taking of wildlife. The committee felt that the bill had merit and good intent. However, testimony during the hearing indicated that there were sufficient RSA’s to address the sponsors’ concerns. The Fish and Game Department indicated it would like to review and analyze this issue before pursuing any further legislation. The committee unanimously agreed with the Department’s proposal. Vote 10-0.

HB 225, relative to liability for the use of municipal ski jump facilities. **INEXPEDIENT TO LEGISLATE**

Rep. Bette R. Lasky for Judiciary: This bill was introduced to limit a municipality’s liability for personal injury on property damage from using a municipal ski jump hoping that this would ease their liability insurance premiums. The committee found that granting immunity to the municipality in the absence of gross or wanton negligence when the ski jump is used for the purpose of ski jumping, and total immunity when used for any other purpose, would not adequately protect the public and would act as a disincentive to providing proper maintenance, supervision and security. Moreover, the testimony indicated strongly that the pool of ski jumps is too small for this bill to have more than a negligible effect upon liability insurance premiums. Vote 15-4.

HB 295, relative to access to certain motor vehicle records. **INEXPEDIENT TO LEGISLATE**

Rep. Peter Espieffs for Judiciary: Presently, under RSA 260:14 III-a, motor vehicle records, with some exceptions, may be made available to the Department of Transportation for enforcement of its toll collection responsibilities. The proposed bill seeks to add a new section authorizing release of motor vehicle records to a defense attorney of record in a criminal case, to his staff acting under his direction or to any private licensed investigator hired by the attorney. The bill gives defense counsel, his staff and investigators blanket access to the motor vehicle records of any defendant, complainant or any potential witness in a criminal case, whether or not the case is related to a motor vehicle enforcement purpose or incident. Such sweeping records access could lead to incidental disclosure of personal information about such persons, their families, and activities. As to potential witnesses, it is particularly troubling since personal life details would be at risk of exposure under the auspices of a legislated fishing expedition. It is submitted that courts already provide adequate and protective processes for obtaining the information and evidence needed for a

proper criminal defense. Vote 17-2.

HB 368, relative to limiting the sworn testimony of witnesses. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Wheeler for Judiciary: The committee appreciates the sponsor's intent in bringing this bill forward. He has a legitimate concern, but one that the committee believes is without legislative remedy. While instructing a witness to limit his or her testimony can be unnerving to the witness, telling the jury that a witness's testimony has been limited will not solve the problem and might cause inappropriate speculation on the part of the jury. It is up to the judge in a case to tell the jury that if evidence is excluded, they are not to speculate as to what it was; the possible situations in a courtroom are extremely fluid and volatile and one rule for all cases would not work. It needs to be up to the judge's discretion to decide what is appropriate in each case. When the sponsor was made aware of these problems he agreed to the ITL. Vote 15-0.

HB 495, relative to court records in civil cases involving taxpayer money. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Wheeler for Judiciary: The committee believes this bill is unnecessary. We passed a bill in the last session that accomplished a similar result to this bill, requiring any settlement made by a governmental unit be kept and available for public inspection for at least ten years. Vote 18-0.

HB 542, making technical corrections to the uniform trust code. **OUGHT TO PASS**

Rep. John B. Hunt for Judiciary: This bill is making technical changes to the new law past last year. The law, modeled after The Uniform Trust Code, provides New Hampshire with a comprehensive and consistent framework of trust laws. The bill is a result of an intense yearlong study by representatives of the legal community, banking industry, the Attorney General's Office-Charitable Trust Division and the Probate Court. The statutory framework of case law will continue to help reduce legal fees and address questions of interpretation when a trust has missing instructions. Having this law makes New Hampshire an appealing domicile for trusts to be located. This bill helps to further clarify issues that may arise when a trust is implemented. Vote 18-3.

HB 617-FN, allowing current court stenographers to retain their positions in the New Hampshire courts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen J. Shurtleff for Judiciary: The committee heard how the conversion to monitoring devices in the courts in some instances resulted in incomplete court records. Information was given to the committee that microphones in court rooms do not always pick up the testimony of witnesses, thereby causing an incomplete record of court proceedings. When important decisions hang in the balance, it is imperative that the court records are accurately recorded and transcribed. Court reporters are certified professionals who most effectively and accurately provide this service, even providing real time transcriptions for the court which can benefit those who are hearing impaired as well. The commission established in HB 617 will study the current methods being used to record court proceedings, assess the role of court reporters and court monitors used in the court system and review procedures for maintaining the integrity of the court record keeping. Vote 18-1.

Amendment (0080h)

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

AN ACT establishing a commission to study the future role of court reporters in New Hampshire's court system.

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

1 Findings and Purpose. The general court finds that the New Hampshire courts have used live court reporters for many years and recognize their importance in maintaining the

most accurate court record available for the citizens of this state. The general court further finds that there is an important role for court reporters to accommodate deaf and hearing-impaired litigants, defendants, jurors, attorneys, and witnesses, and to comply with the Americans with Disabilities Act, as well as to avoid the costs associated with poor transcription of court recordings from the use of recording machines only.

2 Commission Established. There is established a commission to study the future role of court reporters in New Hampshire's court system.

3 Membership and Compensation.

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

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

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

(c) The chief justice of the supreme court, or designee.

(d) The attorney general, or designee.

(e) A member nominated by the New Hampshire Defense Lawyers Association and appointed by the governor.

(f) A member nominated by the New Hampshire Bar Association and appointed by the governor.

(g) A member nominated by the New Hampshire Trial Lawyers Association and appointed by the governor.

(h) A member nominated by the New Hampshire Court Reporters Association and appointed by the governor.

(i) Two public members, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

4 Duties. The commission shall:

I. Study the current methods being used to record court proceedings and assess the impact they have on obtaining the best form of justice for the citizens of New Hampshire.

II. Assess the role of court reporters and court monitors as used in the court system.

III. Review possible procedures for reporting for injustices relating to inaccurate or incomplete transcripts.

5 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 30 days of the effective date of this section.

6 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 30, 2005.

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

This bill establishes a commission to study the future role of court reporters in New Hampshire's court system.

HB 672-FN, relative to notaries public and adopting the Uniform Law on Notarial Acts.

OUGHT TO PASS WITH AMENDMENT

Rep. John B. Hunt for Judiciary: This bill adds commissioners of deeds to the law on notaries public and commissioners. The bill also adds penalties for misconduct by notaries and justices of the peace, adopts the Uniform Law on Notarial Acts, and repeals the Uniform Acknowledgment Act and the Uniform Recognition of Acknowledgements Acts. The amendment lowers the penalties from \$5,000 to \$1,000, lowers the registration fee from \$100 to \$75, and creates a due process for assessing the penalty. Vote 17-0.

Amendment (0906h)

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

AN ACT relative to notaries public, justices of the peace, and adopting the Uniform Law on Notarial Acts.

Amend RSA 455:16 as inserted by section 6 of the bill by replacing it with the following:

455:16 Misconduct, Penalties.

I. A person shall be subject to a civil penalty not to exceed \$1,000 if such person:

(a) When applying for a commission as a notary public, negligently or recklessly makes a material false representation on the application form;

(b) Holding a commission as a notary public or justice of the peace, negligently or recklessly makes a notarial act that is false;

(c) Holding a commission as a notary public or justice of the peace, negligently or recklessly makes a notarial act for a person not personally known by the notary without first requiring the person to establish his or her identity; or

(d) Holding a commission as a notary public or justice of the peace, negligently or recklessly makes a notarial act purporting to have witnessed the maker's signing of the document or purporting to have received the oath or affirmation of the person, when the notary did not actually witness the maker's signing of the document or did not actually receive the oath or affirmation of the person.

II. A person shall be guilty of a class A misdemeanor if such person purposefully or knowingly commits any of the acts listed in paragraph I.

III.(a) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of paragraph I a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the general fund.

(b) The attorney general shall have authority to notify suspected violators of this section of the state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the general fund.

Amend RSA 5:10 as inserted by section 7 of the bill by replacing it with the following:

5:10 Office Fees. Except as otherwise provided, the following fees shall be paid to the secretary of state for the use of the state: For every commission issued to a justice of the peace or to a notary public, [~~\$50~~] **\$75, \$25 of which shall be deposited into the fund established by RSA 660:31 for the use of the secretary of state and the attorney general as provided by RSA 455:17**; for every certificate pertaining to the existence of a corporation, trade name, or other business entity, or writ served on the same, \$5; for every such certificate in long form, \$10; for every apostille provided under the Hague Convention of 1961 and for every certificate for a notary public or justice of the peace, \$10; for every other certificate under seal of the state, \$5; for engrossing private acts, \$1 for each page of 240 words; for expedited service of every 10 documents or any part thereof, \$25.

Amend the bill by inserting after section 11 the following and renumbering the original sections 12 and 13 to read as 13 and 14, respectively:

12 Application; Penalty for False Representation Added. Amend RSA 455-A:2 to read as follows:

455-A:2 Application.

I. Any person applying to be a justice of the peace shall indicate on the application whether he or she has been a registered voter in this state for at least 3 years immediately preceding the date of application. The applicant must sign a written statement under oath stating [~~as to~~] whether the applicant has ever been convicted of a crime that has not been annulled by a court, other than minor traffic violations. The applicant shall be endorsed for appointment by 2 justices of the peace and a registered voter of this state.

II. A person shall be subject to a civil penalty not to exceed \$1,000 if he or she negligently or recklessly makes a material false representation on the application form when applying for a commission as a justice of the peace. A person is guilty of

a class A misdemeanor if he or she purposefully or knowingly makes a material false representation on the application form when applying for a commission as a justice of the peace. The civil penalty shall be imposed in the same manner as set forth in RSA 455:16.

AMENDED ANALYSIS

This bill:

- I. Adds commissioners of deeds to the law on notaries public and commissioners.
- II. Adds penalties for misconduct by notaries and justices of the peace.
- III. Adopts the Uniform Law on Notarial Acts.
- IV. Repeals the Uniform Acknowledgment Act and the Uniform Recognition of Acknowledgments Acts.

HB 126, relative to grounds for termination of employment. **OUGHT TO PASS WITH AMENDMENT**

Rep. Herbert D. Richardson for Labor, Industrial and Rehabilitative Services: This bill strengthens the Whistleblowers Protection Act for employees while still including provisions protecting the employer. The committee felt that an employee should not be retaliated against for exercising the first amendment. The committee heard testimony from numerous people including the Department of Labor all in support of the bill. Vote 16-0.

Amendment (0850h)

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

AN ACT relative to a public employee right of free speech.

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

1 New Subdivision; Public Employee Right of Free Speech. Amend RSA 275-E by inserting after section 7 the following new subdivision:

Protection of Public Employee's Right of Free Speech

275-E:8 Definitions. In this subdivision:

I. "Employee" means any person employed by a public employer except:

(a) Persons elected by popular vote.

(b) Persons whose duties imply a confidential relationship to the public

employer.

II. "Employer" means the state and any political subdivision thereof, the judicial branch of the state, any quasi-public corporation, council, commission, agency or authority, and the state university system.

275-E:9 Right to Speak Protected.

I. No employer shall discharge, threaten, or otherwise discriminate against any employee regarding such employee's compensation, terms, conditions, location, or privileges of employment because the employee has exercised the right of free speech including the public discussion of issues of public interest concerning his or her employment.

II. Without in any way limiting the rights and protections afforded to employees under RSA 275-E or any other law, the right of protected speech under this subdivision shall not extend to fiduciary relationships, the divulgence of confidential financial information, trade secrets, patents, or the personal or medical records of patients, clients, or other employees without the prior consent of the patient, client, or employee.

2 Rights and Remedies; Public Employee Right of Free Speech Added. Amend RSA 275-E:4, I to read as follows:

I. Any employee who alleges a violation of rights under RSA 275-E:2 ~~[or]~~, 3, **or 9** and who has first made a reasonable effort to maintain or restore such employee's rights through any grievance procedure or similar process available at such employee's place of employment, may obtain a hearing with the commissioner of labor or a designee appointed by the commissioner. Following such hearing, the labor commissioner or the designee appointed by such commissioner shall render a judgment on such matter, and shall order, as the

commissioner or his designee considers appropriate, reinstatement of the employee, the payment of back pay, fringe benefits and seniority rights, any appropriate injunctive relief, or any combination of these remedies.

3 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill protects a public employee from discharge or discrimination when the public employee has spoken about a matter that is of public interest concerning his or her employment. Protected speech does not include speech that divulges trade secrets, patents, or certain other confidential information, or information from a fiduciary relationship.

HB 170, relative to unemployment compensation. OUGHT TO PASS WITH AMENDMENT

Rep. William J. Infantine for Labor, Industrial and Rehabilitative Services: This bill has two distinct parts. The first part is a cleanup bill that adds rules and regulations required by the federal government. These changes must be implemented into law in order for the state to receive unemployment funds from the government after June 30, 2006. The second part of the bill provides unemployment benefits to certain part-time workers who are unable to meet the criteria of working full time, any time, in order to qualify for unemployment benefits, as a result of dependant child care. Vote 14-0.

Amendment (0828h)

Amend RSA 282-A:45-a, I as inserted by section 3 of the bill by replacing it with the following:

I. An employing unit or employer shall file a mass layoff notice with the department if the employer lays off or expects to lay off 25 or more individuals:

- (a) In the same calendar week;
- (b) For an expected duration of 7 days or more; and
- (c) For either of the following reasons:
 - (1) Vacation or holiday shutdown; or
 - (2) Company Closure.

Amend RSA 282-A:45-a as inserted by section 3 of the bill by inserting after paragraph III the following new paragraph:

IV. An employing unit or employer may be granted a waiver from filing the mass layoff notice required in paragraph I if the commissioner determines, in accordance with such rules as the commissioner shall adopt, that it is unlikely that 25 or more of the individuals laid off will file an initial claim, as defined in RSA 282-A:42, II(a), due to the expected receipt of wages, as defined in RSA 282-A:14, III. Any such waiver shall become void if in fact 25 or more of the individuals laid off claim benefits.

Amend RSA 282-A:91-a, I(c) – I(h) as inserted by section 6 of the bill by replacing them with the following:

(c) In determining whether there is any common ownership, management, or control of 2 employers, the commissioner shall use objective factors which may include the extent of commonality or similarity of: ownership; any familial relationships; principals or corporate officers; organizational structure; day-to-day operations; assets and liabilities; and stated business purposes. Ownership of publicly traded mutual funds, publicly traded stocks, and similar publicly traded investments shall not be indicative of common ownership, management, or control.

(d) In determining whether a substantial purpose of the transfer of trade or business was to obtain a reduced liability for contributions, the commissioner shall use objective standards which may include the cost of acquiring the business to which the experience was transferred; how long such business enterprise was continued after the transfer; the extent to which such business enterprise reduced its workforce following the

transfer; the size of each employer's workforce before and after the transfer; and the business activity conducted by each employer prior to, and after, the transfer.

(e) In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the commissioner shall use objective factors which may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(f)(1) If a person knowingly violates or attempts to violate subparagraph (a), (b), or (g) or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation of such provision, the person shall be subject to the following penalties:

(A) If the person is an employer, such employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and the 3 rate years immediately following this rate year. However, if the person's business is already at such highest rate for any year, or if the amount of increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contributions of 2 percent of taxable wages shall be imposed for such year.

(B) If the person is not an employer, such person shall be subject to a civil fine of not more than \$5,000. Any such fine shall be deposited in the fund established by RSA 282-A:140. Such person shall also be jointly and severally liable with any liable employer for additional contributions and all related penalties, fees, interest, and costs owed as a result of the application of this section. Such person shall be subject to civil action for such liability in any manner provided for collection of contributions in RSA 282-A:141-156.

(2) In addition to other penalties imposed in this paragraph, any violation of this section may be prosecuted under RSA 282-A:166 or any other appropriate statute.

(g) The commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

(h) For purposes of this section:

(1) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(2) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code of 1986.

(3) "Trade or business" includes the employer's workforce.

(4) "Violates" or "attempts to violate" includes, but is not limited to, intent to evade, misrepresentation, and willful nondisclosure.

(i) The reporting by an employer of its payroll under the account of another employer with which there is no common ownership, management, or control, is prohibited unless the reporting employer is an employee leasing company lawfully making such report.

(j) A management company which contracts with any employer to report wages of managed employees shall be considered, in accordance with such rules as the commissioner may adopt, to have common management or control with such employer, and with any other management company with which the employer may contract for the same purpose in the future.

Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 13:

10 Partial Unemployment. Amend RSA 282-A:14, I to read as follows:

I. **(a)** An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him and during which he performs no services. An individual who is not entitled to vacation pay from his employer shall be deemed to be in "total unemployment" during the entire period of any general closing of his employer's place of business for vacation purposes, notwithstanding his prior assent, direct or indirect, to the establishment of such vacation period by his employer.

(b) An individual who meets the requirements of RSA 282-A:31, V and who is seeking only part-time work shall be deemed to be partially unemployed only in any week during which the individual was employed fewer than 20 hours.

11 New Paragraph; Unemployment Compensation; Benefit Eligibility Conditions.

Amend RSA 282-A:31 by inserting after paragraph IV the following new paragraph:

V. Subparagraphs I(c) and I(d) of this section shall not apply to individuals who are seeking solely part-time work if the individual establishes that:

(a) The individual is the only available adult to care for the individual's natural, adopted, step, or foster child under the age of 16;

(b) The individual's last 6 months in employment as defined in RSA 282-A:9, except RSA 282-A:9, IV(f), or wages earned in a like manner in another state, usually consisted of 30 or fewer hours each week throughout such 6 month period;

(c) The individual is ready, willing, and able to accept and perform suitable work at least 20 hours per week for which there is a market for the services the individual offers, and that the individual has exposed himself or herself to employment to the extent commensurate with the economic conditions and the efforts of a reasonable prudent person seeking work; and

(d) There exists in the individual's labor market area sufficient suitable work during the hours or shifts to which the individual is restricted.

12 Unemployment Benefits; Disqualification of Benefits. Amend RSA 282-A:32, I(d)(2)(D) – (E) to read as follows:

(D) If ~~he~~ ***the individual*** is unable to apply for or accept work during the hours of the third shift, so-called, because he ***or she*** is the only adult available ~~[for the care of his children under the age of 15 during said hours or]~~ for the care of an ill or infirm elderly person who is dependent on him for support.

(E) ***If the individual is unable to apply for or accept work during the hours of a particular shift because he or she is the only adult available for the care of a natural, adopted, step or foster child under the age of 16; or***

(F) If the individual is permanently physically and/or mentally disabled, full-time work for such individual shall be deemed to be the hours and shifts the individual is physically able to work as certified by a licensed physician provided there is a market for the services the individual offers during such hours and shifts.

AMENDED ANALYSIS

This bill makes various changes to laws on unemployment compensation administered by the department of employment security including mass layoff, appeals of benefits determinations, and transfers of businesses by employers.

This bill also makes changes to unemployment compensation eligibility requirements for individuals seeking part-time work.

This bill is a request of the department of employment security.

HB 246, establishing a committee to study the classification of employees as independent contractors. **OUGHT TO PASS**

Rep. William J. Infantine for Labor, Industrial and Rehabilitative Services: This bill establishes a study committee to investigate the common belief that many so called independent contractors are misclassified and should be considered employees. The committee heard testimony from a number of interested parties from various business interests and there was no testimony against the study committee. The result of the misclassified employees are numerous including loss of benefits including workers compensation, loss of revenue to the state and federal government and incurred insurance costs. These issues need to be studied to examine the possible need for corrective legislation. Vote 16-0.

HB 329, establishing the crime victim employment leave act. **OUGHT TO PASS WITH**

AMENDMENT

Rep. Randolph N.S. Holden for Labor, Industrial and Rehabilitative Services: This bill allows a victim of a crime to be involved in the process of prosecuting the criminal without fear of job loss. The committee felt this bill only strengthens the authority's ability to fight crime. During the hearing, the committee heard no opposition to the bill. The sponsor of the bill worked with the subcommittee to remedy any concern it had. Vote 15-1.

Amendment (0823h)

Amend RSA 275:61 as inserted by section 1 of the bill by replacing it with the following:

275:61 Definitions. In this subdivision:

- I. "Crime" means an offense designated by law as a felony or a misdemeanor.
- II. "Employee" means employee as defined in RSA 275:4.
- III. "Employer" means employer as defined in RSA 275:4, provided that for the purposes of this subdivision, an employer shall have 25 or more employees for each working day in each of 20 or more calendar weeks during any calendar year.
- IV. "Immediate family" means the father, mother, stepparent, child, stepchild, sibling, spouse, grandparent, or legal guardian of the victim; or any person involved in an intimate relationship and residing in the same household with the victim.
- V. "Victim" means any person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of the commission or the attempted commission of a crime. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim.

Amend RSA 275:62, I as inserted by section 1 of the bill by replacing it with the following:

I. An employer shall permit an employee who is a victim of a crime to leave work so that the employee may attend court or other legal or investigative proceedings associated with the prosecution of the crime.

Amend RSA 275:65 as inserted by section 1 of the bill by replacing it with the following:

275:65 Penalty. Any employer violating any provision of this subdivision shall be subject to a civil penalty, to be imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a. An employer aggrieved by the commissioner's assessment of such penalty may appeal in accordance with RSA 273:11-b.

AMENDED ANALYSIS

This bill establishes the crime victim employment leave act which requires that employers allow employees who are victims of certain crimes to leave work to attend court or other legal or investigative proceedings associated with the prosecution of the crime, or to attend counseling sessions necessitated by the crime.

HB 393, establishing a committee to study methods for requiring employers to permit volunteer firefighters to respond to calls. **OUGHT TO PASS WITH AMENDMENT**
Rep. Mary J. Gorman for Labor, Industrial and Rehabilitative Services: This bill creates a study committee to examine methods for allowing employers to permit voluntary and paid on-call emergency first responders to answer calls. The committee felt this is very much in the public's interest. Vote 15-0.

Amendment (0392h)

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

AN ACT establishing a committee to study methods for requiring employers to permit voluntary and paid on-call emergency first responders to respond to calls.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study methods for requiring employers to permit voluntary and paid on-call emergency first responders to respond to calls.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study methods for requiring employers to permit voluntary and paid on-call emergency first responders to respond to calls. The committee shall also examine the feasibility of protecting firefighters from employment discrimination in a manner similar to protections afforded members of the national guard under RSA 110-B:65.

AMENDED ANALYSIS

This bill establishes a committee to study methods for requiring employers to permit voluntary and paid on-call emergency first responders to respond to calls.

HB 404, permitting public sector employees to request a wage deduction for contributions to a political action committee. **OUGHT TO PASS WITH AMENDMENT**
Rep. Robert J. Giuda for Labor, Industrial and Rehabilitative Services: This bill enables employees to request wage deductions for political action committees, just as they can now request deductions for charities and other causes. Vote 15-0.

Amendment (h0681)

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

AN ACT permitting employees to request a wage deduction for contributions to a political action committee.

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; Withholding of Wages; Contributions to Political Action Committees. Amend RSA 275:48, I by inserting after subparagraph (d) the following new subparagraph:

(e) The employee requests in writing that deductions may be made for contributions to a political action committee from the employee's wages.

AMENDED ANALYSIS

This bill allows an employee to have contributions to a political action committee deducted from his or her wages.

HB 561, relative to reasonable accommodation by employers under the state law against discrimination. **OUGHT TO PASS**

Rep. Mary J. Gorman for Labor, Industrial and Rehabilitative Services: The committee views this bill as straightforward and aligned with the federal statutes regarding employment discrimination and reasonable accommodation. Vote 15-0.

HB 618-FN-L, relative to persons acting as volunteers to a state agency. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert J. Giuda for Labor, Industrial and Rehabilitative Services: This bill brings volunteers under protection of the state's workers' compensation coverage, when those volunteers are designated by name in writing by the commissioners of health and human services or safety, after either has declared an incident (not a declared state of emergency by the governor) and notified the governor. Volunteers will only be specialists not currently in the employ of the state of New Hampshire, and will serve until the authorization and need for their services lapses. Vote 15-0.

Amendment (0524h)

Amend RSA 281-A:2, VII(a)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) In the absence of any mutual aid agreement or other similar written agreement that specifically addresses the issue of workers' compensation benefits, any person who acts as an agent to the department of health and human services or the department of safety by providing assistance in response to a specific public health or public safety incident. Such person shall be deemed an employee of the state for the purposes of

this chapter. In order to be eligible for workers' compensation benefits under this chapter the person shall have been specifically designated in writing as an agent by the commissioner of the department of health and human services or the commissioner of the department of safety, or their respective designees, in accordance with the provisions of RSA 508:17-a. This subparagraph applies only to such designated agents who are not receiving compensation from either the department of health and human services or the department of safety, other than possible reimbursement for expenses actually incurred for such services, such as travel expenses, but who may be receiving compensation from his or her regular employer or from any other source.

Amend the bill by replacing section 3 with the following:

3 New Section; Agents Assisting the Departments of Health and Human Services and Safety; Liability Limited. Amend RSA 508 by inserting after section 17 the following new section:

508:17-a Agents Assisting Certain State Departments; Liability Limited.

I. Any person who acts as an agent to the department of health and human services or the department of safety by providing assistance in response to a specific public health or public safety incident shall be protected from claims and civil actions arising from acts committed within the scope of his or her official duty as an agent to such departments to the same extent as state officers, trustees, officials, employees, and members of the general court under RSA 99-D, provided that:

(a) The commissioner of the department of health and human services or the commissioner of the department of safety has declared in writing to the governor that a public health or public safety incident exists;

(b) The department of health and human services or the department of safety has designated the person to act as its agent to assist in responding to the public health or public safety incident;

(c) The agent was acting in good faith and within the scope of his or her official functions and duties as an agent to the department of health and human services or the department of safety; and

(d) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the agent.

II. In this section:

(a) "Agent" means any person who acts as an agent to the department of health and human services or the department of safety by providing assistance in response to a specific public health or public safety incident and the person does not receive compensation from either department, other than possible reimbursement for expenses actually incurred for such services, but who may be receiving compensation from his or her employer or from any other source.

(b) "Damage or injury" includes physical, nonphysical, economic and noneconomic damage, and property damage.

(c) "Public health or public safety incident" means a specific incident that the commissioner of the department of health and human services or the commissioner of the department of safety has declared in writing poses a threat to the health and safety of the public and demands a response that will require the assistance of agents from outside the state system, but which does not rise to the level that would necessitate the declaration of a state of emergency by the governor under RSA 4:45

III. Notwithstanding any other provision of law, no person shall be considered an agent of the department of health and human services or the department of safety for the purposes of this section unless the commissioner of one of those 2 departments has declared in writing to the governor that a public health or public safety incident exists and the appropriate department acknowledges in writing the person's status as an agent. Such written acknowledgment shall identify the person, indicate the department of the state for which the person will be acting as an agent, indicate the duration for which the person will

be acting as an agent, indicate the functions that the person will be performing for the appropriate department, and specifically indicate that the provisions of this section apply to the person's status as an agent to the appropriate department.

IV. Any licensed health care provider who acts as an agent to the department of health and human services by providing health care or services in response to a public health incident shall work under the oversight of a department physician.

V. No disciplinary action shall be taken by a licensing board against a licensed health care provider who acted as an agent or a volunteer to the department of health and human services or the department of safety. This paragraph shall apply only to a health care provider who was designated by either the department of health and human services or the department of safety to act as an agent in accordance with paragraph III and who acted in good faith within the scope of his or her official functions and duties as an agent, and who did not engage in willful, wanton, or grossly negligent conduct in the course of carrying out his or her official functions and duties.

AMENDED ANALYSIS

This bill provides workers' compensation coverage to persons acting as volunteers for the department of health and human services and the department of safety in the event of a public health or a public safety incident. This bill also limits liability for such volunteers.

This bill is a request of the department of health and human services.

CACR 5, relating to the size of the house of representatives and compensation of the legislature. Providing that the number of representatives be reduced to 100 and that compensation shall be an average daily wage of the citizens of the state. **INEXPEDIENT TO LEGISLATE**

Rep. Betsy McKinney for Legislative Administration: This CACR proposed reducing the size of the House and paying legislators "an average daily wage." The committee is retaining CACR 11 for further study as it seemed to have a more practical approach. Vote 9-1.

CACR 18, relating to compensation for members of the general court. Providing that members of the general court shall receive \$4,000 per biennium. **INEXPEDIENT TO LEGISLATE**

Rep. Betsy McKinney for Legislative Administration: We had four bills dealing with legislative compensation this year. In deference to the many concerns, the committee has retained CACR 11 to look at all these proposals in depth. Vote 12-0.

HCR 2, declaring October 27 to be Boston Red Sox Day. **OUGHT TO PASS**

Rep. Michael S. Rollo for Legislative Administration: This bill honors the tremendous comeback of the Boston Red Sox to beat the New York Yankees for the American League Pennant, and for beating the St. Louis Cardinals in the World Series. After waiting 86 years, the General Court of New Hampshire wants to extend its appreciation and wish them continued success in the upcoming season. Vote 10-2.

SJR 1, declaring the month of April 2005 to be Boston Red Sox Month. **OUGHT TO PASS**

Rep. Carlos E. Gonzalez for Legislative Administration: In the spirit of reciprocity with the Senate, we in New Hampshire want to honor the Red Sox for years of pleasure and the delight we all share with their World Series Championship-at last! Vote 9-2.

HB 34, relative to certain land sales in towns with planning boards. **INEXPEDIENT TO LEGISLATE**

Rep. Harry S. Gale for Municipal and County Government: In 1970, the Land Sales Full Disclosure Act was created to protect consumers under RSA 356-A under the Consumer Protection and Antitrust Bureau of the Attorney General's office by proving that the developer is financially capable of completing the promised improvement. This bill proposed

to exempt all subdivisions in a municipality that had a planning board. However, the committee still had concerns that the removal of the oversight of the AG's office would add a burden and liability on the municipalities that does not now exist. In light of possible unintended consequences and added expenditure at the local level, the committee recommended that the bill be Inexpedient to Legislate. Vote 18-0.

HB 287, ratifying the purchase of a certain property by the town of Canaan.

INEXPEDIENT TO LEGISLATE

Rep. Eric G. Stohl for Municipal and County Government: This bill is a result of a purchase of land in the town of Canaan to give road access to the town landfill. The Board of Selectmen bought the parcel of land in August of 2004 for \$3200 without authorization from the legislative body. The town administrator told the committee that the Selectmen chose not to put a warrant article on the ballot for this year. The committee felt that if we ratified this purchase without having any technicality, other than a decision not to put the question on the ballot, it would be setting a horrible precedent. The committee unanimously voted to recommend Inexpedient to Legislate. Vote 14-0.

HB 311-L, enabling towns to establish revolving funds for certain purposes. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter B. Schmidt for Municipal and County Government: This bill enables towns to establish revolving funds for recycling, ambulance service, or safety services. Such activities are difficult to anticipate up to one year in advance. The committee heard compelling testimony that a revolving fund permits a much more rational and effective method of handling certain specific revenues and expenditures, while maintaining oversight, control and approval by the legislative body. Vote 16-0.

Amendment (0634h)

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

1 New Section; Revolving Funds. Amend RSA 31 by inserting after section 95-g the following new section:

31:95-h Revolving Funds.

I. A town may, by vote of the legislative body, establish a revolving fund. Each revolving fund shall be limited to one of the following purposes:

- (a) Facilitating or encouraging recycling as defined in RSA 149-M:4;
- (b) Providing ambulance services; or
- (c) Providing public safety services by municipal employees or volunteers outside

of the ordinary detail of such persons, including but not limited to public safety services in connection with special events, highway construction, and other construction projects.

II. If a town establishes a revolving fund for any of the purposes listed in paragraph I, it may deposit into the fund all or any part of the revenues from fees, charges, or other income derived from the activities or services supported by the fund, and any other revenues approved by the legislative body for deposit into the fund. The money in the fund shall be allowed to accumulate from year to year, and shall not be considered part of the town's general surplus. The town treasurer shall have custody of all moneys in the fund, and shall pay out the same only upon order of the governing body, or other board or body designated by the local legislative body at the time the fund is created; provided, that no further approval of the legislative body, if different from the governing body, shall be required. Such funds may be expended only for the purposes for which the fund was created.

III. The legislative body may, at the time it establishes a revolving fund or at any time thereafter, place limitations on expenditures from the fund including, but not limited to, restrictions on the types of items or services that may be purchased from the fund, limitations on the amount of any single expenditure, and limitations on the total amount of expenditures to be made in a year. No amount may be expended from a revolving fund

established hereunder for any item or service for which an appropriation has been specifically rejected by the legislative body during the same year.

IV. The provisions of this section shall not preclude the establishment of a revolving fund for any other purpose authorized by law.

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

HB 336, relative to the use of secret ballots at town meetings. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen G. Prichard for Municipal and County Government: This bill would establish a new procedure for the use of secret ballots on questions seeking the appropriation of \$100,000 or more at town meetings. The sponsors asked the committee to find the bill 'Inexpedient to Legislate' so they can rework it and present it at a later time. Vote 17-0

HB 359, relative to hardship variances. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: The purpose of this bill is to reverse some recent decisions of the New Hampshire Supreme Court that have created unnecessary complexity in the law of zoning variances, and have made zoning area requirements all but impossible to enforce. The court created a brand new test for "unnecessary hardship" in the case of area variances different than is the case for use variances. In order to grant a variance using the "unnecessary hardship" criteria has to be based on the unique and particular characteristics of the property, the board has to find the property cannot be reasonably used in strict conformity with the ordinance, and a variance is thus necessary in order to establish a reasonable and economically viable use of the property, or there is no fair and substantial relationship exists between the general public purposes of the ordinance provision involved and the specific application of that provision to the particular property, and the proposed use is otherwise a reasonable one. This meaning of "unnecessary hardship" shall apply to both use variances and area variances. The committee agrees that it is necessary to have the legislature make land use policy instead of the courts. Vote 17-0.

Amendment (0735h)

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

AN ACT defining "unnecessary hardship" for purposes of zoning variances.

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

1 New Subparagraph; Powers of Zoning Board of Adjustment; Variance; Unnecessary Hardship. Amend RSA 674:33, I by inserting after subparagraph (b) the following new subparagraph:

(c)(1) For purposes of this subparagraph "unnecessary hardship" shall mean that because of the unique and particular characteristics of a property, its setting, and environment, the board finds that:

(A) The property cannot be reasonably used in strict conformance with the ordinance and a variance is necessary to enable a reasonable and economically viable use of it; or

(B) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property and the proposed use is a reasonable one.

(C) The variance will not injure the public or private rights of others.

(2) "Unnecessary hardship" as defined in subparagraph (c)(1) shall apply to both use variances and area variances.

2 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill defines an unnecessary hardship for a zoning variance as an application of the ordinance that denies the landowner a reasonable and economically viable use of a property

or one that has no fair and substantial relationship between the public purposes of the ordinance and its application to the property. This bill also provides that a variance shall not injure the rights of others.

HB 360, relative to the amendability of warrant articles requesting appropriations in official ballot towns. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill restricts the amount of the appropriation in an amended official ballot warrant article from deviating more than 10% from the original warrant article amount. The committee felt that this limits the voters at the deliberative session to amend appropriation warrant articles when it is necessary to do so for good reasons. Vote 15-0.

HB 369, relative to notice requirements for public hearings on zoning amendments. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: What this bill seeks to do is require planning boards to notify the owners of all parcels and all abutting parcels affected by proposed zoning change before holding a hearing on the change. The sponsor's reason for the bill was because in charter towns, citizens cannot vote on zoning changes. RSA 672:2 and RSA 675:3 allow the citizens of cities and towns not operating under a charter form of government to be able to vote on the establishment or amendment of a zoning ordinance. The committee feels that charter towns can change their charter to mirror either of these laws if they wish to. The committee further feels that there are unfunded mandated issues in reference to the costs incurred by the municipalities in the research of all parcel owners that the zoning change may affect as well the cost involved in the mailing of the notices. Vote 14-1.

HB 394, relative to real estate tax lien procedures for tax collectors. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: This bill attempts to do two things. First of all, it addresses a difference in language between two laws that apply to tax liens. It changes the language in RSA 80:64 to mirror the language that is in RSA 80:60. This change was a recommendation of the New Hampshire Tax Collectors Association. The committee feels this change would assist the tax collector in performing their job more effectively. The second thing this bill wishes to do is extend the timeframe in which the tax collector has to notify the register of deeds. The amendment removes the extended time frame because the committee felt that an additional delay in this notification may delay any actions that the owner may have for the property in question, such as jeopardizing the possible sale. Vote 12-1.

Amendment (0858h)

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

AMENDED ANALYSIS

This bill requires tax collectors to report the names of current owners of property subject to a tax lien.

HB 412, relative to the authority of zoning boards of adjustment to grant variances. **INEXPEDIENT TO LEGISLATE**

Rep. David L. Buhlman for Municipal and County Government: There have been recent Supreme Court decisions that have dramatically changed the way the local zoning boards look at way they grant variances to the zoning ordinances. This bill proposed one solution by clarifying the "unnecessary hardship" finding that the board must find to grant a variance. The committee also heard HB 359 which discussed the same issue. Both bills addressed clarification to the unnecessary hardship finding but the committee agreed that the solution

in HB 359 was the best way to address the courts' changing of the variance procedure. Vote 16-0.

HB 429, relative to representation by nonattorneys before the board of tax and land appeals.
OUGHT TO PASS WITH AMENDMENT

Rep. David L. Buhlman for Municipal and County Government: As introduced, HB 429 was to allow nonattorneys to represent taxpayers who have utilized tax-related appeals before the Board of Tax and Land Appeal (BTLA). Nonattorneys are now allowed to represent taxpayers before the BTLA in land tax disputes. The chairman of the BTLA supported this change, and the committee agreed unanimously. The amendment clarifies the legislative intent regarding the filing of a declaration of taking so that if the board determines that a more specific declaration of taking is required there is adequate authority for the BTLA to request more information. This recommendation originated at the suggestion of the Attorney General's office, and the committee agreed that reinforcing this authority in legislation was beneficial. Vote 15-0.

Amendment (0510h)

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

AN ACT relative to representation by nonattorneys before the board of tax and land appeals and relative to condemnation proceedings conducted by the board of tax and land appeals.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Condemnation; Passage of Title; Declaration of Taking. Amend RSA 498-A:5, I-II to read as follows:

I. Condemnation, under the power of condemnation given by law to a condemnor, which shall not be enlarged or diminished hereby, shall be effected only by the filing in the board of a declaration of taking, with sufficient copies for giving notice as required by RSA 498-A:8~~[-together with such]~~. ***The declaration shall be considered filed after receipt by the board and review by the board for compliance with paragraph II. If the board finds the declaration of taking is not compliant with paragraph II, the board may direct the filing of a more specific declaration of taking. After the giving of any bond and*** security as may be required under RSA 498-A:6, ~~[and thereupon]~~ the title which the condemnor seeks in the property condemned shall pass to the condemnor on the date of such filing, and the condemnor shall be entitled to possession as provided in RSA 498-A:11. A declaration may include more than one parcel and multiple condemnees so long as the identity of the property taken of each condemnee ~~[is]~~ ***and the nature of their interests are*** readily ascertainable.

II. The declaration of taking shall be in writing and executed by the condemnor, shall be captioned as a proceeding in rem and shall contain the following:

(a) The name and address of the condemnor;

(b) The name and address of each condemnee and the nature of each condemnee's interest;

~~[(b)]~~ ***(c)*** A specific reference to the statute, chapter and section thereof, under which the condemnation is authorized;

~~[(c)]~~ ***(d)*** A specific reference to the action, whether by ordinance, resolution or otherwise, by which the declaration of taking was authorized, including the date when such action was taken, and the place where the record thereof may be examined;

~~[(d)]~~ ***(e)*** A brief description of the purpose of the condemnation and the need therefor;

~~[(e)]~~ ***(f)*** A description and plan of the property taken sufficient for the identification thereof, specifying the town, city and county wherein the property taken is located; and

~~(f)~~ (g) A statement of the nature of the property being taken.

3 Board Action. Amend RSA 498-A:24 to read as follows:

498-A:24 Board Action. Upon receipt of the filing of a declaration of taking, ***and after any preliminary objections under RSA 498-A:9-a have been concluded***, the board shall forthwith fix a time for hearing the parties on the issue of just compensation, and shall give notice thereof to all persons named in the declaration of taking as condemnor and as condemnee, and otherwise as justice may require. Such service shall be made in the manner prescribed in RSA 498-A:4, and shall be given at least 30 days prior to the date set for the hearing. The board may, after notice to all parties, upon its own motion or motion of any party, make such order for consolidation of any of the cases pending before it as justice and convenience requires.

AMENDED ANALYSIS

This bill permits nonattorneys to represent taxpayers in utility property tax appeals before the board of tax and land appeals.

The bill also clarifies requirements for certain condemnation proceedings conducted by the board of tax and land appeals.

HB 436, relative to the appointment of representatives to the regional planning commissions. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill would permit the appointment of municipal employees to regional planning commissions. Currently, only residents of a community can become a commissioner. The resident can be an elected or an appointed person, but not an employee. The majority of the committee felt that an employee's position and potential relationship to his or her employer may be jeopardized by passing this bill. Vote 15-1.

HB 437, relative to the disposition of municipal records. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harry S. Gale for Municipal and County Government: The Municipal Records Board (MRB) was created in 1977 to establish standards for determining what municipal records should be retained or destroyed. The established standards provided a retention time frame for those retained records. This bill also sets up a time frame for records that are created in an electronic format. In doing so it requires any electronically-created record to be transferred to paper, microfilm, or both if it is to be retained for more than ten years. The retention schedule was then published as administrative rules in 1981, 1984 and 1995. Due to the fact that the responsibility for these municipal records is being transferred to the office of the Secretary of State, there was a need to remove them from administrative rules and place them into statute. The reason for this is that the Secretary of State does not function under administrative rules. The committee voted unanimously to support the concept and work of the ad hoc committee. Vote 16-0.

Amendment (0372h)

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

3 New Section; Disposition and Retention Schedule. Amend RSA 33-A by inserting after section 3 the following new section:

33-A:3-a Disposition and Retention Schedule. The municipal records identified below shall be retained, at a minimum, as follows:

- I. Abatements: 5 years.
- II. Accounts receivable: until audited plus one year.
- III. Aerial photographs: permanently.
- IV. Airport inspections-annual: 3 years.
- V. Airport inspections-daily, including fuel storage and vehicles: 6 months.
- VI. Annual audit report: 10 years.

- VII. Annual reports, town warrants, meeting and deliberative session minutes in towns that have adopted official ballot voting: permanently.
- VIII. Archives: permanently.
- IX. Articles of agreement or incorporation: permanently.
- X. Bank deposit slips and statements: 6 years.
- XI. Blueprints-architectural: life of building.
- XII. Bonds and continuation certificates: expiration of bond plus 2 years.
- XIII. Budget committee-drafts: until superseded.
- XIV. Budgets: permanently.
- XV. Building permits-applications and approvals: permanently.
- XVI. Building permits-lapsed: permanently.
- XVII. Building permits-withdrawn, or denied: one year.
- XVIII. Capital projects and fixed assets that require accountability after completion: life of project or purchase.
- XIX. Cash receipt and disbursement book: 6 years after last entry, or until audited.
- XX. Checks: 6 years.
- XXI. Code enforcement specifications: permanently.
- XXII. Complaint log: expiration of appeal period.
- XXIII. Contracts-completed awards, including request for purchase, bids, and awards: life of project or purchase.
- XXIV. Contracts-unsuccessful bids: completion of project plus one year.
- XXV. Correspondence by and to municipality-administrative records: minimum of one year.
- XXVI. Correspondence by and to municipality-policy and program records: follow retention requirement for the record to which it refers.
- XXVII. Correspondence by and to municipality-transitory: retain as needed for reference.
- XXVIII. Current use applications and maps: until removed from current use plus 3 years.
- XXIX. Current use card: until removed from current use plus 3 years.
- XXX. Deed grantee/grantor listing from registry, or copies of deeds: discard after being updated and replaced with a new document.
- XXXI. Deferred compensation plans: 7 years.
- XXXII. Dig safe forms: 4 years.
- XXXIII. Dredge and fill permits: 4 years.
- XXXIV. Driveway permits and plans: permanently.
- XXXV. Easements awarded to municipality: permanently.
- XXXVI. Elections-federal elections ballots: 22 months after election.
- XXXVII. Elections-not federal, all other ballots: 60 days after election.
- XXXVIII. Elections-challenge affidavits: one year after election.
- XXXIX. Elections-ward maps: until revised plus 1 year.
- XL. Emergency medical services run reports: 10 years.
- XLI. Equipment maintenance: life of equipment.
- XLII. Excavation tax warrant and book or list: permanently.
- XLIII. Federal form 1099s and W-2s: 7 years.
- XLIV. Federal form 941: 7 years.
- XLV. Federal form W-1: 4 years.
- XLVI. Fire calls/incident reports: 10 years.
- XLVII. Grants, supporting documentation: follow grantor's requirements.
- XLVIII. Grievances: expiration of appeal period.
- XLIX. Health-complaints: expiration of appeal period.
- L. Health-inspections: 3 years.
- LI. Health-service agreements with state agencies: term plus 7 years.

- LII. Health and human services case records: active plus 7 years.
- LIII. Inspections-bridges and dams: permanently.
- LIV. Insurance policies: permanently.
- LV. Intent to cut trees or bushes: 3 years.
- LVI. Intergovernmental agreements: end of agreement plus 3 years.
- LVII. Investigations-fire: permanently.
- LVIII. Invoice, assessors: permanently.
- LIX. Invoices and bills: until audited plus one year.
- LX. Job applications-successful: retirement or termination plus 50 years.
- LXI. Job applications-unsuccessful: current year plus 3 years.
- LXII. Labor-public employees labor relations board actions and decisions: permanently.
- LXIII. Labor union negotiations: permanently or until contract is replaced with a new contract.
- LXIV. Ledger and journal entry records: until audited plus one year.
- LXV. Legal actions against the municipality: permanently.
- LXVI. Library:
 - (a) Registration cards: current year plus one year.
 - (b) User records: not retained; confidential pursuant to RSA 201-D:11.
- LXVII. Licenses-all other except dog, marriage, health, and vital records: duration plus 1 year.
- LXVIII. Licenses-dog: current year plus one year.
- LXIX. Licenses-dog, rabies certificates: disposal once recorded.
- LXX. Licenses-health: current year plus 6 years.
- LXXI. Liens-federal liens upon personal property, other than IRS liens: permanently.
- LXXII. Liens-hospital liens: 6 years.
- LXXIII. Liens-IRS liens: one year after discharge.
- LXXIV. Liens-tax liens, state liens for support of children: until court order is lifted plus one year.
- LXXV. Liens-tax liens, state meals and rooms tax: until release plus one year.
- LXXVI. Liens-tax sale and record of lien: permanently.
- LXXVII. Liens-tax sales/liens redeemed report: permanently.
- LXXVIII. Liens-Uniform Commercial Code leases: lease term plus 4 years; purge all July 1, 2007.
- LXXIX. Liens-Uniform Commercial Code security agreements: 6 years; purge all July 1, 2007.
- LXXX. Meeting minutes, tape recordings: keep until written record is approved at meeting. As soon as minutes are approved, either reuse the tape or dispose of the tape.
- LXXXI. Minutes of boards and committees: permanently.
- LXXXII. Minutes of town meeting/council: permanently.
- LXXXIII. Minutes, selectmen's: permanently.
- LXXXIV. Motor vehicle-application for title: until audited plus one year.
- LXXXV. Motor vehicle-titles and voided titles: sent to state division of motor vehicles.
- LXXXVI. Motor vehicle permits-void and unused: until audited plus one year.
- LXXXVII. Motor vehicle permits and registrations-used: current year plus 3 years.
- LXXXVIII. Municipal agent daily log: until audited plus one year.
- LXXXIX. Notes, bonds, and municipal bond coupons-cancelled: until paid and audited plus one year.
- XC. Notes, bonds and municipal bond coupon register: permanently.
- XCI. Oaths of office: term of office plus 3 years.
- XCII. Ordinances: permanently.

XCIII. Payrolls: until audited plus one year.

XCIV. Perambulations of town lines-copy kept by town and copy sent to secretary of state: permanently.

XCV. Permits or licenses, pole: permanently.

XCVI. Personnel files: retirement or termination plus 50 years.

XCVII. Police, accident files-fatalities: 10 years.

XCVIII. Police, accident files-hit and run: statute of limitations plus 5 years.

XCIX. Police, accident files-injury: 6 years.

C. Police, accident files-involving arrests: 6 years.

CI. Police, accident files-involving municipality: 6 years.

CII. Police, accident files-property damage: 6 years.

CIII. Police, arrest reports: permanently.

CIV. Police, calls for service/general service reports: 5 years.

CV. Police, criminal-closed cases: statute of limitations plus 5 years.

CVI. Police, criminal-open cases: statute of limitations plus 5 years.

CVII. Police, motor vehicle violation paperwork: 3 years.

CVIII. Police, non-criminal-internal affairs investigations: as required by attorney general and union contract and town personnel rules.

CIX. Police, non-criminal-all other files: closure plus 3 years.

CX. Police, pistol permit applications: expiration of permit plus one year.

CXI. Property inventory: 5 years.

CXII. Property record card: permanently.

CXIII. Property record map, assessors: until superceded.

CXIV. Property tax exemption applications: transfer of property plus one year.

CXV. Records management forms for transfer of records to storage: permanently.

CXVI. Road and bridge construction and reconstruction, including highway complaint slips: 6 years.

CXVII. Road layouts and discontinuances: permanently.

CXVIII. Scenic roads: permanently.

CXIX. School records: retained as provided under RSA 189:29-a.

CXX. Septic plan approvals and plans: until replaced or removed.

CXXI. Sewer system filtration study: permanently.

CXXII. Sign inventory: 7 years.

CXXIII. Site plan review: life of improvement plus 3 years.

CXXIV. Site plan review-lapsed: until notified that planning board action and appeal time has expired plus one year.

CXXV. Site plan review-withdrawn or not approved: appeal period plus one year.

CXXVI. Special assessment (betterment of property): 20 years.

CXXVII. Street acceptances: permanently.

CXXVIII. Street signs, street lights and traffic lights-maintenance records: 10 years.

CXXIX. Subdivision applications-lapsed: until notified that planning board action and appeal period has expired plus one year.

CXXX. Subdivision applications-successful and final plan: permanently.

CXXXI. Subdivision applications-withdrawn, or not approved: expiration of appeal period plus one year.

CXXXII. Subdivision applications-working drafts prior to approval: expiration of appeal period.

CXXXIII. Summary inventory of valuation of property: one year.

CXXXIV. Tax maps: permanently.

CXXXV. Tax receipts paid, including taxes on land use change, property, resident, sewer, special assessment, and yield tax on timber: 6 years.

CXXXVI. Tax-deeded property file (including registered or certified receipts for notifying owners and mortgagees of intent to deed property): permanently.

CXXXVII. Time cards: 4 years.
 CXXXVIII. Trust fund minutes, quarterly reports, and bank statements: permanently.
 CXXXIX. Vehicle maintenance records: life of vehicle plus 2 years.
 CXL. Voter checklist-marked copy kept by town pursuant to RSA 659:102: 5 years.
 CXLI. Voter registration:
 (a) Purged record cards: 5 years.
 (b) Same day, returned to undeclared status: 5 years.
 CXLII. Vouchers and treasurers receipts: until audited plus one year.
 CXLIII. Warrants-land use change, and book or list: permanently.
 CXLIV. Warrants-property tax, and lists: permanently.
 CXLV. Warrants-resident tax, and book or list: permanently.
 CXLVI. Warrants-town meeting: permanently.
 CXLVII. Warrants-treasurer: until audited plus one year.
 CXLVIII. Warrants-utility and betterment tax: permanently.
 CXLIX. Warrants-yield tax, and book or list: permanently.
 CL. Welfare department vouchers: 4 years.
 CLI. Work program files: current year plus 6 years.
 CLII. Writs: expiration of appeal period plus one year.
 CLIII. Zoning board of adjustment applications, decisions, and permits-unsuccessful: expiration of appeal period.

4 Powers and Duties of Municipal Records Board; Reference to Rulemaking Deleted.
 Amend RSA 33-A:4-b to read as follows:

33-A:4-b Powers and Duties of Board. The board shall ~~[by rule establish]~~ **advise the secretary of state on** standards~~[,]~~ **and** procedures~~[, and regulations]~~ for the effective and efficient management of municipal records. Such standards~~[,]~~ **and** procedures~~[, and regulations]~~ shall govern the retention, preservation and disposition of municipal records. ~~[The statutory standards for retention, preservation and disposition of municipal records in effect at the time of passage of this section shall remain effective until superseded by rules promulgated by the board.]~~ The board shall oversee the local government records management improvement program as provided in RSA 5:47-5:51.

5 New Section; Disposition of Municipal Records; Electronic Records. Amend RSA 33-A by inserting after section 5 the following new section:

33-A:5-a Electronic Records. Records created in electronic format and designated on the disposition schedule under RSA 33-A:3-a to be retained for more than 10 years shall be transferred to paper, microfilm, or both. Electronically-created records designated on the disposition schedule to be retained for less than 10 years may be retained solely electronically if so approved by the record committee of the municipality responsible for the records. The municipality is responsible for assuring the accessibility of the records for the mandated period.

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

HB 480, relative to innovative land use controls. **OUGHT TO PASS WITH AMENDMENT**
 Rep. Laurie J. Boyce for Municipal and County Government: The Village Plan Alternative was added to the innovative land use controls in 2002 which allowed a town to adopt this land use procedure under its zoning powers. The bill adds clarity to RSA 674:21, V by removing the requirement for an expedited process, making section (c) paragraph easier to understand by splitting it into sections and adding that the setbacks to new construction within a village plan alternative may be increased by up to two times the distance required by the current regulations. The Village Plan Alternative has to be adopted by the local legislative body which makes this innovative land use control enabling. Vote 16-0.

Amendment (0585h)

Amend RSA 674:21, VI(e) as inserted by section 2 of the bill by replacing it with the following:

(e) The approving authority may increase, at existing property lines, the setback to new construction within a village plan alternative subdivision by up to 2 times the distance required by current zoning or subdivision regulations, subject to the provisions of subparagraph (c).

HB 534, relative to requirements of property appraisal companies. **INEXPEDIENT TO LEGISLATE**

Rep. Laurie J. Boyce for Municipal and County Government: There is great anxiety about the process of making appraisals in the State of New Hampshire. This bill would require any person, firm or corporation, which includes any municipal assessor, to do three things: implement procedures to answer questions and complaints; make marketing information available about setting values; and send a draft copy to each taxpayer of the property record card prior to adoption by the governing body. The committee realizes that two of these issues are already possible at the local level by including them in the contract, if an outside firm is used, or by having the governing body implement the procedures. The last requirement of sending out draft copies is viewed by the committee as an unfunded mandate. Vote 16-0.

HB 548, allowing municipalities to include in property tax inventory the value of new construction assessed as of July 1. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: This bill would allow municipalities to include in the property tax inventory the values of any new construction that is completed as of July 1 of any year. Present law states that April 1st will be the date that property values are determined and assessed. Due to the fact that most construction in New Hampshire occurs from April to November, the sponsor testified that maybe if the state set values July 1st rather than April 1st municipalities would gain more taxable property. The committee received further testimony that first of all, this "earlier" tax money would only be a benefit for the first year and developers could circumvent the system by simply waiting until after July 1st in those municipalities that wish to enact this proposed legislation. The committee further feels the changing of numerous statutes from April 1st to July 1st would not be worth the limited additional funding that some municipalities may receive. Vote 15-1.

HB 549, modifying notice requirements for the acceptance of unanticipated funds by a school district. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen G. Prichard for Municipal and County Government: This bill establishes provisions for the acceptance of unanticipated funds in school districts, cities and towns. The amendment simply adds libraries to the list of those who can receive gifts under \$5,000 without having to put an official notice in the local newspaper for a public hearing. While notification and public hearings will still be needed to allow residents to know about and speak to the nature and use of gifts this notification can now be done by listing 'gift hearings' on posted agendas at town meetings and designated public sites around town. Some cities and municipalities receive hundreds of small gifts and donations each year ranging from \$20 to several hundred dollars. To pay \$100 to a local newspaper to announce a public hearing on a \$50 gift seems unreasonable. Gifts over \$5000 will still have to have a newspaper announced public hearings. Vote 15-1.

Amendment (0671h)

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

AN ACT modifying notice requirements for the acceptance of unanticipated funds by a school district, city, town, or public library.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Public Libraries; Trustees' Authority to Accept and Expend Gifts. Amend RSA 202-A:4-c, III to read as follows:

III. *(a) For unanticipated moneys in the amount of \$5,000 or more*, the public library trustees shall hold a prior public hearing on the action to be taken. Notice of the time, place, and subject of such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the hearing is held.

(b) For unanticipated moneys of less than \$5,000, the public library trustees shall post notice of the moneys in the public library trustees agenda, if any, and shall include notice in the minutes of the public library trustees meeting in which such moneys are discussed. The acceptance of unanticipated moneys under this subparagraph shall be made in public session of any regular public library trustees meeting.

AMENDED ANALYSIS

This bill establishes provisions for the acceptance of unanticipated funds in school districts, cities, towns, or public libraries.

HB 569, allowing municipalities to adopt low and moderate income homeowner's property tax relief for local education property taxes. **INEXPEDIENT TO LEGISLATE**
Rep. Nancy K. Johnson for Municipal and County Government: This bill allows municipalities to adopt low and moderate income homeowner's property tax relief for local education property taxes. The proposed program mirrors programs we currently have as a result of the state-wide education property tax. The committee recognized a number of problems, including that it shifts the tax burden and it is premature, given we still have a statewide education property tax. Vote 14-0.

HB 570, relative to site plan review and the definition of inclusionary zoning. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mary R. Cooney for Municipal and County Government: This bill would enable municipalities to require applicants for the development or change of use for non-residential users or multi-family dwelling units to present a conceptual preliminary review to the planning board at a public hearing. Because there has been some confusion regarding the procedures when using the words "preliminary" and "preapplication" the committee agreed that "preliminary" is the more appropriate word to use when dealing with the local planning board's procedures on site plan review. The committee agreed that the board should be able to require review prior to accepting the submitted application. In order to be clear the amendment changed the word "preapplication" to "preliminary" in RSA 676:4 which deals with the planning board's procedure on subdivision. This would be advantageous to both the developer and the municipality in making sound judgment. Vote 16-0.

Amendment (0781h)

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

AN ACT relative to preliminary site plan review and the definition of inclusionary zoning.

Amend the bill by replacing section 3 with the following:

3 Board's Procedures on Plats.; Preliminary Review. Amend the introductory paragraph of RSA 676:4, II to read as follows:

II. A planning board may provide for ~~[preapplication]~~ **preliminary** review of applications and plats by specific regulations subject to the following:

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Board's Procedures on Plats; Preapplication Changed to Preliminary. Amend RSA 676:4, II(c) to read as follows:

(c) [~~Preapplication~~] **Preliminary** review shall be separate and apart from formal consideration under paragraph I, and the time limits for acting under subparagraph I(c) shall not apply until formal application is submitted under subparagraph I(b).

AMENDED ANALYSIS

This bill allows a planning board to require preliminary review of a site plan.

HB 572, granting regional water districts the power of eminent domain. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen G. Prichard for Municipal and County Government: This bill would grant to a regional water district the right of eminent domain. While the committee was sympathetic to any water district's need to acquire good water for its residents, this bill is a "minefield of mischief." It would give enormous power to a water district, for good and for evil. The committee was most concerned about the possible misuse of this power. While it might make it easier for a water district to acquire land for wells and watersheds, it would also make it possible to take over a private well or even a local water company without much accountability. The municipalities in which water districts exist already have the power of eminent domain. And while it is more difficult for a water district to go through the municipal process of convincing the town leaders and residents through hearings, studies and finally votes to take the necessary property for the production of good water, that process does provide constraint on possible abuse and better assures that property owners rights and voters preferences will be respected. So the committee was primarily concerned about two matters: preserving local control and making sure that water districts were held accountable to the municipalities they serve. **Vote 16-0.**

HB 641-FN, establishing a statewide homestead exemption against property taxes for seniors. **INEXPEDIENT TO LEGISLATE**

Rep. Laurie J. Boyce for Municipal and County Government: This bill established a statewide homestead exemption for residential property of persons 65 years of age or older. It further states that the person seeking the exemption must own the property for at least 10 years. Municipalities may assist their citizens that are 65 years of age or older now without this legislation. This bill is not enabling; it mandates this exemption. This bill increases administrative costs for the municipalities therefore raising unfunded mandate issues. In addition, the bill would shift the tax burden to other taxpayers within the municipality. **Vote 14-0.**

HB 660-FN-L, relative to taxation in a cooperative school district. **INEXPEDIENT TO LEGISLATE**

Rep. Paul R. Hopfgarten for Municipal and County Government: This bill would dramatically change the way in which property taxes are collected in cooperative school districts. Student numbers attending from the various towns within a district would no longer be a consideration, and the equalized tax rate for each town would be identical, regardless of total assessed value or student population sent from a sending town. The committee believes that since all cooperative school districts established at the time of this bill had done so with the understanding of the conditions of each district, that passage of this legislation could place all currently established cooperative school districts in turmoil. **Vote 12-1.**

HB 666-FN-L, prohibiting taxation of a village district by a municipality for certain municipal services. **INEXPEDIENT TO LEGISLATE**

Rep. Robert W. Brundige for Municipal and County Government: A village district is created for specific purposes and is not always contained within one town. Examples of these purposes may be fire suppression, sewer and waste treatment plants or water supply. In municipalities that do not have village districts these services and many others are

supported through property taxation equally. This bill would have prohibited a town or towns that have a village district within their region from taxing a village district for those types of municipal services. It would be difficult for a given municipality to determine the appropriate basis for discounting taxes payable by residents of a village district due to the discontinuance of services by that municipality. Depending on the purpose for which the village district is formed, there may not be a complete separation between services divided by the municipality and by the village district. Vote 14-0.

HB 709-FN-L, relative to records of assessment information available for inspection.

INEXPEDIENT TO LEGISLATE

Rep. Nancy K. Johnson for Municipal and County Government: This bill would require property assessment cards to include an explanation of the terms and annotations used and to identify changes in red with the date the change was made. Virtually all valuation cards are computer generated, and this requirement would require extensive re-programming to even make it possible to print changes in red. Further, the cards currently do not have space for such changes for each element, and would require re-drafting of the cards. All of this would mandate extra expenses to municipalities and therefore creates an unfunded mandate. Vote 14-1.

HB 428, relative to clarifying the authority of the Pease development authority and the division of ports and harbors. **OUGHT TO PASS**

Rep. James B. Rausch for Public Works and Highways: This legislation was requested to clarify multiple issues involving the authority of the Pease Development Authority (PDA). The bill defines state owned commercial pier, associated facilities, business use pier, recreational use pier, and further clarifies these terms. It clarifies references in RSA 12-G to piers, wharves and docks and to the foreign trade zone. It clarifies the scope of the existing exemption from the payment of slip fees. It clarifies the PDA authority to establish permit programs for vessels and for vehicle parking at state owned piers and associated facilities. Lastly, it gives the PDA authority to remove abandoned, or illegally parked vehicles. This legislation received unanimous support from the committee. Vote 16-0.

HB 658-FN-A, requiring the department of transportation to make certain improvements to New Hampshire Route 3 in the town of Tilton and making an appropriation therefor.

INEXPEDIENT TO LEGISLATE

Rep. John A. Graham for Public Works and Highways: This bill mandated that the Department of Transportation make highway improvements and add traffic lights in the town of Tilton. The committee does not support mandating highway projects outside of the ten year transportation planning process. To assist the citizens and officials in Tilton in trying to resolve the highway issues, the Department of Transportation will hold public informational sessions in the area. If the department finds that changes and improvements are warranted, they have the wherewithal in the budget to accomplish same. The issue with the traffic lights needs to be handled as part of the regular ten-year highway planning process. Vote 15-0.

HB 215-FN, relative to water management. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald A. Brueggemann for Resources, Recreation and Development: This bill, as amended, will strengthen the Department of Environmental Services authority to collect water use data from users that withdraw, discharge or transfer more than 20,000 gallons of water a day on average. It provides explicit authority to require water use registration and reporting, specifies criteria for water use measurement and includes an enforcement component. This bill is unanimously supported by the ground water commission established in 2003. It is a modest and necessary first step in the effort to gain a better understanding of New Hampshire's water resources and how that resource is being used. Vote 17-1.

Amendment (0369h)

Amend RSA 488:2, VI-VIII as inserted by section 1 of the bill by replacing them with the following:

VI. "Surface waters" means any lake, pond, river, stream, wetland, or tidal waters.

VII. "Transfer" means any conveyance of water from one real property or place of business to another or incorporation into a product for subsequent distribution.

VIII. "Withdrawal" means the removal or collection of water by pumping or gravity from surface water or groundwater.

Amend RSA 488:3, I as inserted by section 1 of the bill by replacing it with the following:

I. No person shall withdraw or discharge a cumulative amount of more than 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of water over any 30-day period, at a single real property or place of business without registering the withdrawal or discharge with the department. Transfers of such volume of water shall also be registered. Registration shall be in addition to any required permits.

Amend RSA 488:4 as inserted by section 1 of the bill by replacing it with the following:

488:4 Measurement Required. Each withdrawal, discharge, or transfer required to be registered under this chapter shall be metered or measured by a technically appropriate and verifiable method approved by the commissioner. Withdrawals and discharges shall be measured at the point of withdrawal or discharge, respectively. Transfers shall be measured at a technically appropriate point approved by the commissioner.

Amend RSA 488:8 as inserted by section 1 of the bill by replacing it with the following:

488:8 Administrative Fines.

I. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who knowingly:

(a) Violates any provision of this chapter or any rule or order adopted or issued under it.

(b) Makes any material false statement in any document required to be filed or maintained.

(c) Renders inaccurate, falsifies, or tampers with any monitoring device or method.

II. Rehearings and appeals from a decision of the commissioner under this section shall be in accordance with RSA 541.

III. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner may assess additional fines upon any person who has received written notification from the department regarding violations of the provisions of this chapter or rule adopted pursuant to this chapter, if the violations have not been mitigated within 30 days of receipt of notification.

Amend RSA 488:9, I and II as inserted by section 1 of the bill by replacing them with the following:

I. The content and structure of all forms pertaining to registrations to be received or issued by the department, including information and other materials to be submitted with the registration.

II. The form, content, structure, and frequency of filing of the records required under this chapter. The commissioner shall balance resource management objectives with the economic impact of filings when determining the substance of this rule and shall also give consideration to proprietary and confidentiality concerns.

Amend RSA 488:9 as inserted by section 1 of the bill by inserting after paragraph III the following and renumbering the existing paragraphs IV and V to read as V and VI:

IV. Criteria to identify actions that constitute withdrawals, transfers, or discharges required to be registered pursuant to this chapter.

Amend RSA 488:10 as inserted by section 1 of the bill by replacing it with the following:

488:10 Appeals. Unless otherwise specified, actions of the department may be appealed in accordance with RSA 21-O:14.

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section RSA 488:8 as inserted by section 1 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect January 1, 2006.

HB 342, establishing a commission to study the barriers to the establishment of all-terrain vehicle trails. **OUGHT TO PASS WITH AMENDMENT**

Rep. Christopher R. Irish for Resources, Recreation and Development: There are approximately 23,000 ATVs registered in the state with a 15% annual growth rate which bring in about \$318 million annually to the State. The committee understands the use of ATVs as a recreational activity is increasing rapidly on both public and private lands. There is a need to bring all interested parties into a discussion on the best ways to move forward with any plans to incorporate ATVs into an acceptable and manageable use of the state's public and private trails. Clearly, if the State continues to receive registration fees from ATVs, we are obliged to attempt to resolve conflicting interests and provide opportunity for ATV use throughout the State. For these reasons, the Resources Committee strongly supports the establishment of this commission to study the building of trails, enforcement of regulations and policies, and the means of addressing problems facing users, abutters and municipalities. Vote 18-1.

Amendment (0416h)

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

AN ACT establishing a commission to study the barriers to the establishment of all-terrain vehicle trails on public and private lands.

Amend section 2 of the bill by inserting after subparagraph I(j) the following new subparagraph:

(k) One representative of New Hampshire landowners, appointed by mutual agreement of the New Hampshire Farm Bureau Federation and the New Hampshire Timberland Owners Association.

Amend paragraph V of section 3 of the bill by replacing it with the following:

V. Adequacy and enforcement of ATV regulations and policies, and means of addressing environmental impact and the problems of users, abutters, and municipalities.

AMENDED ANALYSIS

This bill establishes a commission to study the barriers to the establishment of all-terrain vehicle trails on public and private lands.

HB 343, establishing a commission to study accessibility for New Hampshire citizens to the water bodies in the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Marcia G. Moody for Resources, Recreation and Development: The commission shall study current access for public use of water bodies including, but not limited to, the need for different types of non-motorized recreational opportunities, the geographical distribution of such opportunities, approaches for determining the optimal recreational use of a particular water body including environmental concerns, available funding for creation of access, and the adequacy of recreational opportunities for citizens of all income levels. The amendment provides two additional members to the commission who shall be the commissioner of the department of environmental services, or designee, and the director of the office of energy and planning, or designee. Vote 18-0.

Amendment (0837h)

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

2 Membership and Compensation.

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

- (a) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (b) Two members of the senate, appointed by the president of the senate.
- (c) A representative from the New Hampshire Lakes Association, nominated by the association and appointed by the governor.
- (d) A representative from the New Hampshire Rivers Council, nominated by the council and appointed by the governor.
- (e) The director of the fish and game department, or designee.
- (f) A representative from the public water access advisory board, nominated by the chairperson and appointed by the governor.
- (g) A representative from a conservation organization, appointed by the governor.
- (h) A representative from the Appalachian Mountain Club, nominated by the club president and appointed by the governor.
- (i) The commissioner of the department of resources and economic development, or designee.
- (j) The commissioner of the department of environmental services, or designee.
- (k) The director of the office of energy and planning, or designee.

3 Duties. The commission shall study current access for non-motorized public use of water bodies including, but not limited to, the need for different types of non-motorized recreational opportunities, the geographical distribution of such opportunities, approaches for determining the optimal recreational use of a particular water body including environmental concerns, available funding for creation of access, and the adequacy of recreational opportunities for citizens of all income levels.

HB 355, establishing a committee to study the environmental impact and damage mitigation of ATV use on public and private trails. **INEXPEDIENT TO LEGISLATE**

Rep. Christopher R. Irish for Resources, Recreation and Development: HB 555 is similar in purpose to HB 342. The committee incorporated the main intent of HB 355 “to study the environmental impact on public and private trails” into the amendment of HB 342. The only issue left to be addressed by this bill is the possible acquisition of land in Berlin for a possible multi-use State park which would include ATV access. The project is in its very early stages and no master plan has been developed to date. The committee suggests that it is best to let the process take its course. The committee heard testimony that there are statutory requirements that any plan to move forward with such a park will have to go through a very public process including public hearings. Therefore, no legislative action is necessary at this time. Vote 18-0.

HB 487-FN, establishing a volunteer lake assessment program in the department of environmental services. **OUGHT TO PASS WITH AMENDMENT**

Rep. David P. Currier for Resources, Recreation and Development: The New Hampshire Volunteer Lake Assessment Program (VLAP) was initiated in 1985 in response to an expressed desire of lake associations to be involved in lake protection and watershed management. Today approximately 500 volunteers from 154 lakes and ponds located throughout the state participate in VLAP. 2005 marks the 20th anniversary of this popular program. VLAP volunteer monitors play an integral role in protecting the quality of New Hampshire’s lakes and ponds. HB 487-FN codifies this cooperative program’s effort between volunteer monitors and the Department of Environmental Service into state law. The amendment establishes the position of Volunteer Lake Assessment Program Coordinator within the Department of Environmental Services. Vote 19-0.

Amendment (0451h)

Amend RSA 487:32 as inserted by section 1 of the bill by replacing it with the following:

487:32 Volunteer Lake Assessment Program Coordinator. There is established in the office of the commissioner, department of environmental services, a state volunteer lake assessment program coordinator, who shall be a classified employee qualified by reason of education and experience, and who shall administer the New Hampshire volunteer lake assessment program.

487:33 Acceptance and Expenditure of Funds.

I. The commissioner may apply for and accept gifts, donations of money, federal, municipal, or private grants, or other funds or incentives from any source for the purposes of this subdivision. The funds accepted under this paragraph shall be paid into the lake restoration and preservation fund established under RSA 487:25. All funds received shall be continually appropriated to the department for the purposes of this subdivision.

II. The commissioner may expend any funds received under paragraph I for the purposes of this subdivision.

Amend the bill by replacing section 3 with the following:

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

HB 491, relative to the inherent dangers of OHRV operation and limiting landowner liability for certain fish and game related land uses. **OUGHT TO PASS**

Rep. Dennis F. Abbott for Resources, Recreation and Development: This bill adds a new paragraph to RSA 212:34, Duty of Care, that places into statute that the owner, occupant or leasee of a property being utilized for OHRV operation shall not be liable for any injury sustained while on the property except as provided for in other sections of this RSA. The bill also makes a technical correction by removing the second paragraph of RSA 215-A:34 and placing it in RSA 215-A:5-c that specifically deals with OHRV operation. This bill was the request of the Fish and Game Department, supported by the Bureau of Trails and was unopposed in committee. Vote 19-0.

HB 315, relative to best available technology for air pollution control. **OUGHT TO PASS WITH AMENDMENT**

Rep. Lee G. Slocum for Science, Technology and Energy: This bill requires the use of Best Available Control Technology (BACT) for controlling emissions from plants burning construction and demolition (C&D) debris. Emission limits are established by the Department of Environmental Services (DES) which will strive for the maximum degree of reduction achievable for each air contaminant that would be emitted from any plant. In establishing these limits, DES will take into account energy, environmental, health based considerations and economic impacts in determining techniques for control of such air contaminants. The original bill is a result of HB 1421 that was studied last session. The committee held two public hearings and two subcommittee sessions on this bill making several amendments, including certifying the fuel source for construction and demolition wood chips. DES will not issue any permits until its rules for the implementation of BACT have been established through the normal process, resulting in an implicit moratorium in C&D burning of not less than 8 months. The result of this legislation will allow strictly controlled incineration of construction and demolition debris that will generate electricity and save up to 300,000 tons of "wood" per year potentially going to landfills. While DES rules are not yet established, it is likely that a C&D plant with BACT should not emit pollutants in excess of the approximate level emitted by plants burning pure wood without BACT. Vote 15-0.

Amendment (0667h)

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

1 New Paragraph; Air Pollution Control; Definitions. Amend RSA 125-C:2 by inserting after paragraph VI the following new paragraph:

VI-a. "Dioxin" means a group of chemical compounds that share certain similar chemical structures and mode-of-action biological characteristics, including a total of 17 dioxin-like compounds that are members of 2 closely related families: chlorinated dibenzo-p-dioxins (CDDs) and chlorinated dibenzofurans (CDFs).

2 New Paragraph; Air Pollution Control; Definitions. Amend RSA 125-C:2 by inserting after paragraph IX-e the following new paragraph:

IX-f. "Particulate matter" means any material, including lead, but not uncombined water, which is or has been suspended in air or other gases and which exists in a finely divided form as a liquid or solid at standard conditions.

3 New Subparagraphs; Air Pollution Control Act; Rulemaking Authority. Amend RSA 125-C:4, I by inserting after subparagraph (n) the following new subparagraphs:

(o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-a, VII(f).

(p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-a, IV and VI.

(q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-a.

4 New Section; Air Pollution Control Act; Best Available Control Technology. Amend 125-C by inserting the following new section:

125-C:10-a Best Available Control Technology Required.

I. For the purposes of this section:

(a) "Best available control technology" means an emission limitation based on the maximum degree of reduction for each air contaminant that would be emitted from any device that the department, on a case-by-case basis, taking into account energy, environmental, public health, and economic impacts and other costs, determines is achievable for such device through application of production processes or available equipment, methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant.

(b) "Exempt fuel" means coal, natural gas, landfill gas, digester or bio gas, untreated wood, virgin petroleum products, or any mixture thereof.

II. Except as provided in paragraph VII, the construction, installation, operation, or material modification of any device located at an affected source that will combust any material shall be prohibited without first applying for and obtaining a permit from the department that establishes emission limitations for such device based on best available control technology for controlling any particulate matter, mercury, or dioxin emissions from such device. Any material to be combusted in such device that is not an exempt fuel shall be certified as complying with standards established by the department. As part of the application for a permit, the affected source shall demonstrate that such standards and certification shall be complied with during facility operation. The permit shall contain inspection, testing, and reporting requirements to ensure such standards are met. The permit shall establish procedures for sampling and testing appropriate to the material to be combusted using US EPA SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, and applicable American Society for Testing and Materials sampling methods or alternate sampling and testing methods approved by the department.

III. If stack testing results show that emissions from a device are less than but within 10 percent of the emission limitation for a specific air contaminant established under paragraph II for the device, the affected source shall install a department approved continuous emission monitor (CEM) for that air contaminant. If a department approved CEM is not available for that air contaminant, the affected source shall submit a plan, including monitoring and stack testing requirements, for ensuring that the emissions

limitation for that air contaminant is not exceeded until such time as a department approved CEM for that air contaminant becomes available. Once a department approved CEM is available, the affected source shall install that CEM within 24 months of department approval of the CEM.

IV. Once the department has established an emission limitation for one or more air contaminants under paragraph II for a device based on best available control technology, no further best available control technology determination for the emission of such air contaminant or air contaminants from such device shall be required for such period of time as specified in rules of the department, unless there is a material modification of the device.

V. Any determination by the department pursuant to paragraph II, shall be subject to the following:

(a) In no event shall application of best available control technology result in:

(1) Emission of any air contaminant that would exceed the emissions allowed by any applicable standard under RSA 125-C or RSA 125-I or rules adopted pursuant to either chapter; and

(2) Emission of any air contaminant specified in paragraph II in an amount disproportionate to the emissions of such air contaminant from other similar air pollution control devices for that air contaminant at facilities using similar combustion technology and similar fuels.

(b) If the department determines that a device emits more than one of the air contaminants specified in paragraph II, or that the affected source has more than one device that emits such air contaminants, the department shall determine best available control technology emission limitations for all such devices and all such air contaminants emitted.

VI. If, prior to the effective date of this section, the department made under other authority a best available control technology determination for any air contaminant specified in paragraph II for any existing device and established in a permit issued pursuant to this chapter an emission limitation for such air contaminant, then no determination of best available control technology pursuant to paragraph II for such air contaminant from such device shall be required for such period of time as specified in rules of the department, unless there is a material modification of the device.

VII. This section shall not apply to:

(a) A municipal waste combustor that is subject to RSA 125-M;

(b) Chemical recovery combustion sources at pulp and paper mills subject to 40 CFR 63, Subpart MM;

(c) A device at an affected source that combusts material of which at least 90 percent by weight is exempt fuel;

(d) An affected source that is within a listed source category and subject to a performance standard or emission guidelines established by the United States Environmental Protection Agency pursuant to either section 111 or section 112 or section 129 of the Clean Air Act, provided that these standards and guidelines are at least as stringent as those achieved by applying best available control technology as specified under paragraph II;

(e) A device at an affected source that, on the effective date of this section, routinely combusts any material other than a material specified in subparagraph (c) under a permit issued by the department, unless there is later a material modification of such device; or

(f) A device at an affected source with emissions of particulate matter, mercury, or dioxin below threshold levels established by rules of the department.

5 Rules Required. No permits shall be issued under RSA 125-C:10-a until final adoption of all rules required by this act.

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

HB 328, relative to jurisdiction over land occupied by or ceded to the United States.

INEXPEDIENT TO LEGISLATE

Rep. Kris E. Roberts for State-Federal Relations and Veterans Affairs: The federal government has a detailed system of disposing of excess properties. In most situations, state and local government has priority for such properties, usually at little to no cost. However, this bill would require the federal government to turn over all excess government property to the state. It is not in the best interest of the state to become property owners for excess property. The cost of such hardship could result in serious fiscal demands on the state. Vote 12-1.

HB 387, authorizing the state treasurer to make a lawful money requisition order.

INEXPEDIENT TO LEGISLATE

Rep. James G. Rolston for State-Federal Relations and Veterans Affairs: This bill would have directed the Attorney General to file for the involuntary bankruptcy of the Federal Reserve Bank of Boston and the sale of its assets at a sheriff's sale. The majority of the committee believed this was not in the best interest of New Hampshire citizens. Vote 12-1.

HB 718-FN-A, relative to group life insurance for New Hampshire citizens serving in the military reserves or national guard and making an appropriation therefor. **OUGHT TO PASS**

Rep. James G. Rolston for State-Federal Relations and Veterans Affairs: The state shall pay for group life insurance in the coverage amount of \$250,000 for each New Hampshire citizen serving in the military reserves or national guard and activated. The state's obligation shall be for each period of activated duty up to 24 months each. The sum of \$100,000 for the fiscal year ending June 30, 2006 and the sum of \$100,000 for the fiscal year ending June 30, 2007 are hereby appropriated to the adjutant general, for the purposes of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated. Vote 13-0.

Referred to the Committee on Finance.

HCR 4, urging Congress to find that the Piscataqua River and Portsmouth Harbor lie within the state of New Hampshire. **OUGHT TO PASS**

Rep. Richard F. Heon for State-Federal Relations and Veterans Affairs: Extensive research and study has been done going as far back as the 1600's including, but not limited to, the 1740 decree, the original County of Rockingham boundary of 1769, and the resolution of the 1828 Boundary Commission. The Boundary as described by the 1828 Boundary Commission as the boundary line between New Hampshire and Maine "Shall pass up through the mouth of the Piscataquis harbor, and up the middle of the River Newichwannock part of which is now called Salmon Falls, and through the middle of the same of the farthest head thereof." The study commission concluded that New Hampshire has historically owned the Piscataqua River and inland harbor. This resolution requests our congressional representatives to introduce legislation to once and for all resolve the issue of the actual location of the boundary between New Hampshire and Maine in the inner Piscataqua harbor and river area. Vote 13-0.

HCR 8, urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations and to ensure that such agreements, policies, and participation are in the best interests of the citizens of the state of New Hampshire and the United States. **OUGHT TO PASS**

Rep. James E. Twombly for State-Federal Relations and Veterans Affairs: The only concern the committee had on this resolution was placing a moratorium on new trade agreements but

after considerable discussion it was felt that Congress should not pass any new agreements until it fully understands the implications of policies and agreements that are already in place. Vote 12-1.

HR 11, urging the department of defense to establish a military presence on the New Hampshire seacoast to ensure a rapid response to any threat to domestic security.

INEXPEDIENT TO LEGISLATE

Rep. James E. Twombly for State-Federal Relations and Veterans Affairs: The State of New Hampshire and its communities presently have a rapid response to isolated threats that might threaten her citizens through numerous police and fire departments as well as the State Police and Office of Emergency Management. For greater threats to the state and for issues of national security such as what occurred on 9/11, the Federal Division of Homeland Security was formed to better coordinate various agencies including the military forces of all the state governments to counter the threat. The NH Adjutant General is the military Chief of Staff to the Governor and oversees the assets of the New Hampshire Army and Air National Guard. The mission of the Adjutant General's department is to provide the state with operationally ready units and personnel to protect life and property and to preserve the internal security of the state when ordered by the governor. Therefore, the Governor of the State of New Hampshire is the person with the responsibility of making sure that the Adjutant General is given the support necessary to carry out his mission. To suggest that a legislative body of a state can urge a federal agency, namely the Department of Defense, to allocate valuable military assets with all the associated costs in personnel and material to cover any and all perceived threats whether real or imagined is not feasible or within the jurisdiction of the General Court. Vote 12-1.

HB 205, relative to licensing requirements for certain drivers. **OUGHT TO PASS**

Rep. Stephen H. Nedeau for Transportation: This bill is related to licensing requirements for certain drivers. It is intended to crack down on persons who drive without a license or after their license has been suspended or revoked, the holder of a youth operator's license who is convicted of a D.W.I. (RSA 265:80, RSA 265:82 or RSA 265:82-a) shall not be eligible for reissuance of a license prior to the age of 21. This bill was a request of D.O.S. Vote 11-0.

HB 244-FN, relative to statutory liens by the department of safety. **OUGHT TO PASS**

Rep. Brenda L. Ferland for Transportation: This bill addresses a loophole and deficiency in the present law. The International Fuel Tax Agreement and The International Registration Plan are compacts entered into among most of the states and some of the Canadian provinces. For years, the road toll law has contained a provision that if a New Hampshire trucker fails to pay his fuel tax or fees, the Department of Safety can record a lien against all the vehicles in his fleet until the State has been paid. However, with the passage of the International Fuel Tax Agreement, the law did not catch up with the agreement, and there exists no authority to place a similar lien against out-of-state trucks under the Fuel Tax Agreement. There is also no provision under the International Registration Plan to collect delinquent registration plan fees by the placement of a lien. This bill corrects that oversight and establishes such mechanisms. It also modernizes the statutory lien law by making such a lien valid not only against the registered owner of the truck, but also against any bank or finance company that has an installment loan on the truck. Vote 13-0.

HB 378, relative to indicating citizenship on drivers' licenses. **INEXPEDIENT TO LEGISLATE**

Rep. James W. Danforth for Transportation: At this time federal legislation has been passed and more is pending on design and information requirements for state driver's licenses. The committee feels that it would be fiscally prudent to wait until next session to deal with this issue, to avoid changing the driving license design twice in a short period of time. The

committee is monitoring relevant federal legislation. Vote 13-1.

HB 493, relative to noncommercial antique motor vehicle restoration activities.

INEXPEDIENT TO LEGISLATE

Rep. James W. Danforth for Transportation: This bill would preempt local building and zoning ordinances to allow construction of a temporary building to facilitate vehicle restoration. It would also usurp local authority in limiting the number of such buildings. The committee feels that this bill would infringe on local authority, could be easily abused and is a local issue. Vote 13-0.

HB 518-FN, relative to eligibility for youth operators' licenses. **INEXPEDIENT TO LEGISLATE**

Rep. Brenda L. Ferland for Transportation: This bill would have required a youth operator to furnish proof of current school attendance, receipt of home education or a high school diploma to obtain an operators license. Although we all want our children to get a good education there are good reasons why some kids do not finish their schooling. They can be good, productive members of society without a diploma and shouldn't be punished for a life style that is beyond their control. Vote 13-0.

HB 566, relative to eligibility for public benefits and drivers' licenses. **INEXPEDIENT TO LEGISLATE**

Rep. James W. Danforth for Transportation: This bill seeks to prevent the Department of Motor Vehicles from issuing drivers licenses to persons who are not legally in the United States, as a means of preventing them from obtaining public benefits. Current law already prevents this and the Department of Motor Vehicles does not issue drivers licenses to illegal aliens. Furthermore, there is a pending federal measure that will establish new, rigid license standards. There is not enough evidence to establish what state or federal benefits are if at all being abused. Vote 14-0.

HB 599-FN, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles. **OUGHT TO PASS WITH AMENDMENT**

Rep. Brenda L. Ferland for Transportation: This bill requires that a vehicle dealer of new cars shall disclose in writing that a vehicle they sell is equipped with an event data recorder (EDR) or a sensing diagnostic modules (SDM). A person other than the registered vehicle owner authorized to download the data may not release that data, except to share the data among the motor vehicle safety and medical research communities to advance motor vehicle safety and only if the identity of the registered owner or driver is not disclosed. Violators of this section of the bill shall constitute an unfair or deceptive act under the consumer protection act. Vote 9-0.

Amendment (0855h)

Amend the bill by replacing section 1 with the following:

1 New Chapter; Event Data Recording Devices in Motor Vehicles. Amend RSA by inserting after chapter 357-F the following new chapter:

CHAPTER 357-G

EVENT DATA RECORDING DEVICES IN MOTOR VEHICLES

357-G:1 Event Data Recorders.

I. As used in this section, "recording device" means a device that is installed by the manufacturer of the vehicle and does one or more of the following, for the purpose of retrieving data after an accident:

- (a) Records how fast and in which direction the motor vehicle is traveling.
- (b) Records a history of where the motor vehicle travels.
- (c) Records steering performance.

- (d) Records brake performance, including, but not limited to, whether brakes were applied before an accident.
- (e) Records the driver's seatbelt status.
- (f) Has the ability to transmit information concerning an accident in which the motor vehicle has been involved to a central communications system or other external device when an accident occurs.
- II. A motor vehicle dealer of a new motor vehicle sold in this state that is equipped with one or more recording devices, commonly referred to as "event data recorders (EDR)" or "sensing and diagnostic modules (SDM)," shall disclose that fact in writing to the consumer prior to the sale.
- III. A person other than the registered vehicle owner authorized to download or otherwise retrieve data from a recording device, may not release that data, except to share the data among the motor vehicle safety and medical research communities to advance motor vehicle safety, and only if the identity of the registered owner or driver is not disclosed.
- IV. Violations of this section shall constitute an unfair or deceptive act or practice under RSA 358-A:2.
- V. This section applies to all motor vehicles manufactured on or after July 1, 2006.

AMENDED ANALYSIS

This bill requires disclosure to consumers of the presence of event data recording devices in new motor vehicles. This bill also limits the use of data recorded by event data recording devices.

HB 683-FN, relative to reporting of motor vehicle offenses by driver education instructors and drivers' school licensees. **OUGHT TO PASS**

Rep. James W. Danforth for Transportation: This bill requires driver education instructors to have a certificate issued by the Department of Safety. It also requires any instructor to notify the department if their license has been suspended or revoked in this or any other jurisdiction. It allows for the department to suspend the license of a driving school or instructor after a hearing, if committing any offense that results in loss of driving privileges. Vote 14-0.

REGULAR CALENDAR – PART I

HB 209-FN, relative to unborn victims of violence. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy N. Robertson for Criminal Justice and Public Safety: This bill establishes a separate offense for causing the death of, or injury to, an unborn child. If passed as written, the bill, in effect, establishes life at conception, a concept not currently accepted. The sponsor has presented us with a bill that the legislature has failed to resolve in the past and we have failed to resolve in this committee. Vote 12-3.

Reps. Paul Smith, Giuda and Wendelboe spoke against.

Rep. w. Packy Campbell spoke against and yielded to questions.

Rep. Welch spoke to the bill.

Rep. Langlais requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 212 NAYS 138			
YEAS 212			
BELKNAP			
Allen, Janet	Morrison, Gail	Nedeau, Stephen	Pilliod, James
Russell, David	Veazey, John	Whalley, Michael	

CARROLL			
Babson, David Jr	Buco, Thomas	Dickinson, Howard	Knox, J David
McConkey, Mark	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dexter, Judson
Dunn, J Timothy	Eaton, Daniel	Emerson, Susan	Espieffs, Peter
Foote, Sheila	Hunt, John	Mitchell, Bonnie	Parkhurst, Henry
Plifka, Stanley Jr	Pratt, John	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sawyer, Sheldon	Tilton, Anna	Weed, Charles
COOS			
Buzzell, Bernard	Mears, Edgar	Merrick, Scott	Remick, William
Stohl, Eric	Theberge, Robert	Tholl, John Jr	
GRAFTON			
Almy, Susan	Andersen, Gene	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Eaton, Stephanie	Gionet, Edmond
Ham, Bonnie	Hammond, Lee	Harding, A Laurie	McLeod, Martha
Mulholland, Catherine	Nordgren, Sharon	Sokol, Hilda	Solomon, Peter
HILLSBOROUGH			
Baroody, Benjamin	Barry, J Gail	Beaulieu, Jane	Bergin, Peter
Calawa, Leon Jr	Campbell, David	Carter, Mark	Chase, Claudia
Christensen, D L Chris	Clemons, Jane	Cote, David	Craig, James
Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi	Dokmo, Cynthia
Drisko, Richard	Emerton, Larry	Essex, David	Foster, Linda
Garrity, Patrick	Golding, William	Goley, Jeffrey	Gorman, Mary
Graham, John	Harvey, Suzanne	Holden, Randolph	Irwin, Anne-Marie
Jean, Claudette	Kopka, Angeline	Kurk, Neal	Lasky, Bette
Lefebvre, Roland	Lessard, Rudy	Martin, Mary Ellen	Messier, Irene
Michon, Stephen	Movsesian, Lori	O'Connell, Timothy	Pappas, Christopher
Price, Pamela	Rochette, Eric	Rosenwald, Cindy	Ryder, Donald
Shaw, Barbara	Smith, David	Sullivan, Francis	Sullivan, Peter
Vaillancourt, Steve	Villeneuve, Maurice		
MERRIMACK			
Anderson, Eric	Bouchard, Candace	Brueggemann, Donald	Currier, David
DeJoie, John	DeStefano, Stephen	Foose, Robert	French, Barbara
Gile, Mary	Greco, Vincent	Hager, Elizabeth	Hamm, Christine
Hess, David	Kidder, David	Lockwood, Priscilla	MacKay, James
Marple, Richard	Maxfield, Roy	McMahon, Patricia	Osborne, Jessie
Owen, Derek	Potter, Frances	Reardon, Tara	Reed, Dennis
Rush, Deanna	Ryan, Jim	Shurtleff, Stephen	Tilton, Joy
Tupper, Frank	Wallner, Mary Jane	Walz, Mary Beth	Williams, Robert
Yeaton, Charles			
ROCKINGHAM			

Abbott, Dennis	Asselin, Michael	Belanger, Ronald	Bishop, Franklin
Blanchard, MaryAnn	Cali-Pitts, Jacqueline	Casey, Kimberley	Charron, Gene
Dalrymple, Janeen	Flanders, John Sr	Flockhart, Eileen	Francoeur, Sheila
Gilbert, Karl	Gillick, Thomas	Gould, Kenneth	Johnson, Robert
Katsakiores, George	Langley, Jane	Major, Norman	McKinney, Betsy
Moody, Marcia	Norelli, Terie	Nowe, Ronald	Pantelakos, Laura
Parker, Benjamin	Powers, James	Priestley, Anne	Rausch, James
Robertson, Carl	Sanders, Elisabeth	Scamman, Stella	Serlin, Christopher
Splaine, James	Stiles, Nancy	Stone, Joseph	Weare, E Albert
Welch, David	Weyler, Kenneth		
STRAFFORD			
Brown, Jennifer	Brown, Julie	Brown, Lawrence	Cilley, Jacalyn
Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia	Goodwin, Earle
Grassie, Anne	Heon, Richard	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Rollo, Michael
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Wall, Janet
SULLIVAN			
Cloutier, John	Converse, Larry	Ferland, Brenda	Franklin, Peter
Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr	Phinizy, James
Prichard, Stephen			
NAYS 138			
BELKNAP			
Boyce, Laurie	Clark, Charles	Fitzgerald, James	Flanders, Donald
Heald, Bruce	Rosen, Ralph	Tilton, Franklin	Tobin, William
Wendelboe, Fran			
CARROLL			
Ahlgren, Christopher	Brown, Carolyn	Chandler, Gene	Martin, James
Morrow, Harry	Stevens, Stanley		
CHESHIRE			
Hogancamp, Deborah	Pelkey, Stephen		
COOS			
King, Frederick	Lary, Bruce	Morneau, Renney	Richardson, Herbert
GRAFTON			
Giuda, Robert	Ingbretson, Paul	Maybeck, Margie	Mirski, Paul
Sorg, Gregory	Ward, John		
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Allan, Nelson	Baines, Stephen

Balboni, Michael	Batula, Peter	Bergeron, Jean-Guy	Biundo, Michael
Boehm, Ralph	Brassard, Paul	Brundige, Robert	Buhlman, David
Carew, James	Carlson, Donald	Christiansen, Lars	Clark, Mark
Coughlin, Pamela	Crane, Elenore Casey	Elliott, Nancy	Francoeur, Bea
Gibson, John	Goyette, Peter Jr	Haley, Robert	Hansen, Ryan
Hawkins, Ken	Hinkle, Peyton	Hirschmann, Keith	Hunter, Bruce
Jasper, Shawn	L'Heureux, Robert	Lawrence, James	Manney, Pamela
McRae, Karen	Mead, Robert	Mooney, Maureen	O'Brien, William
Ober, Lynne	Pepino, Leo	Pilotte, Maurice	Reeves, Sandra
Renzullo, Andrew	Ross, Lawrence	Rowe, Robert	Slocum, Lee
Souza, Kathleen	Stepanek, Stephen	Tahir, Saghir	Velez, Hector
Wheeler, James	Wheeler, Robert		
MERRIMACK			
Blanchard, Elizabeth	Danforth, James	Field, William	Kennedy, Richard
L'Heureux, Stephen	Langlais, Thomas	Whiting, Herbert	
ROCKINGHAM			
Allen, Mary	Bettencourt, David	Buxton, Donald	Cady, Harriet
Camm, Kevin	Carson, Sharon	Coburn, James	Cooney, Richard
DiFruscia, Anthony	Dodge, Robert	Dowd, John	Dumaine, Dudley
Fesh, Bob	Forsing, Robert	Garrity, James	Griffin, Mary
Headd, James	Hopfgarten, Paul	Hughes, Daniel	Ingram, Russell
Introne, Robert	Itse, Daniel	Johnson, Rogers	Katsakiores, Phyllis
Kobel, Rudolph	Lund, Howie	Manning, John	Mason, April
McMahon, Charles	Moore, Benjamin	O'Neil, Michael	Packard, Sherman
Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew	Rolston, James
Smith, Paul	Waterhouse, Kevin	Weldy, Norman	Wells, Roger
Winchell, George			
STRAFFORD			
Berube, Roger	Callaghan, Frank	Campbell, W Packy	Cataldo, Sam
Chaplin, Duncan	Easson, Timothy	Hofemann, Roland	Newton, Clifford
Twombly, James			
SULLIVAN			
Donovan, Thomas	Irish, Christopher	Osgood, Philip Sr	Rodeschin, Beverly

and the committee report was adopted.

MOTION TO PRINT DEBATE

Rep. Guida moved that the debate on HB 209-FN be printed in the Permanent Journal.

Rep. Guida requested a roll call; sufficiently seconded.

The question being should the debate on HB 209-FN be printed in the Permanent Journal.

YEAS 140 NAYS 211			
YEAS 140			
BELKNAP			
Boyce, Laurie	Clark, Charles	Fitzgerald, James	Flanders, Donald

Heald, Bruce	Rosen, Ralph	Tilton, Franklin	Tobin, William
Veazey, John	Wendelboe, Fran	Whalley, Michael	
CARROLL			
Ahlgren, Christopher	Brown, Carolyn	Dickinson, Howard	Martin, James
McConkey, Mark	Merrow, Harry		
CHESHIRE			
Foote, Sheila	Hogancamp, Deborah	Pelkey, Stephen	
COOS			
Lary, Bruce	Morneau, Renney	Remick, William	Richardson, Herbert
GRAFTON			
Giuda, Robert	Ingbretson, Paul	Maybeck, Margie	Mirski, Paul
Sorg, Gregory	Ward, John		
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Allan, Nelson	Baines, Stephen
Balboni, Michael	Batula, Peter	Bergeron, Jean-Guy	Biundo, Michael
Boehm, Ralph	Brassard, Paul	Brundige, Robert	Buhlman, David
Carew, James	Christensen, D L Chris	Christiansen, Lars	Clark, Mark
Coughlin, Pamela	Crane, Elenore Casey	Elliott, Nancy	Francoeur, Bea
Gibson, John	Goyette, Peter Jr	Hansen, Ryan	Hinkle, Peyton
Hirschmann, Keith	Jasper, Shawn	Lawrence, James	Lefebvre, Roland
Manney, Pamela	Martin, Mary Ellen	Mead, Robert	Mooney, Maureen
O'Brien, William	Ober, Lynne	Reeves, Sandra	Renzullo, Andrew
Ross, Lawrence	Rowe, Robert	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Sullivan, Peter	Tahir, Saghir	Velez, Hector
Wheeler, James			
MERRIMACK			
Blanchard, Elizabeth	Danforth, James	DeStefano, Stephen	Field, William
Kennedy, Richard	Kidder, David	Langlais, Thomas	Tilton, Joy
ROCKINGHAM			
Allen, Mary	Bettencourt, David	Blanchard, MaryAnn	Buxton, Donald
Cady, Harriet	Carson, Sharon	Coburn, James	DiFruscia, Anthony
Dodge, Robert	Dowd, John	Dumaine, Dudley	Fesh, Bob
Forsing, Robert	Garrity, James	Gillick, Thomas	Headd, James
Hopfgarten, Paul	Hughes, Daniel	Ingram, Russell	Introne, Robert
Itse, Daniel	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Lund, Howie	Manning, John	Mason, April	Moore, Benjamin
Nowe, Ronald	O'Neil, Michael	Packard, Sherman	Putnam, Ed II
Quandt, Marshall Lee	Quandt, Matthew	Rausch, James	Robertson, Carl
Rolston, James	Sanders, Elisabeth	Smith, Paul	Stiles, Nancy
Waterhouse, Kevin	Welch, David	Weldy, Norman	Wells, Roger

Winchell, George			
STRAFFORD			
Berube, Roger	Bickford, David	Callaghan, Frank	Campbell, W Packy
Cataldo, Sam	Easson, Timothy	Hofemann, Roland	Newton, Clifford
Twombly, James			
SULLIVAN			
Donovan, Thomas	Irish, Christopher	Osgood, Philip Sr	
NAYS 211			
BELKNAP			
Allen, Janet	Morrison, Gail	Nedean, Stephen	Pilliod, James
Russell, David			
CARROLL			
Babson, David Jr	Buco, Thomas	Chandler, Gene	Knox, J David
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dexter, Judson
Dunn, J Timothy	Eaton, Daniel	Emerson, Susan	Espiefs, Peter
Hunt, John	Mitchell, Bonnie	Parkhurst, Henry	Plifka, Stanley Jr
Pratt, John	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Sawyer, Sheldon	Tilton, Anna	Weed, Charles	
COOS			
Buzzell, Bernard	King, Frederick	Mears, Edgar	Merrick, Scott
Stohl, Eric	Theberge, Robert	Tholl, John Jr	
GRAFTON			
Almy, Susan	Andersen, Gene	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Eaton, Stephanie	Gionet, Edmond
Ham, Bonnie	Hammond, Lee	Harding, A Laurie	McLeod, Martha
Mulholland, Catherine	Nordgren, Sharon	Sokol, Hilda	Solomon, Peter
HILLSBOROUGH			
Baroody, Benjamin	Barry, J Gail	Beaulieu, Jane	Bergin, Peter
Calawa, Leon Jr	Campbell, David	Carlson, Donald	Carter, Mark
Chase, Claudia	Clemons, Jane	Cote, David	Craig, James
Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi	Dokmo, Cynthia
Drisko, Richard	Emerton, Larry	Essex, David	Foster, Linda
Garrity, Patrick	Golding, William	Goley, Jeffrey	Gorman, Mary
Graham, John	Haley, Robert	Harvey, Suzanne	Hawkins, Ken
Holden, Randolph	Hunter, Bruce	Irwin, Anne-Marie	Jean, Claudette
Kopka, Angeline	Kurk, Neal	L'Heureux, Robert	Lasky, Bette
Lessard, Rudy	McRae, Karen	Messier, Irene	Michon, Stephen

Movsesian, Lori	O'Connell, Timothy	Pappas, Christopher	Pepino, Leo
Pilotte, Maurice	Price, Pamela	Rochette, Eric	Rosenwald, Cindy
Ryder, Donald	Shaw, Barbara	Smith, David	Sullivan, Francis
Vaillancourt, Steve	Villeneuve, Maurice	Wheeler, Robert	
MERRIMACK			
Anderson, Eric	Bouchard, Candace	Brueggemann, Donald	Currier, David
DeJoie, John	Foose, Robert	French, Barbara	Gile, Mary
Greco, Vincent	Hager, Elizabeth	Hamm, Christine	Hess, David
L'Heureux, Stephen	Lockwood, Priscilla	MacKay, James	Marple, Richard
Maxfield, Roy	McMahon, Patricia	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Reed, Dennis	Rush, Deanna
Ryan, Jim	Shurtleff, Stephen	Tupper, Frank	Wallner, Mary Jane
Walz, Mary Beth	Whiting, Herbert	Williams, Robert	Yeaton, Charles
ROCKINGHAM			
Abbott, Dennis	Asselin, Michael	Belanger, Ronald	Bishop, Franklin
Cali-Pitts, Jacqueline	Camm, Kevin	Casey, Kimberley	Charron, Gene
Cooney, Richard	Dalrymple, Janeen	Flanders, John Sr	Flockhart, Eileen
Francoeur, Sheila	Gilbert, Karl	Gould, Kenneth	Griffin, Mary
Johnson, Robert	Kobel, Rudolph	Langley, Jane	Major, Norman
McKinney, Betsy	McMahon, Charles	Moody, Marcia	Norelli, Terie
Pantelakos, Laura	Parker, Benjamin	Powers, James	Priestley, Anne
Scamman, Stella	Serlin, Christopher	Splaine, James	Stone, Joseph
Weare, E Albert	Weyler, Kenneth		
STRAFFORD			
Brown, Jennifer	Brown, Julie	Brown, Lawrence	Chaplin, Duncan
Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia
Goodwin, Earle	Grassie, Anne	Heon, Richard	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Wall, Janet			
SULLIVAN			
Cloutier, John	Converse, Larry	Ferland, Brenda	Franklin, Peter
Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr	Phinizy, James
Prichard, Stephen	Rodeschin, Beverly		

and the motion to print the debate failed.

HB 616-FN-L, revising the calculation and distribution of adequate education grants.
OUGHT TO PASS WITH AMENDMENT

Rep. David W. Hess for Education: This bill as it comes to the floor is a consensus, compromise bill in every sense of those words. First, it merges specific provisions from three of the ten education funding bills into a logical, consistent whole, and it merges provisions from bills that were distinct, and in some ways, disparate from each other. Second, HB 616 as amended embodies concepts and approaches contained in all ten of those formulations. Third, HB 616 as amended is the definition of a compromise, because no one legislator, no one interest group, gets all that he, she, or it wanted. No one is completely happy with the

result. Everyone had and has to give up something. And there is probably no major provision of this bill that, standing alone, has the unanimous support of the committee majority, which voted 16-4 to send this bill to the House. Finally, it is a consensus compromise because of the process by which it was reached. After literally, two solid weeks of public hearings on the eight bills and various amendments introduced on education funding, the standing subcommittee spent three grueling, seemingly interminable weeks sifting through the bills, collecting additional information, and weighing the merits and demerits of each bill. That exercise narrowed consideration to three specific bills: HB 100, The Weyler Bill; HB 606 as revised by the Asselin amendment; and HB 616, The King Bill. On the next to last possible day for action, the subcommittee deadlocked 4-4 on both the Weyler Bill and the Asselin amendment. Looking over the brink into the abyss, the subcommittee came together and crafted the consensus compromise before you. This bill has five significant components. First, it adopts from the King Bill the concept of a base, per pupil cost for education, using a formula which had been the law for the first four years following Claremont II, and arrives at a uniform property tax which would be needed to raise that amount of money for all students in the state. Then, it multiplies the total equalized assessed valuation ("EAV") of real property in each town by that hypothetical tax rate. If the resulting number is greater than the dollars needed to pay the base per pupil cost for all of the pupils in that town, the towns gets no grant. If that number is less, however, then the town receives a grant for the difference. Under this targeting formula, \$154 million is distributed to our towns and cities which qualify for grants. A second targeting formula, the so-called Education Equity Index ("EEI") contained in HB 100, is used to distribute an additional \$300 million using seven criteria, including equalized assessed valuation per pupil, median household income, children on free and reduced lunches, children with English as a second language, and three measurements of school performance. These, combined, result in a second round of grants to those towns and cities deemed in need of additional funding because their EEI scoring is below 120% of the statewide average. Thus, this bill targets 100% of these grants using those two formulas, as opposed to only targeting about 25% under current law. Third, to provide our towns and cities some stability and predictability in their education funding, and to give them time to plan and prepare for the reduction in state aid which they will experience as the new funding proposal succeeds the old, transition grants totaling \$44 million in FY 2006 are made to 82 middle-tier towns so that no town or city will experience a grant reduction of more than 10% a year. These transition grants will decrease significantly year over year until they are totally phased out. These transition grants are in addition to the aid grants and are not paid for by reducing the aid grants made under the bill. Fourth, to expand our very successful low and moderate income tax relief law, and to grant greater property tax relief to those least able to pay in all of our towns and cities, that program is expanded to grant property tax relief for up to \$7 per 1,000 in local education property tax payments, a 220% increase over the current law. This is expected to send an estimated \$20 million more back to those taxpayers in our towns and cities. Finally, and for the first time, this bill funds our Performance Improvement Fund with \$1 million to assist those towns and cities with sub par education performance in bootstrapping themselves up to and above the state norms. But if, after three years, they do not succeed, then they will experience the "stick" of receiving only 95% of the state education grants to which they are otherwise would be entitled. In conclusion, this bill is greater than the sum of its parts. It is now a pure statement of education policy. It contains no funding or revenue projections. No one will like everything in it, and no one provision will gain unanimous or near unanimous support. But it targets more money than ever before to our poorer towns; it eliminates donor towns; it transitions our middle-tier towns so they can plan and prepare for lower state grants; and it increases property tax relief 300%. It isn't perfect, but as a whole, with all parts taken together and interconnected; this bill received an 80% consensus vote for passage in the committee. Vote 16-4.

Amendment (0877h)

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

AN ACT relative to the education property tax and the education equity index.

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

1 Persons and Property Taxable. RSA 76:3 is repealed and reenacted to read as follows:
76:3 Education Taxes.

I. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall determine an average tax rate that is sufficient to fund average per pupil cost of all municipalities pursuant to RSA 198:40 multiplied by the statewide average daily membership in residence. The rate calculated shall be uniform on each \$1,000 of the value of taxable property of all persons and property taxable pursuant to RSA 72 and RSA 73, and except property subject to tax under RSA 82 and RSA 83-F.

II. Municipalities may assess local property taxes necessary to fund school district appropriations not funded by the state education base grants, transition grants, and state education assistance grants, paid from the education trust fund under RSA 198:39, or by other revenue sources.

III. The commissioner of the department of revenue administration shall use the most recent available equalized property tax assessment data in calculating the tax rate under paragraph I.

2 Persons and Property Taxable; Commissioner's Warrant. RSA 76:8 is repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the cost of education in a municipality pursuant to RSA 198:40.

II. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations in excess of base grants, education assistance grants, and transition grants.

3 School Money; Determination of Average Per Pupil Cost. Amend RSA 198:40, I(b) to read as follows:

(b) The department shall identify those school districts where ~~[40 to]~~ 60 to 80 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above. From these school districts, the department shall then identify those school districts that have the lowest cost per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified.

4 New Sections; Education Equity Index. Amend RSA 198 by inserting after section 40 the following new sections:

198:40-a Education Equity Index.

I. Beginning July 1, 2005, and every fiscal year thereafter, the department shall determine an education equity index (EEI) for each municipality that had any resident pupils during the applicable determination year as follows:

(a) Each municipality's education equity index shall be computed by dividing one by the sum of:

(1) 0.4 times the statewide average equalized valuation per pupil divided by the equalized valuation per pupil for the municipality;

(2) 0.2 times the statewide median income divided by the municipality's median income;

(3) 0.095 times the percentage of the municipality's pupils in grades 1-12 eligible to receive a free or reduced price meal during the determination year as reported to the department divided by the statewide percentage of pupils in grades 1-12 eligible to

receive a free or reduced price meal during the determination year as reported to the department;

(4) 0.005 times the percentage of the municipality's pupils in grade one through grade 8 identified as having limited English proficiency and receiving at least 5 hours per week of special instruction in English during the determination year as reported to the department divided by the statewide percentage of pupils in grades one through 8 identified as having limited English proficiency and receiving at least 5 hours per week of special instruction in English during the determination year;

(5) 0.15 times the statewide average test score divided by the municipality's average test score;

(6) 0.075 times the statewide graduation rate for the determination year as reported by the department divided by the municipality's graduation rate for the determination year as reported to the department, where each municipality's graduation rate shall be equal to the graduation rate for the particular high school attended by the municipality's resident pupils that attend high school; and

(7) 0.075 times the statewide percentage of high school graduates that entered directly into postsecondary education in the determination year as reported by the department divided by the percentage of the municipality's high school graduates that entered directly into postsecondary education in the determination year as reported to the department, where each municipality's percentage of high school graduates that entered directly into postsecondary education in the determination year shall be equal to the percentage of such high school graduates for the particular high school attended by the municipality's resident pupils that attend high school.

(b) For the fiscal years beginning July 1, 2005 and July 1, 2006, the department shall determine the education equity index for each municipality within 15 days after the effective date of this section.

(c) Beginning July 1, 2007, and every fiscal year thereafter, the department shall determine the education equity index for each municipality not later than October 1 in the calendar year preceding the beginning of the fiscal year for which the education equity index is calculated.

II. In determining the education equity index for any municipality that sends pupils to more than one school or school district, the department shall consider only data from schools or school districts within this state attended by 5 percent or more of the municipality's resident pupils, and the department shall determine each value necessary to calculate the education equity index for such municipality by weighting the corresponding values for each school or school district to which the municipality sends pupils by the number of resident pupils from the municipality that attend such school or school district. If a municipality sends all of its resident pupils that are relevant to the determination of any value necessary to calculate the education equity index for such municipality to one or more schools not operated by any school district, then the municipality shall be assigned the statewide value for such value.

198:40-b State Education Assistance.

I. For the fiscal year beginning July 1, 2005, and for the first year of each biennium thereafter, the department shall determine the amount of state education assistance under this section, if any, for a municipality, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) The state shall distribute state education assistance to municipalities pursuant to RSA 198:42 in an aggregate amount equal to the total amount of state education assistance grants determined for the fiscal year pursuant to subparagraph (b).

(b) The annual amount of state education assistance shall be distributed among the municipalities as state education assistance grants as follows:

(1) For each municipality with an education equity index for the applicable biennium year less than 1.2, the department shall determine a number of education equity units equal to the number of resident pupils in the municipality during the applicable determination year multiplied by the excess of 1.2 over the municipality's education equity index for such biennium. Each other municipality shall be assigned zero education equity units for such biennium.

(2) Each municipality shall receive a state education grant for such fiscal year equal to the total amount of state education grants for the fiscal year multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

II. For the fiscal year beginning July 1, 2006, and for the second year of each biennium thereafter, the department shall determine the amount of state education assistance under this section, if any, for a municipality, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) The state shall distribute state education assistance to municipalities pursuant to RSA 198:42 in an aggregate amount equal to the total amount of state education assistance grants determined for the fiscal year pursuant to subparagraph (b).

(b) Each municipality shall receive a state education assistance grant for such fiscal year equal to the total amount of state education assistance grants for the fiscal year as determined pursuant to paragraph III below multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

III. For the fiscal year beginning July 1, 2005, and for each fiscal year thereafter, the department shall determine the amount of state education assistance under this section as follows:

(a) For the fiscal year beginning July 1, 2005, the amount of state education assistance shall be \$300,000,000, to be distributed as determined in this section using the education equity index in RSA 198:40-a.

(b) For the fiscal year beginning July 1, 2006, the amount of state education assistance shall be the amount of assistance under this paragraph for such fiscal year multiplied by the sum of one plus the percentage change in the state average daily membership in attendance plus the average annual percentage rate of inflation for the immediately preceding 4 calendar years based on the northeast region consumer price index for all urban consumers, as published by the Bureau of Labor Statistics, United States Department of Labor.

IV. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the amount of state education assistance for each such municipality shall be the lesser of the following:

(a) The amount calculated in accordance with paragraph I or paragraph II of this section, as applicable; or

(b) The total amount paid for education expense as determined by the department.

5 School Money; Calculation of Base Education Cost. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Base Education Cost; Base Grant; Transition Grant.

I. A municipality's base education cost shall be determined by multiplying the municipality's average per pupil cost, pursuant to RSA 198:40, by the average daily membership in residence in the municipality.

II. A municipality which cannot raise sufficient revenue at the average rate established under RSA 76:3 to fund its base education cost shall receive a base grant from

the education trust fund established in RSA 198:39, in an amount sufficient to fund its base education cost.

III. Transition grants shall be paid from the education trust fund and shall be determined as follows:

(a) For the 2006 and 2007 fiscal years, a municipality shall receive a transition grant for the amount that the state base grant and the state education assistance grant under RSA 198:40-b is less than 90 percent of the amount received in the 2005 fiscal year.

(b) For the 2008 fiscal year, and every fiscal year thereafter, a municipality shall receive a transition grant which is not less than 90 percent of the amount received in the preceding fiscal year. Provided, however, that after fiscal year 2008, if for a municipality the transition grant is equal to or less than \$100 per pupil, then the transition grant shall terminate.

6 School Money; Distribution Schedule. Amend the section heading of RSA 198:42 and RSA 198:42, I-II to read as follows:

198:42 **Funding** Distribution Schedule [~~of Adequate Education Grant~~]; Appropriation.

I. The [~~adequate education grant~~] **base grants** determined in RSA 198:41, **state educational assistance grants under RSA 198:40-b, and transition grants under RSA 198:41, V** shall be distributed to each municipality's school district or districts legally responsible for the education of the pupils who attend approved public schools within the district or in other districts or who attend approved programs for educationally disabled children, as the case may be, from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the [~~grant~~] **base grants** determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.

II. For the fiscal year beginning July 1, 2004, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of [~~adequate~~] education grants.

7 Additional Education Expenditures. Amend RSA 198:43 to read as follows:

198:43 Additional Education Expenditures. School districts are authorized to develop **additional** educational programs [~~beyond those required for an adequate education~~] and to raise and appropriate amounts necessary for such programs.

8 School Money; Maintenance of Local Control. Amend RSA 198:48 to read as follows:

198:48 Maintenance of Local Control. Distributions under RSA 198:42 are based on [~~adequate~~] education costs determined in RSA 198:40 and are independent of how the municipalities decide to spend the distributions or other funds they may raise for education. Notwithstanding any other provision of law, nothing in this subdivision is intended in any way to limit or control how school districts operate or spend their budgets except that [~~adequate~~] education grants must be expended for educational purposes. [~~Adequate~~] **State** education grants [~~and hardship grants~~] shall not be considered unanticipated funds under RSA 198:20-b.

9 State Treasurer; Application of Receipts. Amend RSA 6:12, I(b)(65) to read as follows:

(65) Money received under RSA 77-A, RSA 77-E, RSA 78, RSA 78-A, RSA 78-B, RSA 83-F, [~~RSA 198:46~~], and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

10 School Attendance; Duty of Parent; Compulsory Attendance. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and ~~[adequate education]~~ grants under RSA 198:41.

11 Subdivision Heading Amended. Amend the subdivision heading preceding RSA 198:38 to read as follows:

State Aid for ~~[Educational Adequacy]~~ **Education**; Education Trust Fund

12 School Money; Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute ~~[adequate]~~ **base, education assistance, and transition** education grants to municipalities' school districts pursuant to RSA 198:42, ~~[and]~~ to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61, **and to fund the performance improvement fund established in RSA 193-H:4-a**. The state treasurer shall deposit into this fund immediately upon receipt:

13 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school authorized by the state board of education, the pupil's resident district shall pay tuition beginning July 1, 2004 and every fiscal year thereafter, in an amount per pupil equal to the amount determined in RSA 198:40, I. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of ~~[adequacy]~~ grants under RSA 198:42 or on such other terms as are mutually acceptable.

14 School Performance and Accountability; Local Education Improvement Plan. Amend RSA 193-H:4, I (b) to read as follows:

(b) If a school or school district has been designated as in need of improvement, then the school or school district may request assistance from the department ~~[of education]~~ **and may request funding from the performance improvement fund established in RSA 193-H:4-a**. The department shall provide technical assistance to those schools that request assistance under this section.

15 New Paragraph; School Performance and Accountability; Local Education Improvement Plan. Amend RSA 193-H:4 by inserting after paragraph IV the following new paragraph:

V. Three years following the designation, a school or school district which is still not making satisfactory progress in implementing the plan required under subparagraph I(a) shall receive, in the next fiscal year, 95 percent of the education grant to which it is entitled under RSA 198:41. For each year thereafter in which such designation persists, a school or school district shall receive, in the next fiscal year, 95 percent of the education grant to which it is entitled under RSA 198:41.

16 New Section; School Performance and Accountability; Performance Improvement Fund. Amend RSA 193-H by inserting after section 4 the following new section:

193-H:4-a Performance Improvement Fund.

I. There is hereby established in the department a performance improvement fund which shall be administered by the commissioner. The purpose of the fund is to provide funding for approved improvement plans required under RSA 193-H:4, I. Approved improvement plans shall be funded to the extent of available funds in a fiscal year.

II. Beginning July 1, 2005, and every fiscal year thereafter, the sum of \$1,000,000 is hereby appropriated to this fund from the education trust fund established in RSA 198:39. Any unused funds remaining at the end of the fiscal year shall lapse to the general fund.

17 Low and Moderate Income Homeowners' Relief. Amend RSA 198:57, IV to read as follows:

IV. All or a portion of an eligible tax relief claimant's ~~[state]~~ education property taxes, RSA 76:3, shall be rebated as follows:

(a) Multiply the total local assessed value of the claimant's property by the percentage of such property that qualifies as the claimant's homestead;

(b) ~~[Multiply \$100,000 by the most current local equalization ratio as determined by the department of revenue administration;~~

(~~e~~) Multiply the ~~[lesser of the]~~ amount determined in subparagraph (a) ~~[or (b)]~~ by the current state **and local** education property tax rate as shown on the tax bill under RSA 76:11-a **up to a maximum equalized rate of \$7.60 per \$1,000 of the value of taxable property;**

~~[(d)]~~(c) Multiply the product of the calculation in subparagraph [(c)](b) by the following percentage as applicable to determine the amount of tax relief available to the claimant:

(1) If a single person and total household income is:

(A) less than \$12,500, 100 percent;

(B) \$12,500 but less than \$15,000, 60 percent;

(C) \$15,000 but less than \$17,500, 40 percent; or

(D) \$17,500 but less than or equal to \$20,000, 20 percent.

(2) If a head of a New Hampshire household or a married person and total household income is:

(A) less than \$25,000, 100 percent;

(B) \$25,000 but less than \$30,000, 60 percent;

(C) \$30,000 but less than \$35,000, 40 percent; or

(D) \$35,000 but less than or equal to \$40,000, 20 percent.

~~[(e)]~~(d) The amount determined by subparagraph [(d)](c) is the allowable tax relief in any year.

18 Repeals. The following are repealed:

I. 2004, 195:3 and 2004, 200:27, relative to the education property tax.

II. 2004, 200:16-200:23, relative to contingent applicability.

III. 2004, 200:25-200:28, relative to prospective versions of the education property tax and contingent applicability.

IV. RSA 198:38, VII, relative to the definition of adequate education costs.

V. RSA 198:44, relative to duties of the department of education and the board of education.

VI. RSA 198:46-47, relative to excess education property tax payment and forms.

VII. RSA 198:49, relative to the adequate education and education financing commission.

VIII. RSA 198:39, I(g), relative to excess education property tax payments.

19 Nonseverability. If the New Hampshire supreme court declares any provision of sections 1-18 of this act to be unconstitutional under either the New Hampshire constitution

or the United States Constitution, then sections 1-18 of this act are hereby repealed on the date such unconstitutionality is declared.

20 Effective Date. This act shall take effect July 1, 2005 at 12:02 a.m.

AMENDED ANALYSIS

This bill:

I. Replaces the education property tax with a provision requiring the commissioner of the department of revenue administration to establish a tax rate sufficient to fund state education assistance payments.

II. Distributes state education assistance in the form of state education grants, which are determined on a municipality-by-municipality basis under a formula that calculates a municipality's need for assistance based on a broad range of factors, including fiscal capacity, resource challenges, performance, and student population, with the state education grants being adjusted in future years by the consumer price index and changes in statewide pupil population.

III. Provides that for the 2006 and 2007 fiscal years, a municipality shall receive a total grant which is not less than 90 percent of the total grant received in the 2005 fiscal year, and for the 2008 fiscal year, and every fiscal year thereafter, a municipality shall receive a total grant which is not less than 90 percent of the total grant received in the preceding fiscal year.

IV. Repeals the statutory provisions authorizing excess education property tax payments.

Amendment adopted.

Hess spoke in favor and yielded to questions.

Vaillancourt against and yielded to questions.

Rep. Graham offered floor amendment (0941h)

Floor Amendment (0941h)

Amend the bill by replacing section 20 with the following:

20 Effective Date. This act shall take effect July 1, 2006.

Rep. Graham spoke in favor and yielded to questions.

Rep. Ober spoke in favor.

Rep. Hess spoke against.

Rep. Mirski requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0941h).

YEAS 109 NAYS 253			
YEAS 109			
BELKNAP			
Fitzgerald, James	Tobin, William	Veazey, John	Whalley, Michael
CARROLL			
Buco, Thomas	McConkey, Mark	Merrow, Harry	Olimpio, J Lisbeth
CHESHIRE			
Butcher, Suzanne	Hogancamp, Deborah	Pelkey, Stephen	Pratt, John
COOS			
Lary, Bruce	Morneau, Renney		

GRAFTON			
Almy, Susan	Benn, Bernard	Ham, Bonnie	Hammond, Lee
Ingbretson, Paul	Maybeck, Margie	Sokol, Hilda	Solomon, Peter
HILLSBOROUGH			
Adams, Jarvis IV	Allan, Nelson	Baines, Stephen	Balboni, Michael
Bergeron, Jean-Guy	Bergin, Peter	Boehm, Ralph	Brundige, Robert
Buhlman, David	Calawa, Leon Jr	Carlson, Donald	Christensen, D L Chris
Christiansen, Lars	Coughlin, Pamela	Dokmo, Cynthia	Drisko, Richard
Elliott, Nancy	Francoeur, Bea	Gibson, John	Goyette, Peter Jr
Graham, John	Hansen, Ryan	Hawkins, Ken	Hebert, Raymond
Hinkle, Peyton	Irwin, Anne-Marie	L'Heureux, Robert	Lawrence, James
McRae, Karen	Mead, Robert	Messier, Irene	Mooney, Maureen
O'Brien, William	Ober, Lynne	Renzullo, Andrew	Rowe, Robert
Ryder, Donald	Slocum, Lee	Stepanek, Stephen	Sullivan, Francis
Wheeler, James			
MERRIMACK			
Anderson, Eric	Bouchard, Candace	Danforth, James	Field, William
Gile, Mary	Lockwood, Priscilla	Maxfield, Roy	Osborne, Jessie
Wallner, Mary Jane	Walz, Mary Beth	Whiting, Herbert	
ROCKINGHAM			
Allen, Mary	Bishop, Franklin	Buxton, Donald	Casey, Kimberley
Cooney, Richard	Dalrymple, Janeen	Dowd, John	Forsing, Robert
Gilbert, Karl	Headd, James	Hopfgarten, Paul	Introne, Robert
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	Major, Norman
McKinney, Betsy	Morris, Richard	Nowe, Ronald	Packard, Sherman
Parker, Benjamin	Robertson, Carl	Smith, Paul	Stone, Joseph
Waterhouse, Kevin	Weldy, Norman	Weyler, Kenneth	Winchell, George
STRAFFORD			
Bickford, David	Brown, Julie	Heon, Richard	Keans, Sandra
SULLIVAN			
Converse, Larry	Donovan, Thomas	Ferland, Brenda	
NAYS 253			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Morrison, Gail	Nedeau, Stephen	Pilliod, James
Rosen, Ralph	Russell, David	Thomas, John	Tilton, Franklin
Wendelboe, Fran			
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Chandler, Gene
Dickinson, Howard	Knox, J David	Martin, James	Patten, Betsey

Philbrick, Donald	Stevens, Stanley		
CHESHIRE			
Allen, Peter	Butynski, William	Dexter, Judson	Dunn, J Timothy
Eaton, Daniel	Emerson, Susan	Foote, Sheila	Hunt, John
Mitchell, Bonnie	Parkhurst, Henry	Plifka, Stanley Jr	Richardson, Barbara
Roberts, Kris	Robertson, Timothy	Sawyer, Sheldon	Tilton, Anna
Weed, Charles			
COOS			
Buzzell, Bernard	King, Frederick	Mears, Edgar	Merrick, Scott
Remick, William	Richardson, Herbert	Stohl, Eric	Theberge, Robert
Tholl, John Jr			
GRAFTON			
Andersen, Gene	Barker, Robert	Bleyler, Ruth	Cooney, Mary
Eaton, Stephanie	Gionet, Edmond	Giuda, Robert	Harding, A Laurie
McLeod, Martha	Mirski, Paul	Mulholland, Catherine	Nordgren, Sharon
Sorg, Gregory	Ward, John		
HILLSBOROUGH			
Aboshar, Jeffrey	Baroody, Benjamin	Barry, J Gail	Batula, Peter
Beaulieu, Jane	Biundo, Michael	Brassard, Paul	Campbell, David
Carew, James	Carter, Mark	Chabot, Robert	Chase, Claudia
Clark, Mark	Clemons, Jane	Cote, David	Craig, James
Crane, Elenore Casey	Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi
Emerton, Larry	Essex, David	Foster, Linda	Gargasz, Carolyn
Garrity, Patrick	Ginsburg, Ruth	Golding, William	Goley, Jeffrey
Gorman, Mary	Haley, Robert	Harvey, Suzanne	Hirschmann, Keith
Holden, Randolph	Hunter, Bruce	Infantine, William	Jasper, Shawn
Jean, Claudette	Kopka, Angeline	Kurk, Neal	Lasky, Bette
Lefebvre, Roland	Lessard, Rudy	Manney, Pamela	Martin, Mary Ellen
Michon, Stephen	Movsesian, Lori	O'Connell, Timothy	Pappas, Christopher
Pepino, Leo	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Rochette, Eric	Rosenwald, Cindy	Ross, Lawrence	Schulze, Joan
Shaw, Barbara	Smith, David	Souza, Kathleen	Sullivan, Peter
Tahir, Saghir	Vaillancourt, Steve	Velez, Hector	Villeneuve, Maurice
Wheeler, Robert			
MERRIMACK			
Blanchard, Elizabeth	Brueggemann, Donald	Currier, David	DeJoie, John
DeStefano, Stephen	Foose, Robert	French, Barbara	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Hess, David	Kennedy, Richard
Kidder, David	Klose, John	L'Heureux, Stephen	Langlais, Thomas
MacKay, James	Marple, Richard	McMahon, Patricia	Owen, Derek
Potter, Frances	Reardon, Tara	Reed, Dennis	Rush, Deanna
Ryan, Jim	Shurtleff, Stephen	Soltani, Tony	Tilton, Joy
Tupper, Frank	Williams, Robert	Yeaton, Charles	

ROCKINGHAM			
Abbott, Dennis	Asselin, Michael	Belanger, Ronald	Bettencourt, David
Blanchard, MaryAnn	Cady, Harriet	Cali-Pitts, Jacqueline	Camm, Kevin
Carson, Sharon	Charron, Gene	Coburn, James	DiFruscia, Anthony
Dodge, Robert	Dowling, Patricia	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Flockhart, Eileen	Francoeur, Sheila	Garrity, James
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Hughes, Daniel
Ingram, Russell	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Kobel, Rudolph	Langley, Jane	Manning, John	Mason, April
McMahon, Charles	Moody, Marcia	Moore, Benjamin	Norelli, Terie
O'Neil, Michael	Pantelakos, Laura	Powers, James	Priestley, Anne
Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew	Rausch, James
Rolston, James	Sanders, Elisabeth	Scamman, Stella	Serlin, Christopher
Splaine, James	Stiles, Nancy	Weare, E Albert	Welch, David
Wells, Roger	Zolla, William		
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Lawrence	Callaghan, Frank
Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan	Cilley, Jacalyn
Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia	Easson, Timothy
Goodwin, Earle	Grassie, Anne	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Knowles, William	Miller, Joseph	Newton, Clifford
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Twombly, James	Wall, Janet		
SULLIVAN			
Cloutier, John	Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte
Irish, Christopher	Jillette, Arthur Jr	Osgood, Philip Sr	Phinzy, James
Prichard, Stephen	Rodeschin, Beverly		

and floor amendment (0941h) failed.

The question now being adoption of the committee report.

Rep. O'Neil spoke in favor.

Rep. Mirski requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 241 NAYS 121			
YEAS 241			
BELKNAP			
Allen, Janet	Flanders, Donald	Heald, Bruce	Morrison, Gail
Nedeau, Stephen	Pilliod, James	Russell, David	Tilton, Franklin
Wendelboe, Fran			
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Chandler, Gene
Dickinson, Howard	Knox, J David	Martin, James	Morrow, Harry
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

CHESHIRE			
Butcher, Suzanne	Butynski, William	Dexter, Judson	Dunn, J Timothy
Eaton, Daniel	Espiefs, Peter	Footte, Sheila	Hogancamp, Deborah
Hunt, John	Mitchell, Bonnie	Parkhurst, Henry	Plifka, Stanley Jr
Richardson, Barbara	Roberts, Kris	Robertson, Timothy	Sawyer, Sheldon
Tilton, Anna			
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Morneau, Renney	Remick, William	Richardson, Herbert
Stohl, Eric	Theberge, Robert	Tholl, John Jr	
GRAFTON			
Andersen, Gene	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Eaton, Stephanie	Gionet, Edmond	Hammond, Lee	Harding, A Laurie
McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon	Solomon, Peter
Ward, John			
HILLSBOROUGH			
Baines, Stephen	Baroody, Benjamin	Batula, Peter	Beaulieu, Jane
Bergin, Peter	Brassard, Paul	Brundige, Robert	Carew, James
Carter, Mark	Chabot, Robert	Chase, Claudia	Coughlin, Pamela
Craig, James	Daniuk, Caitlin	Desmarais, Vivian	Emerton, Larry
Essex, David	Gargas, Carolyn	Garrity, Patrick	Golding, William
Goley, Jeffrey	Graham, John	Hebert, Raymond	Holden, Randolph
Hunter, Bruce	Infantine, William	Irwin, Anne-Marie	Jasper, Shawn
Jean, Claudette	Kurk, Neal	Lawrence, James	Lefebvre, Roland
Manney, Pamela	Messier, Irene	O'Connell, Timothy	Ober, Lynne
Pappas, Christopher	Pilotte, Maurice	Reeves, Sandra	Ross, Lawrence
Shaw, Barbara	Sullivan, Francis	Sullivan, Peter	Velez, Hector
Wheeler, Robert			
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Currier, David	Danforth, James	DeJoie, John	DeStefano, Stephen
Foose, Robert	French, Barbara	Greco, Vincent	Hager, Elizabeth
Hess, David	Kidder, David	Klose, John	L'Heureux, Stephen
Langlais, Thomas	Lockwood, Priscilla	MacKay, James	Maxfield, Roy
McMahon, Patricia	Osborne, Jessie	Owen, Derek	Potter, Frances
Reardon, Tara	Reed, Dennis	Rush, Deanna	Ryan, Jim
Shurtleff, Stephen	Tilton, Joy	Tupper, Frank	Walz, Mary Beth
Whiting, Herbert	Williams, Robert	Yeaton, Charles	
ROCKINGHAM			
Allen, Mary	Asselin, Michael	Belanger, Ronald	Blanchard, MaryAnn
Buxton, Donald	Cady, Harriet	Cali-Pitts, Jacqueline	Charron, Gene
Coburn, James	Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert
Dowd, John	Dowling, Patricia	Fesh, Bob	Flanders, John Sr

Forsing, Robert	Francoeur, Sheila	Garrity, James	Gilbert, Karl
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Headd, James
Hopfgarten, Paul	Ingram, Russell	Itse, Daniel	Johnson, Robert
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Lund, Howie	Major, Norman	Mason, April	McMahon, Charles
Moody, Marcia	Morris, Richard	Norelli, Terie	O'Neil, Michael
Packard, Sherman	Pantelakos, Laura	Powers, James	Priestley, Anne
Quandt, Matthew	Rausch, James	Rolston, James	Sanders, Elisabeth
Scamman, Stella	Serlin, Christopher	Splaine, James	Stiles, Nancy
Waterhouse, Kevin	Welch, David	Weldy, Norman	Wells, Roger
Weyler, Kenneth	Winchell, George	Zolla, William	
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Brown, Lawrence
Callaghan, Frank	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia
Goodwin, Earle	Grassie, Anne	Heon, Richard	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Rollo, Michael	Rous, Emma	Schmidt, Peter
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Twombly, James	Wall, Janet		
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Gale, Harry	Houde-Quimby, Charlotte	Irish, Christopher	Jillette, Arthur Jr
Osgood, Philip Sr	Prichard, Stephen	Rodeschin, Beverly	
NAYS 121			
BELKNAP			
Boyce, Laurie	Clark, Charles	Fitzgerald, James	Rosen, Ralph
Thomas, John	Tobin, William	Veazey, John	Whalley, Michael
CARROLL			
Buco, Thomas	McConkey, Mark	Olimpio, J Lisbeth	
CHESHIRE			
Allen, Peter	Emerson, Susan	Pelkey, Stephen	Pratt, John
Weed, Charles			
COOS			
None			
GRAFTON			
Almy, Susan	Barker, Robert	Giuda, Robert	Ham, Bonnie
Maybeck, Margie	Mirski, Paul	Sokol, Hilda	Sorg, Gregory
HILLSBOROUGH			

Aboshar, Jeffrey	Adams, Jarvis IV	Allan, Nelson	Balboni, Michael
Barry, J Gail	Bergeron, Jean-Guy	Biundo, Michael	Boehm, Ralph
Buhlman, David	Calawa, Leon Jr	Campbell, David	Carlson, Donald
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Clemons, Jane
Cote, David	Crane, Elenore Casey	DeVries, Betsi	Dokmo, Cynthia
Drisko, Richard	Elliott, Nancy	Foster, Linda	Francoeur, Bea
Gibson, John	Ginsburg, Ruth	Gorman, Mary	Goyette, Peter Jr
Haley, Robert	Hansen, Ryan	Harvey, Suzanne	Hawkins, Ken
Hinkle, Peyton	Hirschmann, Keith	Kopka, Angeline	L'Heureux, Robert
Lasky, Bette	Lessard, Rudy	Martin, Mary Ellen	McRae, Karen
Mead, Robert	Michon, Stephen	Mooney, Maureen	Movsesian, Lori
O'Brien, William	Pepino, Leo	Price, Pamela	Renzullo, Andrew
Rochette, Eric	Rosenwald, Cindy	Rowe, Robert	Ryder, Donald
Schulze, Joan	Slocum, Lee	Smith, David	Souza, Kathleen
Stepanek, Stephen	Tahir, Saghir	Vaillancourt, Steve	Villeneuve, Maurice
Wheeler, James			
MERRIMACK			
Field, William	Gile, Mary	Hamm, Christine	Kennedy, Richard
Marple, Richard	Soltani, Tony	Wallner, Mary Jane	
ROCKINGHAM			
Abbott, Dennis	Bettencourt, David	Bishop, Franklin	Camm, Kevin
Carson, Sharon	Casey, Kimberley	Cooney, Richard	Dumaine, Dudley
Flockhart, Eileen	Hughes, Daniel	Introne, Robert	Johnson, Rogers
Manning, John	McKinney, Betsy	Moore, Benjamin	Nowe, Ronald
Parker, Benjamin	Putnam, Ed II	Quandt, Marshall Lee	Robertson, Carl
Smith, Paul	Stone, Joseph	Weare, E Albert	
STRAFFORD			
Bickford, David	Easson, Timothy	Newton, Clifford	Smith, Marjorie
SULLIVAN			
Franklin, Peter	Phinizy, James		

and the committee report was adopted.
Referred to the Committee to Finance.

HB 691-FN-L, relative to the medicaid program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Peter L. Batula for the Majority of Health, Human Services and Elderly Affairs: Medicaid was initiated to assist the elderly poor, the handicapped, unwed mothers, seriously mentally ill and many others. What once was nine percent of the state's budget recently surpassed the cost of education and is now at an alarming 23% of the state's budget. With the "baby boomers" generation upon us Medicaid, left alone, would simply become a bankrupt system of care for those who need it. The federal government currently matches 50% of Medicaid costs; it has cautioned the states to anticipate major cut backs requiring immediate curtailment of the spiraling increase of state Medicaid costs. This bill takes a first step to modernize the Medicaid program of health care for the indigent elderly and disabled.

Nursing home care is expensive and is not needed or wanted by many who are Medicaid eligible. Under this bill choice is emphasized, including opportunity for home health care, assisted living and intermediate care, as well as nursing home care. The assessment of eligibility for long term care has been sharpened and will be administered by a registered nurse. It is not intended that it will make it more difficult to receive nursing home care; rather it provides for selection among a continuum of health care services. HB 691 intends to close all loopholes in current law that allow for individuals to impoverish themselves to qualify for Medicaid. This tends to bleed off assets that are needed by those who require Medicaid services. Those who have transferred assets or formed trusts who are now Medicaid eligible are grandfathered. However, that grandfather clause ends under this bill. The look back that is currently 3-5 years is extended to 5-10 years. All waivers granted by Center for Medicaid, Medicare Services will be reviewed by the Health and Welfare Oversight Committee which will report its findings to the legislative fiscal committee who will have final approval authority. In addition, the Health and Welfare Oversight Committee will have oversight of all activities relating to Medicaid reform. In furtherance of the Medicaid reform effort, a mental health commission is established regarding the delivery of community mental health services and the current status of New Hampshire Hospital. This bill does not now, nor will it, seek to commence recoveries when an individual is survived by a spouse, minor children or disabled children. A non-partisan subcommittee held over 35 hours of hearings and concluded that the bill was fair, workable, and sustainable. The essence of this bill is that the Medicaid system be saved for those it was intended to serve and provides a dignified, strong and viable Medicaid system. Vote 16-3.

Rep. Barbara C. French for the Minority of Health, Human Services and Elderly Affairs: We recognize and support the need for Medicaid modernization. Although the amended bill is vastly improved, the inclusion of an extended “look back” period for asset transfer from 3 to 5 years to 10 years is too severe. The Internal Revenue Service presently uses a 1-3 year “look back,” and 3-6 year “look back” when extreme fraud is questioned. Encouraging purchase of Long Term Care (LTC) insurance may be a good idea, but for those who cannot even afford health insurance, LTC insurance is out of the question. Developing support services for mid-level and home care, in lieu of more expensive 24/7 nursing home care, needs to be recognized and incorporated in the bill.

Majority Amendment (0742h)

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

1 Purpose and Intent.

I. The general court recognizes that the demand upon the medicaid system will increase sharply in the near future due to the rapid aging of the population and the increasing numbers of citizens 85 years of age and older. These facts coupled with an anticipated federal reduction in medicaid funding requires a more cost-effective system to ensure that the state has the ability to meet the needs of its citizens while providing quality care to medicaid recipients.

II. The purpose of this act is to carry out the proposals contained in the plan for the modernization of the medicaid program, called Granite Care, administered by the department of health and human services as it relates to the provision of long-term care. This act is written to strengthen the commitment of the state to its people, for the provision of long-term care within an established continuum of care of home and community-based care, intermediate or mid-level care, and nursing facility care. The plan provides for a basic health care system for elderly or disabled persons who are poor, are without the means for obtaining long-term care services, and who are in need of transitional or long-term support in order to achieve or maintain an identified degree of independence, self-sufficiency, health, or quality of life. The plan also provides a new emphasis on maintaining our elderly in home and community-based care through the empowerment of consumer choice. A basic intent

underlying this proposal is that medicaid funding is reserved for those qualified individuals who need it and those who are not eligible are excluded.

2 Long-Term Care; Eligibility for Nursing Facility Services. Amend RSA 151-E:3, I(a) to read as follows:

(a) Clinically eligible for nursing facility care because the person requires 24-hour care for one or more of the following purposes, as determined by ~~[the department]~~ **registered nurses employed by the department using an assessment tool:**

(1) Medical monitoring and nursing care ***when the skills of a licensed medical professional are needed to provide safe and effective services;***

(2) Restorative nursing or rehabilitative care ***with patient-specific goals;***

(3) Medication administration ~~[or instruction and supervision of self-medication for discharge purposes only]~~ ***by oral, topical, intravenous, intramuscular, or subcutaneous injection, or intravenous feeding for treatment of recent or unstable conditions requiring medical or nursing intervention;*** or

(4) Assistance with 2 or more activities of daily living ***involving eating, toileting, transferring, bathing, dressing, and continence;*** and

3 Long-Term Care; Nursing Facility Services. Amend RSA 151-E:4 to read as follows:

151-E:4 Consumer Choice. A person who has been determined to be medicaid eligible for nursing facility services in accordance with RSA 151-E:3 shall have the right to receive nursing facility services; however, the person ***shall be offered and*** may choose to receive services in a less restrictive setting if such services are available and do not result in costs to the state and counties in excess of the limitations set forth in RSA 151-E:11, II. Such choice shall be ~~[subject to limitations imposed by federal and state laws and regulations]~~ ***offered in accordance with state laws and federal regulations. The department shall take into consideration the family and community supports available to the person, the family's desire and ability to care for the person, and shall ensure that all consideration and support is offered to the family to maintain the person in home and community-based care. Nothing in this section is intended to require the provision of financial assistance or supports by a family member.***

4 Eligibility for Assistance; Asset Transfers. Amend RSA 167:4, I(b) to read as follows:

(b) In the case of an applicant for public assistance or medical assistance who has made an assignment or transfer of ~~[property]~~ ***assets to an individual*** for less than fair market value within ~~[36]~~ ***60*** months or in the case of ~~[payments from]~~ ***transfers of real estate, or transfers of assets to*** a trust or portions of a trust that are treated as assets disposed of by the individual within ~~[60]~~ ***120*** months immediately preceding the date of application or while the application is pending, or in the case of a recipient of public assistance or medical assistance who makes such an assignment or transfer while in receipt of the assistance, the assistance sought shall only be granted or continue to be granted in accordance with rules establishing restrictions and eligibility criteria for such cases as adopted by the commissioner of the department of health and human services under RSA 541-A, subject to applicable federal regulations ***and waiver approval, if any, and review by the oversight committee on health and human services, established in RSA 126-A:13. The oversight committee on health and human services shall make a report to the legislative fiscal committee which shall have final approval authority.***

5 Eligibility for Assistance; Medicaid. Amend RSA 167:4, IV(c) to read as follows:

(c) ***Notwithstanding any provision of law to the contrary, for purposes of medicaid eligibility, investment in life insurance policies with cash surrender value in excess of \$1,500 shall be limited to policies that ensure payment to the state of New Hampshire of all the proceeds of the policy in excess of amounts spent on burial up to the total of medicaid expenditures made on behalf of the individual.***

(d) ***Contingent upon federal approval, the commissioner shall establish a program to eliminate the resource ceiling for applicants and recipients of medical assistance at the institutional level of care if the applicant or recipient benefits***

from or will benefit from a conforming long-term care insurance policy. The commissioner shall establish criteria for conforming long-term care insurance policies which, at a minimum, shall provide benefits for at least 36 months of nursing home payments at the average private pay rate for county nursing home facilities, an annual benefit inflation factor of at least 5 percent compounded annually, and coverage for home and community-based care equivalent to the benefit provided in a nursing facility. The estates of recipients of medical assistance for institutional level of care for whom the resource ceiling has been eliminated, shall be exempt from recoveries pursuant to RSA 167:13 and RSA 167:14.

(e) The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the proper administration of this paragraph.

6 Recovery for Assistance Furnished. Amend RSA 167:13, I to read as follows:

I. Except as provided in paragraph II, if at any time during the continuance of assistance, the recipient or the husband or wife of the recipient becomes possessed of any property or income in excess of the amount stated in the application, it shall be the duty of the recipient within 10 calendar days to notify the commissioner of the department of health and human services of the receipt or possession of such property or income. On the death of a recipient of old age assistance, ***aid to the needy blind, medicaid for employed adults with disabilities***, or aid to the permanently and totally disabled, the total amount of assistance paid under this chapter or RSA 161 shall be allowed as a claim against the estate of such person after payment of the charges in the priority set forth in RSA 554:19. No lien filed in accordance with RSA 167:14 shall be extended to enforce recovery nor shall any sale be forced against the real estate of a recipient of old age assistance, ***aid to the needy blind, medicaid for employed adults with disabilities***, or aid to the permanently and totally disabled while it is occupied as a home by a surviving spouse. The federal government shall be entitled, as long as required as a condition to federal financial participation, to such proportion of the net amount collected from the estate of a recipient of old age assistance, ***aid to the needy blind, medicaid for employed adults with disabilities***, or aid to the permanently and totally disabled as the federal participation bears to the total amount of assistance granted said recipient.

7 Assistance; Claims and Liens. Amend RSA 167:14, I to read as follows:

I. The estate of every recipient and the estate of a recipient's spouse, if any, owned severally or as joint tenants, shall be liable for all financial old age assistance, ***aid to the needy blind***, or aid to the permanently and totally disabled granted to the recipient; provided, however, that the estate of a recipient's spouse shall be liable only for such financial assistance as was granted to the recipient during the time that the recipient and the recipient's spouse were neither legally separated nor divorced. After providing all owners of the real property known to the department with prior notice and an opportunity for a hearing, the commissioner of the department of health and human services shall file with the register of deeds of the county in which the recipient, or the spouse of the recipient, if any, owns real property, notice of the lien. Such notice of lien shall contain the names of the recipient and the recipient's spouse, if any. All such liens shall continue during the lifetime of the recipient and of the spouse of the recipient, if any, and until enforced as provided in this section, unless sooner released by the commissioner of the department of health and human services.

8 Recovery of Assistance. Amend RSA 167:14-a, I and II to read as follows:

I. Any person who is a recipient of financial assistance, medical assistance, old age assistance, ***aid to the needy blind, medicaid for employed adults with disabilities***, or aid to the permanently and totally disabled shall, by his acceptance of such assistance, be deemed to have assigned any claim or right of action against any person or party to the commissioner of health and human services, to the extent that such assistance is furnished.

II. Whenever a recipient of financial assistance, medical assistance, old age assistance, ***aid to the needy blind, medicaid for employed adults with disabilities***, or

aid to the permanently and totally disabled shall have a legally cognizable claim against any person or party for expenses or support and the department of health and human services has already furnished assistance to such recipient, the amount of assistance furnished may be recovered in an action brought in the name of the state from such person or party against whom the recipient has a legally cognizable claim for expenses or support.

9 New Paragraph; Recovery of Assistance; Estates of Recipients. Amend RSA 167:14-a by inserting after paragraph V the following new paragraph:

VI. Notwithstanding any provision of law to the contrary, for purposes of recovering the costs of medical assistance, the estate of a recipient shall include all property, real or personal, which at the time of a recipient's death was held by the recipient in joint tenancy with rights of survivorship, tenancy in common, life estate, living trust or other arrangement, without regard to the date that such title or interest was established. No sooner than 45 days from the death of the recipient, the department shall provide the other joint owner or owners notice of the department's claim. Within 30 days of the receipt of notification of the department's claim, the joint owner or owners shall acknowledge receipt of the department's claim and either tender an amount equal to the deceased recipient's interest in the identified property and/or financial instrument to the state of New Hampshire toward the deceased's medical assistance bill, but such amount shall not exceed the total amount of medical assistance provided to the deceased recipient, or enter into a binding agreement to make such payment as soon as is practicable. If the joint owner or owners refuse to acknowledge receipt of the department's claim or to tender payment or fail to fulfill the agreement to pay without good cause, as required by this paragraph, the commissioner may bring an action in superior court to compel such payment. Nothing in this paragraph shall be interpreted or applied so as to violate RSA 167:16-a, IV or 42 U.S.C. section 1396p(b)(2)(A) prohibiting recovery when the recipient is survived by a spouse, minor children, or disabled children.

10 Prescription Drugs; Organization of Drugs. Amend RSA 318:42, XIII to read as follows:

XIII. A nurse licensed under RSA 326-B, who is an employee of a ~~[home health care or hospice agency]~~ **health facility** licensed pursuant to RSA 151:2 and is acting in the course of employment, from organizing the prescription and nonprescription drugs of clients into containers designed to aid clients in carrying out a prescriber's directions, provided that the organizing of drugs is documented in the client's nursing record and that the original prescription containers remain in the client's possession.

11 New Subparagraph; Confidentiality of Records; Disclosure to Department of Health and Human Services. Amend RSA 21-J:14, V(d) by inserting after subparagraph (7) the following new subparagraph:

(8) An officer or employee of the department of health and human services in the performance of duties under RSA 167:14-a, V, which disclosure shall be limited to the report of the trust and a copy of the trust document, including any list of beneficiaries, filed in accordance with RSA 87:20.

12 New Paragraph; Duties of the Department of Health and Human Services; Medicaid Waivers. Amend RSA 126-A:4 by inserting after paragraph V the following new paragraph:

VI. The department of health and human services shall enter into medicaid waivers from the federal Centers for Medicare and Medicaid Services, subject in each case to a review by the oversight committee on health and human services, established in RSA 126-A:13, which shall make a report to the legislative fiscal committee which shall have final approval authority.

(a) Allow the department to begin the penalty period of ineligibility for medicaid services due to transfers of assets for less than fair market value as of the date of application for medical assistance or as of the date that the applicant, but for the transfer of assets for less than fair market value, meets all of the criteria for eligibility for medical assistance, whichever is later.

(b) Allow the department to eliminate the resource ceiling for applicants for medical assistance and to exempt them from actions for recovery against their estates for the cost of medical assistance they receive when they have a long-term care insurance policy that meets the standards established by the legislature and the department.

13 Long-Term Care; Cost Controls; Limitation on Waiver Slots. Amend RSA 151-E:11 to read as follows:

151-E:11 Program Management and Cost Controls.

I. The department shall designate in its operating budget requests specific class lines for nursing facility, mid-level, and home-based care provided for in this chapter. These class lines shall reflect, and the requesting documentation shall include, the anticipated number of persons to receive services. The department ***with prior review of the county-state finance commission and with the approval of the legislative fiscal committee, may make transfers between these class lines, but*** shall not increase expenditures in ~~the total approved budgets for [care] these class lines [or the number of persons to receive mid-level or home care services without the approval of the legislative fiscal committee, and the prior review of the county state finance commission].~~

II. For the fiscal year beginning July 1, 2003, and each fiscal year thereafter the average annual cost for the provision of services to persons in the mid-level of care shall not exceed 60 percent of the average annual cost for the provision of services in a nursing facility. The average annual cost for the provision of services in home-based care shall not exceed 50 percent of the average annual cost for the provision of services to persons in a nursing facility. Average annual costs shall be the net medicaid costs exclusive of provider payments. ***No person whose costs would be in excess of 80 percent of the average annual cost for the provision of services to a person in a nursing facility shall be approved for home-based or mid-level services without the prior approval of the commissioner of health and human services.*** The department shall provide a report semi-annually on the utilization of non-nursing home services to the county-state finance commission and the legislative fiscal committee.

14 Applicability. Pending federal Centers for Medicare and Medicaid Services approval required under section 4 of this act and notwithstanding RSA 167:4, I(b) or any other provision of law to the contrary, any applicant for public assistance or medical assistance who has made an assignment or transfer of assets to an individual for less than fair market value or who has transferred real estate or transferred assets to a trust relying on the 3-year or 5-year look back provision under RSA 167:4 and which is in existence on March 14, 2005 shall be grandfathered.

15 Commission Established. Pursuant to the goals of the Granite Care plan, there is established a commission to develop a comprehensive state mental health plan as recommended by the President's New Freedom Commission on Mental Health. The purpose of the commission is to create a 5-year strategy to deliver mental health services that are founded on the principles of resiliency and recovery, evidence - based practice, effectiveness and efficiency. The plan shall also focus on the integration of the mental health system with other systems of care, including the developmental services system and the elder care system.

16 Membership and Compensation.

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

(a) Three members of the house of representatives, 2 of whom shall be members of the house committee on health, human services and elderly affairs, appointed by the speaker of the house of representatives.

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

(c) Two members representing community mental health centers, one of whom shall be a board member, appointed by the Community Behavioral Health Association.

(d) The commissioner of the department of health and human services, or designee.

- (e) The director of the division of community-based care services of the department of health and human services, or designee.
 - (f) The superintendent of New Hampshire hospital.
 - (g) The superintendent of the Glencliff home for the elderly.
 - (h) The chief of the bureau of behavioral health, department of health and human services.
 - (i) The director of the office of consumer affairs, department of health and human services.
 - (j) The executive director of the National Alliance for the Mentally Ill (NAMI).
 - (k) The executive director of the governor's commission on disability, or designee.
 - (l) Two members representing consumers utilizing mental health services, appointed by the governor.
 - (m) Two members representing families utilizing mental health services, appointed by the governor.
 - (n) The director, office of alcohol and drug policy, department of health and human services.
 - (o) A psychiatrist, appointed by the New Hampshire Psychiatric Society.
 - (p) The medical director, bureau of behavioral health, department of health and human services.
 - (q) Two members representing peer support agencies, one of whom shall be a board member, appointed by the Consumer Council.
 - (r) The commissioner of the department of corrections, or designee.
 - (s) The superintendent of a county house of corrections, appointed by the governor.
 - (t) A member of the West Institute, appointed by the Dartmouth Psychiatric Research Center.
 - (u) The dean of the university of New Hampshire, school of health sciences.
- II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.
- III. The commission may seek grant funding support to carry out its duties.
- 17 Duties. The commission shall review and study the mental health service delivery system and make recommendations regarding:
- I. The role and mission of New Hampshire hospital and Glencliff home for the elderly.
 - II. The role and mission of community mental health centers as providers of comprehensive behavioral health services and supports, including a range of residential services.
 - III. The role and mission of peer support programs.
 - IV. The role and mission of family mutual support organizations.
 - V. The integration of services for persons who have both mental illness and problems with substance abuse.
 - VI. The implementation of evidence based standards of care and treatment.
 - VII. The promotion of research to improve the treatment of mental illness.
 - VIII. The utilization of local community hospitals to provide short-term stabilization of mental health crises.
 - IX. The development of regional transitional housing.
 - X. The availability of mental health treatment in prisons and jails.
 - XI. The integration of mental and physical health care.
 - XII. Other matters related to the delivery of mental health services.
- 18 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Twelve members of the commission shall constitute a

quorum. The bureau of behavioral health shall provide administrative support to the commission.

19 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, senate president, the house clerk, the senate clerk, the governor, and the state library in an interim report on or before December 1, 2005 and in a final report on or before December 1, 2006.

20 Oversight Committee on Health and Human Services; Duty Added. Amend RSA 126-A:15, I to read as follows:

I. The committee shall provide legislative oversight of and informational meetings on the programs, policies, and rules of the department of health and human services as brought to its attention by committee members, legislators, department personnel, or others. The committee's work may include, but is not limited to, analyzing the efficacy of selected programs, studying the characteristics of target populations, researching trends affecting program costs and participation, and reviewing alternate approaches to programmatic and administrative concerns. ***The committee shall monitor the on-going medicaid modernization plan.*** The committee shall provide informational meetings on such topics to the general court. The committee shall maintain communications with the department of health and human services, and any other departments, as necessary to accomplish its work.

21 Effective Date.

I. Section 2 of this act shall take effect January 1, 2006.

II. Sections 15-19 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill revises the medicaid program. Specifically some of the changes include:

I. Clarifying the law regarding eligibility for nursing facility services.

II. Clarifying entitlement to nursing facility care.

III. Revising the law regarding asset transfers preceding application for public assistance.

IV. Adding the category of aid to the needy blind for purposes of recovery of assistance.

V. Requiring the department of health and human services to seek certain medicaid waivers.

VI. Establishing a commission to develop a comprehensive state mental health plan.

Majority amendment adopted.

Rep. Craig spoke against.

Reps. MacKay, Donovan and Batula spoke in favor.

Rep. Boyce requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

YEAS 183 NAYS 178			
YEAS 183			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Rosen, Ralph	Russell, David	Thomas, John
Tilton, Franklin	Veazey, John	Wendelboe, Fran	Whalley, Michael
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Chandler, Gene
Knox, J David	McConkey, Mark	Merrow, Harry	Olimpio, J Lisbeth
Patten, Betsey	Stevens, Stanley		

CHESHIRE			
Emerson, Susan	Hogancamp, Deborah	Hunt, John	Pelkey, Stephen
Richardson, Barbara	Sawyer, Sheldon		
COOS			
King, Frederick	Remick, William	Stohl, Eric	Tholl, John Jr
GRAFTON			
Barker, Robert	Eaton, Stephanie	Giuda, Robert	Ingbretson, Paul
Maybeck, Margie	Mirski, Paul	Sorg, Gregory	Ward, John
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Baines, Stephen	Balboni, Michael
Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy	Bergin, Peter
Biundo, Michael	Boehm, Ralph	Brundige, Robert	Buhlman, David
Calawa, Leon Jr	Carew, James	Carter, Mark	Chabot, Robert
Christensen, D L Chris	Clark, Mark	Coughlin, Pamela	Crane, Elenore Casey
Desmarais, Vivian	Dokmo, Cynthia	Drisko, Richard	Elliott, Nancy
Essex, David	Francoeur, Bea	Gargasz, Carolyn	Gibson, John
Golding, William	Goyette, Peter Jr	Graham, John	Hansen, Ryan
Hawkins, Ken	Hebert, Raymond	Hinkle, Peyton	Hirschmann, Keith
Holden, Randolph	Hunter, Bruce	Infantine, William	Jasper, Shawn
Kurk, Neal	L'Heureux, Robert	Lawrence, James	Lessard, Rudy
Mead, Robert	Michon, Stephen	Mooney, Maureen	O'Brien, William
O'Connell, Timothy	Ober, Lynne	Price, Pamela	Reeves, Sandra
Ross, Lawrence	Ryder, Donald	Schulze, Joan	Slocum, Lee
Stepanek, Stephen	Tahir, Saghir	Vaillancourt, Steve	Wheeler, James
Wheeler, Robert			
MERRIMACK			
Blanchard, Elizabeth	Danforth, James	Field, William	Hager, Elizabeth
Kennedy, Richard	Kidder, David	L'Heureux, Stephen	Langlais, Thomas
Lockwood, Priscilla	MacKay, James	Maxfield, Roy	Soltani, Tony
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Belanger, Ronald	Bettencourt, David
Buxton, Donald	Cady, Harriet	Camm, Kevin	Carson, Sharon
Charron, Gene	Coburn, James	Cooney, Richard	Dalrymple, Janeen
DiFruscia, Anthony	Dodge, Robert	Dowd, John	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Forsing, Robert	Gilbert, Karl
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Headd, James
Hopfgarten, Paul	Hughes, Daniel	Ingram, Russell	Introne, Robert
Itse, Daniel	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kobel, Rudolph	Langley, Jane	Lund, Howie	Major, Norman
Mason, April	McKinney, Betsy	McMahon, Charles	Moore, Benjamin
Morris, Richard	O'Neil, Michael	Packard, Sherman	Parker, Benjamin
Quandt, Marshall Lee	Quandt, Matthew	Rausch, James	Sanders, Elisabeth
Scamman, Stella	Smith, Paul	Stiles, Nancy	Stone, Joseph

Waterhouse, Kevin	Weare, E Albert	Weldy, Norman	Wells, Roger
Weyler, Kenneth			
STRAFFORD			
Bickford, David	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Dunlap, Patricia	Easson, Timothy	Newton, Clifford	Twombly, James
SULLIVAN			
Donovan, Thomas	Gale, Harry	Irish, Christopher	Osgood, Philip Sr
Rodeschin, Beverly			
NAYS 178			
BELKNAP			
Heald, Bruce	Morrison, Gail	Nedeau, Stephen	Pilliod, James
Tobin, William			
CARROLL			
Buco, Thomas	Dickinson, Howard	Martin, James	Philbrick, Donald
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dexter, Judson
Dunn, J Timothy	Eaton, Daniel	Espiefs, Peter	Foote, Sheila
Mitchell, Bonnie	Parkhurst, Henry	Plifka, Stanley Jr	Pratt, John
Roberts, Kris	Robertson, Timothy	Tilton, Anna	Weed, Charles
COOS			
Buzzell, Bernard	Lary, Bruce	Mears, Edgar	Merrick, Scott
Morneau, Renney	Richardson, Herbert		
GRAFTON			
Almy, Susan	Andersen, Gene	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Gionet, Edmond	Ham, Bonnie	Hammond, Lee
Harding, A Laurie	McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon
Sokol, Hilda	Solomon, Peter		
HILLSBOROUGH			
Allan, Nelson	Baroody, Benjamin	Beaulieu, Jane	Brassard, Paul
Campbell, David	Carlson, Donald	Chase, Claudia	Christiansen, Lars
Clemons, Jane	Cote, David	Craig, James	Daniuk, Caitlin
DeVries, Betsi	Emerton, Larry	Foster, Linda	Garrity, Patrick
Ginsburg, Ruth	Goley, Jeffrey	Gorman, Mary	Haley, Robert
Harvey, Suzanne	Jean, Claudette	Kopka, Angeline	Lasky, Bette
Lefebvre, Roland	Manney, Pamela	Martin, Mary Ellen	McRae, Karen
Messier, Irene	Movsesian, Lori	Pappas, Christopher	Pepino, Leo
Pilotte, Maurice	Renzullo, Andrew	Rochette, Eric	Rosenwald, Cindy
Rowe, Robert	Shaw, Barbara	Smith, David	Souza, Kathleen
Sullivan, Francis	Sullivan, Peter	Velez, Hector	Villeneuve, Maurice

MERRIMACK			
Anderson, Eric	Bouchard, Candace	Brueggemann, Donald	Currier, David
DeJoie, John	DeStefano, Stephen	Foose, Robert	French, Barbara
Gile, Mary	Greco, Vincent	Hamm, Christine	Hess, David
Klose, John	Marple, Richard	McMahon, Patricia	Osborne, Jessie
Owen, Derek	Potter, Frances	Reardon, Tara	Reed, Dennis
Rush, Deanna	Ryan, Jim	Shurtleff, Stephen	Tilton, Joy
Tupper, Frank	Wallner, Mary Jane	Walz, Mary Beth	Whiting, Herbert
Williams, Robert	Yeaton, Charles		
ROCKINGHAM			
Asselin, Michael	Bishop, Franklin	Blanchard, MaryAnn	Cali-Pitts, Jacqueline
Casey, Kimberley	Dowling, Patricia	Flockhart, Eileen	Francoeur, Sheila
Garrity, James	Johnson, Robert	Manning, John	Moody, Marcia
Norelli, Terie	Nowe, Ronald	Pantelakos, Laura	Powers, James
Priestley, Anne	Putnam, Ed II	Robertson, Carl	Rolston, James
Serlin, Christopher	Splaine, James	Welch, David	Winchell, George
Zolla, William			
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Brown, Lawrence
Callaghan, Frank	Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin
Goodwin, Earle	Grassie, Anne	Heon, Richard	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Rollo, Michael	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Taylor, Katherine
Taylor, Kathleen	Wall, Janet		
SULLIVAN			
Cloutier, John	Converse, Larry	Ferland, Brenda	Franklin, Peter
Houde-Quimby, Charlotte	Jillette, Arthur Jr	Phinizy, James	Prichard, Stephen

and the majority committee report was adopted.

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

Referred to the Committee on Finance.

MOTION TO RECONSIDER

Having voted with the prevailing side, Rep. Giuda moved that the House reconsider its action whereby it voted ***HB 691-FN-L***, relative to the medicaid program, Ought to Pass with Amendment.

Rep. Giuda spoke against.

Rep. Soltani requested a roll call; sufficiently seconded.

The question being adoption of motion to reconsider.

YEAS 173 NAYS 189			
YEAS 173			
BELKNAP			
Heald, Bruce	Morrison, Gail	Nedeau, Stephen	Pilliod, James

Rosen, Ralph			
CARROLL			
Buco, Thomas	Dickinson, Howard	Martin, James	
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dexter, Judson
Dunn, J Timothy	Eaton, Daniel	Espieffs, Peter	Footte, Sheila
Mitchell, Bonnie	Parkhurst, Henry	Plifka, Stanley Jr	Pratt, John
Roberts, Kris	Robertson, Timothy	Tilton, Anna	Weed, Charles
COOS			
Buzzell, Bernard	Lary, Bruce	Mears, Edgar	Merrick, Scott
Theberge, Robert			
GRAFTON			
Almy, Susan	Andersen, Gene	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Gionet, Edmond	Ham, Bonnie
Hammond, Lee	Harding, A Laurie	McLeod, Martha	Mulholland, Catherine
Nordgren, Sharon	Sokol, Hilda	Solomon, Peter	
HILLSBOROUGH			
Allan, Nelson	Baroody, Benjamin	Beaulieu, Jane	Brassard, Paul
Campbell, David	Carlson, Donald	Chase, Claudia	Christiansen, Lars
Clemons, Jane	Cote, David	Craig, James	Daniuk, Caitlin
DeVries, Betsi	Foster, Linda	Garrity, Patrick	Ginsburg, Ruth
Goley, Jeffrey	Gorman, Mary	Haley, Robert	Harvey, Suzanne
Hebert, Raymond	Hirschmann, Keith	Jean, Claudette	Kopka, Angeline
Lasky, Bette	Lefebvre, Roland	Martin, Mary Ellen	Messier, Irene
Michon, Stephen	Movsesian, Lori	Pappas, Christopher	Pepino, Leo
Pilotte, Maurice	Renzullo, Andrew	Rochette, Eric	Rosenwald, Cindy
Rowe, Robert	Shaw, Barbara	Smith, David	Souza, Kathleen
Sullivan, Francis	Sullivan, Peter	Velez, Hector	Villeneuve, Maurice
MERRIMACK			
Bouchard, Candace	Brueggemann, Donald	DeJoie, John	DeStefano, Stephen
Foose, Robert	French, Barbara	Gile, Mary	Greco, Vincent
Hamm, Christine	Klose, John	Marple, Richard	McMahon, Patricia
Osborne, Jessie	Owen, Derek	Potter, Frances	Reardon, Tara
Reed, Dennis	Rush, Deanna	Ryan, Jim	Shurtleff, Stephen
Tilton, Joy	Tupper, Frank	Wallner, Mary Jane	Walz, Mary Beth
Whiting, Herbert	Williams, Robert	Yeaton, Charles	
ROCKINGHAM			
Asselin, Michael	Bishop, Franklin	Blanchard, MaryAnn	Cali-Pitts, Jacqueline
Casey, Kimberley	DiFruscia, Anthony	Dowling, Patricia	Flockhart, Eileen
Johnson, Robert	Manning, John	Moody, Marcia	Norelli, Terie
Nowe, Ronald	Pantelakos, Laura	Powers, James	Priestley, Anne
Putnam, Ed II	Robertson, Carl	Rolston, James	Serlin, Christopher

Splaine, James	Welch, David	Winchell, George	Zolla, William
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Brown, Lawrence
Callaghan, Frank	Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin
Goodwin, Earle	Grassie, Anne	Heon, Richard	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Rollo, Michael	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Taylor, Katherine
Taylor, Kathleen	Wall, Janet		
SULLIVAN			
Cloutier, John	Converse, Larry	Ferland, Brenda	Franklin, Peter
Houde-Quimby, Charlotte	Jillette, Arthur Jr	Phinizy, James	Prichard, Stephen
NAYS 189			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Russell, David	Thomas, John	Tilton, Franklin
Tobin, William	Veazey, John	Wendelboe, Fran	Whalley, Michael
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Chandler, Gene
Knox, J David	McConkey, Mark	Merrow, Harry	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	
CHESHIRE			
Emerson, Susan	Hogancamp, Deborah	Hunt, John	Pelkey, Stephen
Richardson, Barbara	Sawyer, Sheldon		
COOS			
King, Frederick	Morneau, Renney	Remick, William	Richardson, Herbert
Stohl, Eric	Tholl, John Jr		
GRAFTON			
Eaton, Stephanie	Giuda, Robert	Ingbretson, Paul	Maybeck, Margie
Mirski, Paul	Sorg, Gregory	Ward, John	
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Baines, Stephen	Balboni, Michael
Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy	Bergin, Peter
Biundo, Michael	Boehm, Ralph	Brundige, Robert	Buhlman, David
Calawa, Leon Jr	Carew, James	Carter, Mark	Chabot, Robert
Christensen, D L Chris	Clark, Mark	Coughlin, Pamela	Crane, Elenore Casey
Desmarais, Vivian	Dokmo, Cynthia	Drisko, Richard	Elliott, Nancy
Emerton, Larry	Essex, David	Francoeur, Bea	Gargasz, Carolyn

Gibson, John	Golding, William	Goyette, Peter Jr	Graham, John
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Holden, Randolph
Hunter, Bruce	Infantine, William	Jasper, Shawn	Kurk, Neal
L'Heureux, Robert	Lawrence, James	Lessard, Rudy	Manney, Pamela
McRae, Karen	Mead, Robert	Mooney, Maureen	O'Brien, William
O'Connell, Timothy	Ober, Lynne	Price, Pamela	Reeves, Sandra
Ross, Lawrence	Ryder, Donald	Schulze, Joan	Slocum, Lee
Stepanek, Stephen	Tahir, Saghir	Vaillancourt, Steve	Wheeler, James
Wheeler, Robert			
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Currier, David	Danforth, James
Field, William	Hager, Elizabeth	Hess, David	Kennedy, Richard
Kidder, David	L'Heureux, Stephen	Langlais, Thomas	Lockwood, Priscilla
MacKay, James	Maxfield, Roy	Soltani, Tony	
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Belanger, Ronald	Bettencourt, David
Buxton, Donald	Cady, Harriet	Camm, Kevin	Carson, Sharon
Charron, Gene	Coburn, James	Cooney, Richard	Dalrymple, Janeen
Dodge, Robert	Dowd, John	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Forsing, Robert	Francoeur, Sheila	Garrity, James
Gilbert, Karl	Gillick, Thomas	Gould, Kenneth	Griffin, Mary
Headd, James	Hopfgarten, Paul	Hughes, Daniel	Ingram, Russell
Introne, Robert	Itse, Daniel	Johnson, Rogers	Katsakiores, George
Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane	Lund, Howie
Major, Norman	Mason, April	McKinney, Betsy	McMahon, Charles
Moore, Benjamin	Morris, Richard	O'Neil, Michael	Packard, Sherman
Parker, Benjamin	Quandt, Marshall Lee	Quandt, Matthew	Rausch, James
Sanders, Elisabeth	Scamman, Stella	Smith, Paul	Stiles, Nancy
Stone, Joseph	Waterhouse, Kevin	Weare, E Albert	Weldy, Norman
Wells, Roger	Weyler, Kenneth		
STRAFFORD			
Bickford, David	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Dunlap, Patricia	Easson, Timothy	Newton, Clifford	Twombly, James
SULLIVAN			
Donovan, Thomas	Gale, Harry	Irish, Christopher	Osgood, Philip Sr
Rodeschin, Beverly			

and the motion to reconsider failed.

HB 25-FN-A, making appropriations for capital improvements. OUGHT TO PASS WITH AMENDMENT

Rep. Gene G. Chandler for Public Works and Highways: This bill represents the capital budget for the next biennium. In keeping with past tradition, the Public Works and Highways Committee invited the Treasurer to appear before the committee for a status report on our bonded debt position and his recommendations in order that New Hampshire maintain its excellent credit position as it relates to capital expenses. Keeping in line with the Treasurer's recommendation to stick closely to an 80 million dollar limit in general fund obligations, the committee crafted a budget with \$80,722,177 in general fund obligations. In

developing this capital budget the committee relied on a number of funding mechanisms, including: general funds; federal funds; highway funds where appropriate, use of lapsed funds and payments from other funds, such as the Mt. Washington fund; student fees; the navigation safety fund; etc. The careful use of all of these sources enabled approval of a wide variety of projects for the next biennium. Highlights of projects included in this capital budget include: 1.) All projects requested by the Adjutant General, involving Armory renovations and kitchen expansions. 2.) A number of court related renovations and repairs and numerous repair projects requested by Administrative Services. 3.) 4,565,000 dollars in critical maintenance for the Community Technical College System, plus a Library Resource Center for the Claremont branch; a Health Education and Technical Center for the Manchester branch; dining hall renovations for the Concord branch and residence hall suites for the Concord branch. 4.) The Department of Corrections will see fire and security upgrades along with a major roof repair project. 5.) The Department of Education budget provides for Regional Career and Technical Centers in Concord and Conway. 6.) Department of Environmental Services received funding for a number of projects including dam repairs, removals and reconstruction, along with funds for matching grants for Wastewater Treatment and Drinking Water programs. Funding for the Clean Lab is also included in this budget. 7.) Department of Resources and Economic Development will receive funding for Hampton Seawall repairs; additional funds for the Mt. Washington electrification project and various State Park maintenance items. 8.) The Secretary of States office will receive funds for renovations and shelving for the state archives building. 9.) The NH Veterans Home has funding included in this budget for a new roof and life safety upgrades. 10.) The NH Department of Transportation has a number of general fund items including 5% matching funds for FAA projects at various airports; public transit matching funds; railroad bridge repairs and railroad right of way acquisition funds. 11.) The University System receives 4.5 million dollars for the 06-07 biennium for engineering and design at Demerit and James Halls at the Durham Campus and language to continue the "Keep" project idea for the next 3 biennia at 35 million dollars per biennium. The first "Keep" project was started two biennium's ago and has proven very successful and the committee unanimously agreed to continue the "Keep" idea. 12.) The Departments of Transportation and Safety received approval for various maintenance items; patrol shed renovations and replacements; underground tank removals; Department of Motor Vehicle additions, etc. funded by the Highway Fund. The amendment provided for HVAC upgrades at the Supreme Court; language regarding the Hampton Seawall project funding; additional funding for the Mt. Washington electrification project and language allowing the bureau of public works to use temporary personnel to provide construction inspection services. The committee believes this is a well crafted bill that meets a number of critical capital needs for the State of New Hampshire for the next biennium. Vote 17-0.

Amendment (0883h)

Amend paragraph II, B and the total state appropriation paragraph II of section 1 of the bill by replacing them with the following:

	B. Bureau of General Services.		
	1. State House - Rehab Representatives Hall		\$388,000
	Less Other*		<u>-12,876</u>
	Net state appropriation subparagraph 1		375,124

* Source of other funds in subparagraph 1 is prior bond authorization as amended in sections 16 and 17 of this act.

	2. State Library - Install Fire Suppression System	231,000
	3. Legislative Office Building - Install De-Icing System	82,000
	4. Monadnock Mill - Repoint Defective Masonry	119,500
	5. Londergan Hall - Replace Defective Windows	440,000
	6. State House and State House Annex -Repoint Granite and Front	115,000

	Steps	
	7. NH Hospital Campus - Steam Plant Plan	75,000
	8. All State Owned Facilities - Emergency Repairs	100,000

Notwithstanding the provisions of RSA 228, any sums expended for emergency repairs under subparagraph 8 shall not require approval by governor and council.

	9. 5 State Owned Buildings - Upgrade Energy Mgmt System	271,000
	10. Supreme Court Building – HVAC	230,000
	11. Data Center - Replace Computer Room Cooling Units	444,000
	12. Legislative Office Building - Replace Chiller	276,000
	13. State House Arch - Repoint Masonry	69,500
	14. Office Park South, Roadway Design	250,000
	15. M.S. Building, Renovation	9,300,000
	Total state appropriation subparagraph B	\$12,378,124
	Total state appropriation paragraph II	\$15,961,124

Amend paragraph IX of section 1 of the bill by replacing it with the following:

IX. Department of Resources and Economic Development.

	A. Statewide Radio System	\$400,000
	B. Hampton Beach Seawall Repairs	2,000,000
	Less Other*	-2,000,000
	Net state appropriation subparagraph B	0

* To provide funds for the appropriation in subparagraph B for Hampton Beach seawall repairs the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$2,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Notwithstanding the use of funds under RSA 216:3, IV, payments of principal and interest on the bonds and notes shall be made from the Hampton Beach capital improvement fund established in RSA 216:3, IV.

	C. Roof Repair and Replacement Statewide	150,000
	D. Interior and Exterior Building Repair Statewide	150,000
	E. Mount Washington Electrification	540,000
	Less Mount Washington Fund*	-300,000
	Net state appropriation subparagraph E	240,000

* To provide funds for the appropriation of Mount Washington Funds made in subparagraph E the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$300,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the Mount Washington fund established in RSA 227-B:9.

	Total state appropriation paragraph IX	\$940,000
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Amend the bill by inserting after section 22 the following and renumbering the original sections 23 and 24 to read as 25 and 26, respectively:

23 Community-Technical College System; Oversight and Reporting Required. The community-technical college system shall provide a report every 180 days to the governor and legislative capital budget overview committee on the progress of each of the capital projects funded from the sum appropriated and authorized in paragraphs III and X, C of section 1 of this act beginning September 30, 2005 until the funds appropriated in paragraphs III and X, C of section 1 are fully expended. Said reports shall include the method of selecting contractors, the current total project cost, funds encumbered, actual expenditures, and estimated completion date for each project.

24 Bureau of Public Works; Construction Inspection Services. The appropriations for those projects which are managed by the bureau of public works, department of transportation, may be expended to fund temporary personnel for the purpose of providing construction inspection services for those projects included in sections 1, 3, and 4 of this act.

Amend paragraph XXX of section 25 of the bill by replacing it with the following:

XXX. The appropriation made to the community-technical college system in 2003, 240:24, for student residence hall – Berlin Campus.

Amend the bill by replacing section 26 with the following:

26 Effective Date.

I. Section 25 of this act shall take effect June 30, 2005.

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

Adopted.

Report adopted.

Referred to the Committee on Finance.

The House recessed at 12:15 p.m.

RECESS

(Speaker Scamman in the Chair)

The House reconvened at 1:20 p.m.

CLERK'S NOTE

The Speaker indicated that unless otherwise ordered by the House, House Bills 687 and 397 would be taken up out of order. If the committee reports on these bills were adopted, they would need referral to the Committee on Finance.

REGULAR CALENDAR – PART II

HB 687-FN, relative to tuition waivers for children and spouses of members of the armed forces who die while on active duty. **OUGHT TO PASS WITH AMENDMENT**

Rep. Timothy E. Easson for Education: Our veterans have made many sacrifices to preserve our freedoms. The committee heard testimony that the state offers free tuition and a \$1,000 stipend for fees, books, room and board, etc. to students who are the survivors of a serviceman or woman who dies from a service connected disability and who attend a state college or university. The bill expands this program to include surviving children of those service members who were killed in the line of duty. The committee also heard testimony that only seven students in the state are in this program. Currently, there is a budget appropriation of \$9,000 for this program, but only \$7,000 gets used because of the \$1,000 cap. The \$1,000 cap was set in 1987 and currently, the fees of one year at the University of New Hampshire total over \$2,000. The amendment clarifies the intent of the sponsors and increases the cap to allow the post secondary commission to distribute the whole appropriation to these worthy students. Vote 13-2.

Amendment (0702h)

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

AN ACT relative to free tuition at New Hampshire public institutions of higher education for children of veterans who die while on active duty or from a service-connected disability.

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

1 Scholarships for Orphans of Veterans; Purpose of Appropriations. RSA 193:19 is repealed and reenacted to read as follows:

193:19 Purpose of Appropriations. The sums appropriated under the provisions of this section shall be used for the sole purpose of contributing to the payment of board, room rent, books and supplies, at a New Hampshire public institution of higher education, for veteran's natural or adopted children between the ages of 16 and 25 years, who are legal residents of the state at the time of application, whose parent served on active duty in the armed services of the United States from December 7, 1941 to December 31, 1946; or from June 27, 1950 to January 31, 1955; or from February 28, 1961 to May 7, 1975; or from August 2, 1990 through a final date of the Gulf War conflict to be prescribed by Presidential proclamation or law; or

in any operation not otherwise covered by this section for which the armed forces expeditionary medal or a theater of operations service medal, as defined in RSA 72:29, has been awarded to the veteran, and the veteran, who was a New Hampshire resident at the time of his or her death, either died while on active duty during the service described above, or has since died from a service-connected disability so rated by the federal government. Not more than \$2,500 shall be paid under this section to any one student in any one year, provided that no individual shall be eligible to receive such benefits for a period of more than 4 years.

2 Scholarships for Orphans of Veterans; Tuition. RSA 193:20 is repealed and reenacted to read as follows:

193:20 Tuition. Children, as described in RSA 193:19, enrolled at a New Hampshire public institution of higher education shall receive free tuition.

3 Scholarships for Orphans of Veterans; Payment. Amend RSA 193:21 to read as follows:

193:21 Payment. The amounts payable to recipients shall be determined by the postsecondary education commission ~~[and shall not be in excess of the amount specified in RSA 193:22]~~. The commission shall determine the eligibility in accordance with rules adopted under RSA 541-A of the children who make application for the benefits provided for in this subdivision, provided that no member of the commission shall receive any compensation for such service.

4 Repeal. RSA 193:22, relative to fund, is repealed.

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

AMENDED ANALYSIS

This bill provides that children of veterans who die while on active duty or later die from a service-connected disability are entitled to free tuition when enrolled at a New Hampshire public institution of higher education.

The bill also increases the maximum scholarship amount a student may receive for board, books and supplies from \$1,000 to \$2,500.

Adopted.

Report adopted.

Referred to the Committee on Finance.

HB 397, relative to authority to file an abuse or neglect petition under the Child Protection Act. **OUGHT TO PASS**

Rep. David A. Bickford for Children and Family Law: This bill will preclude private petitions under RSA 169-C. Department of Children Youth and Family will become the sole petitioner in all cases of abuse and neglect. This bill is a consequence of the abuse of the process by individuals which has resulted in a wasteful drain of limited resources that could have been better utilized by DCYF. Vote 11-3.

Rep. Tholl spoke against and yielded to questions.

Report failed.

Rep. Tholl moved recommit.

Rep. McRae spoke in favor.

Adopted.

Recommitted to the Committee on Children and Family Law.

HB 567, relative to mediation in family law cases involving children. **OUGHT TO PASS**

Rep. Carolyn M. Gargas for Children and Family Law: This bill amends the current mediation statute so the courts may order mediation in disputed cases involving custody of minor children. The statute provides for reasons not to order mediation when it is not appropriate. Vote 11-4.

Report adopted and ordered to third reading.

HB 177, relative to home improvement contracts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Matthew J. Quandt for Commerce: This bill establishes certain requirements for home improvement contracts, including that they be in writing and that they address the contract price, the work to be completed and estimated completion date. The bill provides that a violation of the chapter regulating home improvement contracts is prima facie evidence of a violation of the Consumer Protection Act. The bill also establishes a separate fund for civil penalties collected by the department of justice, which may be used for enforcement of the Consumer Protection Act. Vote 18-2.

Amendment (0691h)

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

1 New Chapter; Home Improvement Contracts. Amend RSA by inserting after chapter 359-F the following new chapter:

CHAPTER 359-G

HOME IMPROVEMENT CONTRACTS

359-G:1 Application of Chapter. This chapter applies only to residential property, which means real property that includes a single family dwelling or an owner-occupied dwelling of not more than 4 units, as well as all fixtures to, structures on, and improvements to the real property.

359-G:2 Definitions. In this chapter:

I. "Change order" means a written amendment to the home improvement contract which becomes part of and is in conformance with the existing contract.

II. "Consumer" means the owner of the residential property.

III. "Down payment" means all payments to a home improvement contractor prior to the initiation of the work.

IV. "Home improvement" means the construction, reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, or demolition, of any residential property where the value of the home improvement or the liability of the consumer is equal to or in excess of \$5,000. "Home improvement" includes the repair, paving, or resurfacing of a residential driveway and pool or hot tub installation.

V. "Home improvement contract" means an agreement, in writing, for the performance of home improvement, including all labor, goods, and services set forth under such agreement, for the performance of home improvement.

VI. "Home improvement contractor" means any person who owns or operates a business who, personally or through others, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid for home improvement.

VII.(a) "Home improvement contract price" means:

(1) The total fixed price for performance of the contract;

(2) The home improvement contractor's actual costs and expenses, as defined in the specifications, plus a fixed fee; or

(3) The home improvement contractor's actual costs and expenses, as defined in the specifications, plus a fixed percentage of all costs incurred over the length of the project.

(b) The home improvement contract price may include financing costs, loan consolidation amounts, taxes, and governmental fees paid by or on behalf of the consumer, amounts returned to or on behalf of the consumer, or similar costs not related to the home improvement.

VIII. "Specifications" means the plans, detailed drawings, lists of materials, stated allowances, or other methods customarily used in the home improvement industry as a whole to describe with particularity the work, workmanship, materials, and quality of materials for each home improvement.

359-G:3 Contract Requirements. No home improvement contractor shall perform a home improvement without a home improvement contract that meets the requirements of this chapter. The home improvement contractor and the consumer shall sign the home improvement contract prior to the commencement of any work under the contract. The contract shall contain, at a minimum, the following:

I. The consumer's name, telephone number, and the address of the residential property that is the subject of the home improvement.

II. The name and street address of the home improvement contractor and the number of any license or permit issued to the home improvement contractor by the electrician's board pursuant to RSA 319-C, the plumbers' licensing and regulation board pursuant to RSA 329-A, the water well board pursuant to RSA 482-B, or the department of environmental services pursuant to RSA 485-A, and any other applicable license or permit.

III. The name and telephone number of any agent to whom consumer problems and inquiries can be directed.

IV. The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract.

V. A reasonably detailed description of the proposed home improvements.

VI. If the description required by paragraph V does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications. All specifications shall meet or exceed applicable building codes or standards.

VII. The estimated date of commencement of work and the estimated date when the work will be substantially completed. The estimated date of commencement of work and the completion date may be changed if work cannot begin or end due to circumstances beyond the control of the contractor, including, but not limited to, the lack of readiness of the job site, the unavailability of building materials, or weather conditions.

VIII. A statement of any contingencies that would materially change the approximate completion date.

IX. The home improvement contract price.

X. The amount of the initial down payment, which shall be limited to no more than 1/3 of the total contract price.

XI. The schedule of payments, which may stipulate additional deposits required to initiate the ordering of materials.

XII. A change order statement which reads: "Any alteration or deviation from the contractual specifications that results in a revision of the contract price or date of commencement or completion of the work will be executed only upon the parties entering into a written change order."

XIII. A statement describing the extent of liability insurance maintained by the home improvement contractor or disclosure that the home improvement contractor does not have liability insurance.

XIV. A warranty statement which reads: "In addition to any additional warranties agreed to by the parties, the home improvement contractor warrants that the work will be free from faulty materials, constructed according to the standards of the building code applicable for this location, constructed in a skillful manner, and fit for habitation or appropriate use."

XV. A statement specifying who shall be responsible for obtaining and paying for all applicable permits.

XVI. Signature lines for the home improvement contractor or the contractor's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature.

359-G:4 Signature of Contractor. Before the consumer signs the home improvement contract and before the consumer may be required to make any down payment, the home

improvement contractor shall have agreed unequivocally by written signature to all of the terms of the home improvement contract.

359-G:5 Consumer's Copy of Dated Contract. The home improvement contractor shall give an executed copy of the home improvement contract to the consumer within 3 days of the consumer signing it. The contract shall also show the dates the contractor and each consumer executed the contract.

359-G:6 Approval by Consumer. Any approval required by this chapter shall not be unreasonably withheld by the consumer.

359-G:7 Exemption. Parties to a home improvement contract may exempt themselves from the requirements of this chapter only if:

- I. The total home improvement contract is for services totaling less than \$5,000; or
- II. The consumer asserts that exigent circumstances exist. Exigent circumstances shall include, but not be limited to, severe damage to the residence, such as by fire or water, that requires immediate repair in order to mitigate further damage or make the residence habitable.

359-G:8 Violations.

I. A violation of this chapter shall constitute prima facie evidence of a violation of the consumer protection act under RSA 358-A:2. Except as otherwise provided in this section, any right or remedy available under RSA 358-A, including the civil penalties under RSA 358-A:4 and the criminal penalties under RSA 358-A:6, shall apply to this chapter. The attorney general shall have the sole authority to bring an action under RSA 358-A for violations of this chapter. No person may bring a private action under RSA 358-A:10 for a violation of this chapter.

II. There is established a home improvement consumer protection fund within the office of the treasurer which shall be nonlapsing and continually appropriated to the department of justice for investigation and enforcement measures under the consumer protection act. Any civil penalties assessed under RSA 358-A:4 for violations of this chapter shall be deposited in the home improvement consumer protection fund.

III. If the home improvement contractor has committed more than one violation of this chapter within one year, the court shall consider the following factors in assessing a civil penalty:

- (a) The volume of business which the home improvement contractor performs on an annual basis.
- (b) The number of contracts in violation.
- (c) The actual financial loss or exposure to financial loss suffered by any consumer as a result of the violations.
- (d) Whether the home improvement contractor acted in good faith or knowingly with respect to such violations.

IV. Except as otherwise provided in paragraph I, nothing in this section shall impair, limit, or reduce the statutory, common law, or contractual duties or liability of any home improvement contractor.

359-G:9 Applicability. This chapter shall not exempt any home improvement contractor subject to its provisions from complying with any local ordinance with respect to the regulation of home improvement contractors, provided, however, that after January 1, 2006, no political subdivision may enact a local ordinance inconsistent with the provisions of this chapter.

2 New Subparagraph; Home Improvement Consumer Protection Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (234) the following new subparagraph:

(235) Moneys deposited in the home improvement consumer protection fund, established under RSA 359-G:8.

3 Effective Date. This act shall take effect January 1, 2006.

AMENDED ANALYSIS

This bill establishes certain requirements for home improvement contracts, including that they be in writing and that they address the contract price, the work to be completed, and estimated completion date. The bill provides that a violation of the chapter regulating home improvement contracts is prima facie evidence of a violation of the consumer protection act. The bill also establishes a separate fund for civil penalties collected by the department of justice, which may be used for enforcement of the consumer protection act.

Adopted.

Report adopted and ordered to third reading.

HB 137-FN, relative to unemployment benefit eligibility. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Anthony R. DiFruscia for the Majority of Labor, Industrial and Rehabilitative Services: This bill provides the basic necessities to the part-time employee and his family, allows the transition to re-employment, and eliminates the need for welfare. The present eligibility unemployment benefit program is discriminatory and unfair to part-time employees and families. The original intent of unemployment benefits was to provide employees with economic security. Part-time employees, unemployed through no fault of their own, were not included in past legislation. Federal funds are available through the Reed Act to provide benefits to part-time employees. The pilot program will be able to monitor the actual benefits paid to the employee and will terminate on July 1, 2006. Vote 11-5.

Rep. William J. Infantine for Minority of Labor, Industrial and Rehabilitative Services: The original intent of the bill was to allow part time workers the ability to collect unemployment benefits. The bill was amended to include a one year pilot program paid for by Reed Act money. Reed Act funds came from the government as reimbursement for overpayments made by the states to the unemployment funds. This bill has three major problems. There is a technical flaw in the bill that both accounts for the one year pilot program plus changing the law permanently regarding part time workers. The legislature would have to change the law again next year after the completion of the pilot program to put the law back to where it is now. There is substantial disagreement regarding the cost of this program. The sponsor says the number is in the \$800,000 range and the Department of Employment Security calculates a cost of over \$10,000,000. There is also a concern that mandating the pilot program is a violation against Part I, Article 28-A unfunded mandates and a court challenge is most certain. The minority of the committee feels that the majority was concentrating on providing some kind of unemployment benefits and was willing to overlook the issues stated above. House Bill 170, which passed the committee unanimously, does provide unemployment benefits for a significant part of the part time work force that has child care obligations. This is permanent legislation with well defined and non-disputed financial costs.

Majority Amendment (0242h)

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

2 New Paragraph; Unemployment Compensation Eligibility; Part-Time Work. Amend RSA 282-A:31 by inserting after paragraph I the following new paragraph:

I-a. An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work. If an individual restricts his or her availability to part-time work, he or she may be considered to be able to work and available for work pursuant to subparagraph I(d) if it is determined that all of the following conditions exist:

- (a) The claim is based on the part-time employment.
- (b) The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the wage credits were accrued.
- (c) The claimant imposes no other restrictions and is in a labor market in which a reasonable demand exists for the part-time services he or she offers.

3 Unemployment Benefit Eligibility. Amend RSA 282-A:31, I(d) to read as follows:

(d) He or she is available for and seeking permanent *full-time* work for which he or she is qualified.

4 Repeal. RSA 282-A:31, I-a, relative to unemployment compensation benefits for part-time workers, is repealed.

5 Appropriation of Federal Funds; Department of Employment Security. There is hereby appropriated out of federal funds made available to this state under section 903(d) of the Social Security Act, 42 U.S.C. section 1103(d), as amended, transferred to the state on March 13, 2002, the sum of \$10,033,920, or so much thereof as may be necessary, to be used, under the direction of the New Hampshire department of employment security for the purpose of providing unemployment compensation benefits to claimants who are seeking part-time work under RSA 282-A:31, I-a. Expenditures may include providing funds for benefit payments, additional personnel, and administrative costs and other purposes that are in accordance with any uses authorized by the United States Congress, now or in the future. Such funds shall exclusively be used for expenses authorized under section 903(d) of the Social Security Act, 42 U.S.C. section 1103(d) as amended.

6 Report. On or before August 1, 2006, the commissioner of employment security shall provide to the general court a report detailing the overall financial cost, additional state personnel utilized, and the number of claimants served as a result of RSA 282-A:31, I-a.

7 Effective Date.

I. Sections 3 and 4 of this act shall take effect July 1, 2006.

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

AMENDED ANALYSIS

This bill:

I. Deletes, for a one-year period, the requirement that an individual seek full-time employment to qualify for unemployment compensation benefits.

II. Authorizes the department of employment security to expend federal funds for part-time unemployment compensation benefits.

III. Requires the commissioner of employment security to report to the general court.

On a division vote, 170 members having voted in the affirmative and 173 in the negative, the majority amendment failed.

The question now being adoption of the motion of Ought To Pass.

Reps. O'Neil, and Rausch spoke against.

Reps. DiFruscia spoke in favor.

Rep. Infantine spoke against and yielded to questions.

Reps. Bishop and Gorman spoke in favor and yielded to questions.

Rep. Bishop requested a roll call; sufficiently seconded.

The question being adoption of the motion of Ought to Pass.

YEAS 167 NAYS 198			
YEAS 167			
BELKNAP			
Morrison, Gail			
CARROLL			
Buco, Thomas			
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dunn, J Timothy
Eaton, Daniel	Espieffs, Peter	Parkhurst, Henry	Plifka, Stanley Jr

Pratt, John	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Tilton, Anna	Weed, Charles		
COOS			
Buzzell, Bernard	Lary, Bruce	Mears, Edgar	Merrick, Scott
Richardson, Herbert	Theberge, Robert		
GRAFTON			
Almy, Susan	Andersen, Gene	Benn, Bernard	Cooney, Mary
Hammond, Lee	Harding, A Laurie	McLeod, Martha	Mulholland, Catherine
Naro, Debra	Nordgren, Sharon	Sokol, Hilda	Solomon, Peter
HILLSBOROUGH			
Aboshar, Jeffrey	Baroody, Benjamin	Beaulieu, Jane	Brassard, Paul
Campbell, David	Chabot, Robert	Chase, Claudia	Clemons, Jane
Cote, David	Craig, James	Crane, Elenore Casey	Daniuk, Caitlin
Desmarais, Vivian	DeVries, Betsi	Emerton, Larry	Essex, David
Foster, Linda	Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Haley, Robert	Harvey, Suzanne	Holden, Randolph
Irwin, Anne-Marie	Jean, Claudette	Kopka, Angeline	Lasky, Bette
Lefebvre, Roland	Martin, Mary Ellen	Matarazzo, Anthony Sr	Messier, Irene
Michon, Stephen	Mooney, Maureen	Movsesian, Lori	Pappas, Christopher
Pilotte, Maurice	Renzullo, Andrew	Rochette, Eric	Rosenwald, Cindy
Schulze, Joan	Shaw, Barbara	Shaw, Kimberly	Smith, David
Sullivan, Francis	Sullivan, Peter	Tahir, Saghir	Vaillancourt, Steve
Velez, Hector			
MERRIMACK			
Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	DeJoie, John
DeStefano, Stephen	Foose, Robert	French, Barbara	Gile, Mary
Greco, Vincent	Hamm, Christine	Kennedy, Richard	Lockwood, Priscilla
McMahon, Patricia	Osborne, Jessie	Owen, Derek	Potter, Frances
Reardon, Tara	Rush, Deanna	Ryan, Jim	Shurtleff, Stephen
Tilton, Joy	Tupper, Frank	Wallner, Mary Jane	Walz, Mary Beth
Whiting, Herbert	Williams, Robert	Yeaton, Charles	
ROCKINGHAM			
Abbott, Dennis	Asselin, Michael	Bishop, Franklin	Blanchard, MaryAnn
Cali-Pitts, Jacqueline	Casey, Kimberley	DiFruscia, Anthony	Flanders, John Sr
Flockhart, Eileen	Forsing, Robert	McKinney, Betsy	Moody, Marcia
Norelli, Terie	Nowe, Ronald	Pantelakos, Laura	Powers, James
Serlin, Christopher	Splaine, James	Weldy, Norman	Wiley, Robert
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Brown, Lawrence	Callaghan, Frank	Cilley, Jacalyn	Creteau, Irene
Domingo, Baldwin	Dunlap, Patricia	Goodwin, Earle	Grassie, Anne
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Kaen, Naida

Keans, Sandra	Knowles, William	Miller, Joseph	Rollo, Michael
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Wall, Janet
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Houde-Quimby, Charlotte	Jillette, Arthur Jr	Phinizy, James
Prichard, Stephen			
NAYS 198			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Heald, Bruce	Nedeau, Stephen	Pilliod, James
Rosen, Ralph	Russell, David	Thomas, John	Tilton, Franklin
Tobin, William	Veazey, John	Wendelboe, Fran	Whalley, Michael
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Chandler, Gene
Dickinson, Howard	Knox, J David	Martin, James	McConkey, Mark
Merrow, Harry	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald
Stevens, Stanley			
CHESHIRE			
Dexter, Judson	Emerson, Susan	Foote, Sheila	Hogancamp, Deborah
Hunt, John	Pelkey, Stephen	Sawyer, Sheldon	
COOS			
King, Frederick	Morneau, Renney	Remick, William	Stohl, Eric
Tholl, John Jr			
GRAFTON			
Barker, Robert	Bleyler, Ruth	Eaton, Stephanie	Gionet, Edmond
Giuda, Robert	Ingbretson, Paul	Maybeck, Margie	Mirski, Paul
Sorg, Gregory	Ward, John		
HILLSBOROUGH			
Adams, Jarvis IV	Allan, Nelson	Baines, Stephen	Balboni, Michael
Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy	Bergin, Peter
Biundo, Michael	Boehm, Ralph	Brundige, Robert	Buhlman, David
Calawa, Leon Jr	Carew, James	Carlson, Donald	Carter, Mark
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Coughlin, Pamela
Dokmo, Cynthia	Drisko, Richard	Elliott, Nancy	Francoeur, Bea
Gargas, Carolyn	Gibson, John	Golding, William	Goyette, Peter Jr
Graham, John	Hansen, Ryan	Hawkins, Ken	Hebert, Raymond
Hinkle, Peyton	Hirschmann, Keith	Hunter, Bruce	Infantine, William

Jasper, Shawn	Kurk, Neal	L'Heureux, Robert	Lawrence, James
Lessard, Rudy	Manney, Pamela	McRae, Karen	Mead, Robert
O'Brien, William	O'Connell, Timothy	Ober, Lynne	Pepino, Leo
Price, Pamela	Reeves, Sandra	Ross, Lawrence	Rowe, Robert
Ryder, Donald	Scanlon, Michael	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Villeneuve, Maurice	Wheeler, James	Wheeler, Robert
MERRIMACK			
Anderson, Eric	Currier, David	Danforth, James	Field, William
Hager, Elizabeth	Hess, David	Kidder, David	Klose, John
Langlais, Thomas	MacKay, James	Marple, Richard	Maxfield, Roy
Reed, Dennis	Soltani, Tony		
ROCKINGHAM			
Allen, Mary	Belanger, Ronald	Bettencourt, David	Buxton, Donald
Cady, Harriet	Camm, Kevin	Carson, Sharon	Charron, Gene
Coburn, James	Cooney, Richard	Dalrymple, Janeen	Dodge, Robert
Donahue, Richard Ken	Dowd, John	Dowling, Patricia	Dumaine, Dudley
Fesh, Bob	Francoeur, Sheila	Garrity, James	Gilbert, Karl
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Headd, James
Hopfgarten, Paul	Hughes, Daniel	Ingram, Russell	Introne, Robert
Itse, Daniel	Johnson, Robert	Johnson, Rogers	Katsakiores, George
Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane	Lund, Howie
Major, Norman	Manning, John	Mason, April	McMahon, Charles
Morris, Richard	O'Neil, Michael	Packard, Sherman	Parker, Benjamin
Priestley, Anne	Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew
Rausch, James	Robertson, Carl	Rolston, James	Sanders, Elisabeth
Scamman, Stella	Smith, Paul	Stiles, Nancy	Stone, Joseph
Waterhouse, Kevin	Weare, E Albert	Welch, David	Wells, Roger
Weyler, Kenneth	Winchell, George	Zolla, William	
STRAFFORD			
Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan	Easson, Timothy
Newton, Clifford	Twombly, James		
SULLIVAN			
Gale, Harry	Irish, Christopher	Osgood, Philip Sr	Rodeschin, Beverly

and the motion of Ought to Pass failed.

Rep. O'Neil moved Inexpedient to Legislate.

On a division vote, 205 members having voted in the affirmative and 160 in the negative, the motion of Inexpedient to Legislate was adopted.

HB 611-FN, relative to small group insurers. **OUGHT TO PASS WITH AMENDMENT**

Rep. Sheila T. Francoeur for Commerce: As amended, HB 611-FN establishes a small group reinsurance mechanism; creates a composite band of case characteristics used to establish premiums; removes health underwriting and geography from the composite band; sets a limit of 4:1 variability on premium rates, and establishes a 15% cap on premium rate increase, excluding trend. Additionally, the amendment extends the responsibility of the SB 110 oversight committee to monitoring the effects of small group health insurance reform. Vote

20-0.

Amendment (0917h)

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

1 New Chapter; Small Group Reinsurance Mechanism. Amend RSA by inserting after chapter 404-H the following new chapter:

CHAPTER 404-I

SMALL GROUP REINSURANCE MECHANISM

404-I:1 Purpose.

I. The purpose of this chapter is to:

(a) Create a nonprofit organization to facilitate the availability of affordable small group health insurance for high risk small groups by establishing a mandatory assessment and reinsurance mechanism to distribute the risks within the small group market.

(b) Protect the citizens of this state who participate in the small group health insurance market by providing a mechanism to enable insurers to better protect against the excessive risk associated with covering high risk groups and individuals within those groups.

II. It is the intent of the general court that the small group reinsurance mechanism shall be adequately funded through an annual, and if necessary, a special assessment mechanism, and that the reinsurance mechanism shall utilize cost containment measures.

404-I:2 Definitions. In this chapter:

I. "Assessment" means the liability of the member insurer to the reinsurance association.

II. "Association" means the reinsurance association.

III. "Commissioner" means the insurance commissioner.

IV. "Covered lives" shall include all persons who are covered under a health insurance policy or certificate issued or delivered to a small employer in New Hampshire.

V. "Health insurance" means health insurance coverage issued in accordance with RSA 415, RSA 420-A, or RSA 420-B. For the purposes of this chapter, health insurance shall not include accident only, credit, dental, vision, Medicare supplement, Medicare Risk, Medicare Advantage, Managed Medicaid, long-term care, disability income, coverage issued as a supplement to a liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, policies or certificates of specified disease, hospital confinement indemnity, limited benefit health insurance or short-term, nonrenewable individual health insurance, coverage provided through the New Hampshire healthy kids association, and coverage provided through the federal Employees' Program. "Health insurance" shall include group excess loss insurance.

VI. "Mechanism" means the New Hampshire small group reinsurance mechanism.

VII. "Member insurer" means a small group health insurance carrier that is licensed in New Hampshire pursuant to RSA 402, RSA 420-A, or RSA 420-B.

VIII. "Plan of operation" means the plan of operation of the small group reinsurance mechanism, including articles, bylaws and operating rules, procedures and policies adopted by the association.

IX. "Reinsurance association" means the entity created within this chapter.

X. "Small employer" means "small employer" as defined in RSA 420-G:2, XVI.

XI. "Small group health insurance carrier" means any entity licensed pursuant to RSA 402, RSA 420-A, or RSA 420-B that issues or maintains in force policies of health insurance to small employers in New Hampshire.

404-I:3 Reinsurance Association's Powers and Duties.

I. The association shall be a not-for-profit, voluntary corporation under RSA 292 and shall possess all general powers as derive from that status and such additional powers and duties as are approved by the commissioner or as specified below.

II. The board of directors of the association shall have the following powers:

- (a) Enter into contracts as necessary or proper to administer the plan of operation.
- (b) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessments for, on behalf of, or against members of the association or other participating person.
- (c) Take legal action as necessary to avoid the payment of improper claims against the plan.
- (d) Retain appropriate legal, actuarial, and other persons as necessary to provide technical assistance in the operation of the plan, and in any other function within the authority of the plan.
- (e) Borrow money to carry out the plan of operation.
- (f) Issue policies of reinsurance.
- (g) Assess small group health insurance carriers.
- (h) Apply for and accept funds from any third-party.
- (i) Perform any other function within the authority of the association as may be necessary or proper to carry out the plan of operation.

III. The board of directors of the association shall have the following duties:

- (a) Fulfill the plan of operation as approved by the commissioner.
- (b) Develop and issue policies of reinsurance.
- (c) Determine and collect assessments for the reinsurance mechanism.
- (d) Administer reinsurance policies, including premium collection and claims payments.
- (e) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate to the plan of operation for the reinsurance mechanism.
- (f) Provide for and employ cost-containment measures and requirements, which shall include but not be limited to, conducting medical audits on reinsurance submissions.

404-I:4 Reinsurance Association Membership and Governance.

I. The association shall be composed of all small group health insurance carriers licensed in the state of New Hampshire.

II. The initial board of directors of the association shall be appointed by the commissioner, and shall include 10 members, including the commissioner, or his or her designee, who shall serve as an ex officio member of the board. In the initial and in each successor board, 5 directors shall be representative of small group health insurance carriers, one director shall be representative of the health care provider community and shall be appointed by the commissioner, one director shall be representative of consumers covered through the reinsurance mechanism and shall be appointed by the commissioner, one director shall be a representative of insurance brokers and shall be appointed by the commissioner, and one director shall be a representative of small employers and shall be appointed by the commissioner. The commissioner shall serve in an ex officio capacity.

III. There shall be no more than one director representing any one small group health insurance carrier or its affiliate. For purposes of this section, the insurance activities of any elected director's affiliate shall be deemed to be insurance activities of the elected director.

IV. In the successor board, the 5 directors representing small group health insurance carriers shall be elected annually. Small group health insurance carriers shall be entitled to vote. A small group health insurance carrier's votes for small group market representatives shall be proportional to the small group health insurance carrier's assessment in that market, and shall be based on that member's covered lives.

V. Members of the board of directors shall be elected to terms of one year.

VI. The board of directors shall take action by affirmative vote representing a simple majority of the entire board.

VII. The board shall elect officers in accordance with the bylaws of the association. The bylaws of the association shall also govern the place and frequency of meetings of directors and their reimbursement for expenses incurred.

404-I:5 Plan of Operation for the Reinsurance Mechanism.

I. The board of directors for the reinsurance association shall adopt a plan of operation for the reinsurance mechanism. The reinsurance mechanism shall be funded in part through an assessment mechanism whereby small group health insurance carriers contribute an amount sufficient to cover the expenses and losses of the mechanism.

II. The plan of operation for the reinsurance mechanism shall establish:

- (a) Procedures for selecting a third-party administrator and setting forth the powers and duties of the third-party administrator;
- (b) Procedures for selecting and retaining an administrator;
- (c) Procedures to create a fund, under management of the board, for administrative expenses;
- (d) Procedures for small group health insurance carriers to submit their claims for reinsurance;
- (e) Guidelines for conducting audits of carrier's administration of claims for individuals ceded to the reinsurance mechanism;
- (f) Procedures for collecting assessments from member carriers;
- (g) Procedures for handling, accounting and auditing of assets, moneys, and claims of the mechanism;
- (h) Requirements for keeping financial and other records;
- (i) Guidelines for termination of reinsurance coverage at the option of the ceding carrier;
- (j) Regular times and places for meetings of the board;
- (k) A methodology for applying the reinsurance provisions in the case of carriers that pay or reimburse health care providers through capitation or salary; and
- (l) Such other administrative provisions as are necessary or proper for the execution of the powers and duties of the association.

404-I:6 Assessment.

I. The assessment for the reinsurance mechanism shall be based on the number of covered lives under health insurance policies issued to small employers times a specified assessment rate. The association shall specify the basis used to set the assessment rate.

II. The association shall establish a regular assessment rate which shall be:

- (a) Calculated on a calendar year basis;
- (b) Established no later than November 1 in the year preceding the calendar year for which the carrier's experience shall be used to calculate the assessment; and
- (c) Anticipated to be sufficient to meet the reinsurance mechanism's funding needs.

III. In addition to the regular assessment rate, the association may establish a special assessment rate. Notwithstanding RSA 420-G:4, a small group health insurance carrier may increase the premiums charged by the amount of the special assessment. Any such premium increase shall be subject to the approval of the commissioner. Any assessment may appear as a separate line item on a policyholder's bill.

(a) The association shall only establish a special assessment if the association determines that its funds are or will become insufficient to pay the reinsurance mechanism's expenses in a timely manner.

(b) The association shall only assess, through the special assessment, at a rate necessary to fund the deficiency ascertained in subparagraph (a).

IV. The regular assessment rate, and any special assessment rate, shall be subject to the approval of the commissioner. The commissioner shall approve the rate if she or he finds that the amount is required to fulfill the purposes of the reinsurance mechanism. For the

purpose of making this determination, the commissioner may, at the expense of the association, seek independent actuarial certification of the need for the proposed rate.

V. The association shall impose and collect assessments from its members.

VI. If the assessment exceeds the amount actually needed, the excess shall be held and invested and, with the earnings and interest thereon, be used to offset future net losses.

VII. Each covered life should be included in the assessment only once. The association shall adopt procedures by which affiliated carriers calculate their assessment on an aggregate basis and procedures to ensure that no covered life is counted more than once.

VIII. The initial assessment rate to fund the reinsurance mechanism shall be \$1 per covered life per month, and shall apply to all health insurance policies issued to small employers that are in force on or after July 1, 2005.

404-I:7 Reinsurance Mechanism.

I. There is hereby created the New Hampshire reinsurance mechanism. This reinsurance mechanism shall be operated by and subject to the control of the association and shall provide reimbursement on an as-incurred basis for risks ceded to the reinsurance mechanism on or after January 1, 2006.

II. The reinsurance mechanism shall be funded by premiums charged for reinsurance and by assessments which the association shall calculate based on the number of covered lives times a specified amount. The reinsurance mechanism shall not be funded with state general fund revenue. The reinsurance mechanism shall never cease providing reinsurance for claims incurred by ceded risks.

404-I:8 Reinsurance Mechanism Administrator.

I. The board shall select an administrator through a competitive bidding process to administer the mechanism. The board shall evaluate bids submitted based on criteria established by the board which shall include:

- (a) The efficiency and timeliness of the administrative procedures;
- (b) An estimate of total charges for administering the mechanism;
- (c) The reinsurance mechanism administrator's ability to apply effective cost containment programs and procedures and to administer the mechanism in a cost efficient manner; and

- (d) The financial condition and stability of the reinsurance mechanism administrator.

II.(a) The reinsurance mechanism administrator shall serve for a period of at least 3 years and shall be subject to removal for cause; and

(b) At least one year prior to the expiration of each period of service by a reinsurance mechanism administrator, the association shall invite entities, including the current reinsurance mechanism administrator, to submit bids to serve as the reinsurance mechanism administrator. Selection of the reinsurance mechanism administrator for the succeeding period shall be made at least 6 months prior to the end of the current period.

III. The reinsurance mechanism administrator shall perform such functions relating to the plan as may be assigned to such administrator.

IV. The reinsurance mechanism administrator shall submit regular reports to the association and the commissioner regarding the operation of the reinsurance mechanism. The frequency, content, and form of the report shall be specified in the contract between the association and the reinsurance mechanism administrator.

V. Following the close of each calendar year, the reinsurance mechanism administrator shall determine the expense of administration and the paid and incurred losses for the year, and shall report this information to the association and the commissioner on a form prescribed by the commissioner.

VI. The reinsurance mechanism administrator shall be paid as provided in the contract between the association and the reinsurance mechanism administrator.

VII. The association shall submit the contract between itself and the reinsurance mechanism administrator to the commissioner for approval.

VIII. The association may select more than one administrator for the reinsurance mechanism.

404-I:9 Eligibility.

I. A small group health insurance carrier may reinsure with the mechanism as provided for in paragraphs II and III.

II. A small group health insurance carrier may reinsure an employee or dependent of a small employer within a period of 60 days following the small employer's health insurance policy issue or renewal date. A new employee or dependent of a small employer may be reinsured within 60 days of the individual's effective date of coverage. After the date of issue of a small employer health insurance policy or after the effective date of coverage for a new employee or dependent of a small employer, a small group health insurance carrier may require completion of a health statement for the purpose of determining whether to reinsure an employee or dependent.

III. A small group health insurance carrier may terminate reinsurance with the mechanism for one or more of the reinsured employees or dependents of a small employer:

(a) On the anniversary date of the health insurance policy; or

(b) On the date the employee's or dependent's coverage under the health insurance policy terminates.

404-I:10 Reinsurance Premiums.

I. The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the mechanism for reinsuring employees or dependents of small employer groups.

(a) The methodology shall include a system for classification of small employers that reflects rating factors that are commonly used by small group health insurance carriers in the state. The methodology shall provide for the development of reinsurance premium rates that shall be multiplied by rating factors to determine the premium rates for the mechanism. The reinsurance premium rates and the method by which the rating factors are applied shall be established by the board, subject to the approval of the commissioner, and shall be set at levels that reasonably approximate gross premiums charged to small employers by small group health insurance carriers.

(b) The premium for the reinsurance mechanism shall allow a carrier to cede an employee or dependent at a rate that is 5 times the group's per member per month premium rate established pursuant to subparagraph (a).

(c) The board periodically shall review the methodology established under subparagraph (a), including the system of classification and any rating factors, to assure that it reasonably fulfills the purposes of this chapter. The board may propose changes to the methodology that shall be subject to the approval of the commissioner.

(d) The board may consider adjustments to the premium rates charged by the mechanism to reflect the use of effective cost containment and managed care arrangements.

II. Premium rates charged for reinsurance by the mechanism to a health maintenance organization that is federally qualified under 42 U.S.C. section 300c(c)(2)(A), and as such is subject to requirements that limit the amount of risk that may be ceded to the mechanism that is more restrictive than those specified in subparagraphs (c) and (d), shall be reduced to reflect that portion of the risk above the amount set forth in subparagraphs (c) and (d) that may not be ceded to the mechanism, if any.

404-I:11 Conditions of Reinsurance Coverage.

I. A small group health insurance carrier that cedes a risk shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or other methods of operation consistently with respect to reinsured and nonreinsured business.

II. The mechanism shall reimburse a small group health insurance carrier with respect to the claims of a reinsured employee or dependent starting with the first dollar of the carrier's liability under its policy. The mechanism and the small group health insurance

carrier shall participate in a cost-sharing arrangement whereby the carrier shall pay 20 percent of the portion of the claims of the reinsured employee that it is responsible for under its policy of insurance, up to a threshold of \$50,000, at which point the reinsurance mechanism shall pay 100 percent of the claims that the carrier is responsible for until a maximum of \$1,000,000 is reached on a calendar year basis.

III. On an annual basis, the board shall review the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the small group market in New Hampshire. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the Department of Labor, Bureau of Labor Statistics, unless the board proposes and the commissioner approves a lower adjustment factor.

IV. Any small group health insurance carrier that cedes a risk to the reinsurance mechanism shall make its books and records available for audit at the request of the reinsurance mechanism.

404-I:12 Commissioner's Powers and Duties. In addition to duties and powers enumerated elsewhere in this chapter:

I. The commissioner shall upon request of the board of directors, serve a demand upon the member insurer to pay an assessment within a reasonable time. The failure of the member insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this chapter.

II. The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer that fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed 5 percent of the unpaid assessment per month, but no forfeiture shall be less than \$100 per month. Any amounts so collected shall be credited to the assessment fund administered by the association.

III. Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if the appeal is taken within 30 days of the final action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the association and available to meet association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company from available funds of the association. Any final action or order of the commissioner shall be subject to judicial review, pursuant to RSA 541.

IV. The commissioner may adopt rules, pursuant to RSA 541-A, as necessary to carry out the purposes of this chapter.

V. The powers of the commissioner enumerated in this chapter shall be in addition to those established under RSA 404-C.

404-I:13 Examination and Annual Report. The reinsurance mechanism shall be subject to examination by the commissioner. The board of directors shall submit to the commissioner each year, not later than 120 days after the association's fiscal year, a financial report in a form approved by the commissioner and a report of its activities during the preceding fiscal year. The report shall summarize the activities of the reinsurance mechanism in the preceding calendar year, including the net written and earned premiums, enrollment, the expense of administration, and the paid and incurred losses. The association's fiscal year shall be the calendar year.

404-I:14 Tax Exemption. The reinsurance mechanism shall be exempt from payment of all fees and all taxes levied by this state or any of its political subdivisions.

404-I:15 Immunity for Members and Employees. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or the commissioner's representatives, for any action or omission by

them in the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct.

404-I:16 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

2 New Paragraph; Small Group Health Insurance; Definition Added. Amend RSA 420-G:2 by inserting after paragraph I the following new paragraph:

I-a. "Case characteristics" means industry, age, gender, group size, participation, and the level of employer contribution of a small employer group that are considered by the carrier in the determination of premium rates for the small employer.

3 Small Group Health Insurance; Case Characteristics. RSA 420-G:4, I(e) is repealed and reenacted to read as follows:

(e) In establishing the premium charged, health carriers providing coverage to small employers shall calculate a rate that is derived from the health coverage plan rate through the consideration of case characteristics that the carrier chooses to utilize.

(1) The premium rates charged for a health benefit plan to small employers shall not vary from the health coverage plan rate, by more than 60 percent (4:1). An insurer may consider all case characteristics of a small group in setting the premium rate for that group.

(2) Upon the renewal of a small employer policy, a carrier is prohibited from increasing the group's per member per month premium rate by more than 15 percent of the rate that was charged in the preceding year. Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization.

(3) For a group of one, an insurer may increase the premium 10 percent above the premium calculated in subparagraph (1).

4 Legislative Oversight Committee. Amend RSA 420-G:14-c, I to read as follows:

I. There is hereby established a joint legislative oversight committee on small group health insurance reform. The committee shall review the reports filed by the commissioner pursuant to RSA 420-G:14-a, monitor the small group health insurance market in the state, and monitor the ~~[effect of SB 110 of the 2003 legislative session]~~ **effects of small group health insurance reform**. The committee shall make recommendations for any legislative changes the committee deems necessary. The committee shall include 3 members of the house, appointed by the speaker of the house and 2 senators, appointed by the president of the senate.

5 Effective Date.

I. Sections 2 and 3 of this act shall take effect January 1, 2006.

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

AMENDED ANALYSIS

This bill:

I. Establishes a mandatory assessment reinsurance mechanism for small group insurance.

II. Clarifies the use of case characteristics which may be used for calculating premium rates for small group health insurance.

Rep. Hunt inquired if the amendment was divisible and asked that Section 1 be divided from the remainder of the amendment.

The Speaker ruled the amendment was divisible and so ordered.

The question being adoption of Section 1 of the committee amendment.

Rep. Hunt spoke against and yielded to questions.

Reps. DeStefano and Sheila Francoeur spoke in favor.

Rep. Whalley spoke against and yielded to questions.

MOTION TO LAY ON THE TABLE

Rep. Mirski moved that **HB 137**, relative to unemployment benefit eligibility, be laid on the table.

Rep. Sheila Francoeur requested a roll call; sufficiently seconded.

The question being adoption of the motion to lay HB 137 on the table.

YEAS 139 NAYS 225			
YEAS 139			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Nedeau, Stephen	Pilliod, James	Rosen, Ralph
Russell, David	Thomas, John	Tilton, Franklin	Tobin, William
Veazey, John	Wendelboe, Fran	Whalley, Michael	
CARROLL			
Chandler, Gene	Dickinson, Howard	McConkey, Mark	Merrow, Harry
CHESHIRE			
Dexter, Judson	Emerson, Susan	Hogancamp, Deborah	Hunt, John
Roberts, Kris	Sawyer, Sheldon		
COOS			
Morneau, Renney			
GRAFTON			
Barker, Robert	Eaton, Stephanie	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie	Mirski, Paul	Sorg, Gregory	
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Balboni, Michael	Barry, J Gail
Batula, Peter	Bergeron, Jean-Guy	Boehm, Ralph	Brundige, Robert
Calawa, Leon Jr	Carew, James	Carlson, Donald	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Coughlin, Pamela
Crane, Elenore Casey	Desmarais, Vivian	Drisko, Richard	Elliott, Nancy
Francoeur, Bea	Gibson, John	Golding, William	Goyette, Peter Jr
Graham, John	Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton
Hirschmann, Keith	Hunter, Bruce	Kurk, Neal	Lawrence, James
Lefebvre, Roland	Lessard, Rudy	Manney, Pamela	McRae, Karen
Mead, Robert	Mooney, Maureen	Renzullo, Andrew	Ross, Lawrence
Rowe, Robert	Scanlon, Michael	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Tahir, Saghir	Vaillancourt, Steve	Villeneuve, Maurice
Wheeler, James	Wheeler, Robert		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Field, William	Kennedy, Richard

Klose, John	Langlais, Thomas	Marple, Richard	Reed, Dennis
Whiting, Herbert			
ROCKINGHAM			
Allen, Mary	Bettencourt, David	Bishop, Franklin	Buxton, Donald
Cady, Harriet	Camm, Kevin	Carson, Sharon	Coburn, James
Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert	Fesh, Bob
Forsing, Robert	Garrity, James	Hopfgarten, Paul	Hughes, Daniel
Ingram, Russell	Introne, Robert	Itse, Daniel	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Lund, Howie	Major, Norman	Manning, John	McKinney, Betsy
McMahon, Charles	Morris, Richard	Nowe, Ronald	Parker, Benjamin
Sanders, Elisabeth	Smith, Paul	Waterhouse, Kevin	Welch, David
Weldy, Norman	Wells, Roger	Wiley, Robert	
STRAFFORD			
Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan	Easson, Timothy
Keans, Sandra	Newton, Clifford	Twombly, James	
SULLIVAN			
Irish, Christopher			
NAYS 225			
BELKNAP			
Fitzgerald, James	Morrison, Gail		
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Buco, Thomas
Knox, J David	Martin, James	Olimpio, J Lisbeth	Patten, Betsey
Philbrick, Donald	Stevens, Stanley		
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dunn, J Timothy
Eaton, Daniel	Espiefs, Peter	Foote, Sheila	Parkhurst, Henry
Pelkey, Stephen	Plifka, Stanley Jr	Pratt, John	Richardson, Barbara
Robertson, Timothy	Tilton, Anna	Weed, Charles	
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Remick, William	Richardson, Herbert	Stohl, Eric
Theberge, Robert	Tholl, John Jr		
GRAFTON			
Almy, Susan	Andersen, Gene	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Gionet, Edmond	Hammond, Lee	Harding, A Laurie
McLeod, Martha	Mulholland, Catherine	Naro, Debra	Nordgren, Sharon
Sokol, Hilda	Solomon, Peter	Ward, John	

HILLSBOROUGH			
Allan, Nelson	Baines, Stephen	Baroody, Benjamin	Beaulieu, Jane
Bergin, Peter	Brassard, Paul	Buhlman, David	Campbell, David
Carter, Mark	Chase, Claudia	Clemons, Jane	Cote, David
Craig, James	Daniuk, Caitlin	DeVries, Betsi	Dokmo, Cynthia
Emerton, Larry	Essex, David	Foster, Linda	Gargasz, Carolyn
Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey	Gorman, Mary
Haley, Robert	Harvey, Suzanne	Hebert, Raymond	Holden, Randolph
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Kopka, Angeline	L'Heureux, Robert	Lasky, Bette	Martin, Mary Ellen
Matarazzo, Anthony Sr	Messier, Irene	Michon, Stephen	Movsesian, Lori
O'Brien, William	O'Connell, Timothy	Ober, Lynne	Pappas, Christopher
Pepino, Leo	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Rochette, Eric	Rosenwald, Cindy	Ryder, Donald	Schulze, Joan
Shaw, Barbara	Shaw, Kimberly	Smith, David	Sullivan, Francis
Sullivan, Peter	Velez, Hector		
MERRIMACK			
Bouchard, Candace	Brueggemann, Donald	Currier, David	Danforth, James
DeJoie, John	DeStefano, Stephen	Foose, Robert	French, Barbara
Gile, Mary	Greco, Vincent	Hager, Elizabeth	Hamm, Christine
Hess, David	Kidder, David	Lockwood, Priscilla	MacKay, James
Maxfield, Roy	McMahon, Patricia	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Rush, Deanna	Ryan, Jim
Shurtleff, Stephen	Soltani, Tony	Tilton, Joy	Tupper, Frank
Wallner, Mary Jane	Walz, Mary Beth	Williams, Robert	Yeaton, Charles
ROCKINGHAM			
Abbott, Dennis	Asselin, Michael	Belanger, Ronald	Blanchard, MaryAnn
Cali-Pitts, Jacqueline	Casey, Kimberley	Charron, Gene	Cooney, Richard
Donahue, Richard Ken	Dowd, John	Dowling, Patricia	Dumaine, Dudley
Flanders, John Sr	Flockhart, Eileen	Francoeur, Sheila	Gilbert, Karl
Gillick, Thomas	Gould, Kenneth	Griffin, Mary	Headd, James
Langley, Jane	Mason, April	Moody, Marcia	Norelli, Terie
O'Neil, Michael	Packard, Sherman	Pantelakos, Laura	Powers, James
Priestley, Anne	Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew
Rausch, James	Robertson, Carl	Rolston, James	Scamman, Stella
Serlin, Christopher	Splaine, James	Stiles, Nancy	Stone, Joseph
Weare, E Albert	Weyler, Kenneth	Winchell, George	Zolla, William
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Brown, Lawrence	Callaghan, Frank	Cilley, Jacalyn	Creteau, Irene
Domingo, Baldwin	Dunlap, Patricia	Goodwin, Earle	Grassie, Anne
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Knowles, William	Miller, Joseph	Rollo, Michael	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Katherine	Taylor, Kathleen	Wall, Janet	

SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Prichard, Stephen	Rodeschin, Beverly

and the motion to lay on the table failed.

The question now being adoption of Section 1 of the committee amendment.

Rep. Sheila Francoeur requested a roll call; sufficiently seconded.

YEAS 257 NAYS 107			
YEAS 257			
BELKNAP			
Fitzgerald, James	Flanders, Donald	Morrison, Gail	Russell, David
Thomas, John	Tilton, Franklin	Tobin, William	
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Buco, Thomas
Dickinson, Howard	Martin, James	Merrow, Harry	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dunn, J Timothy
Eaton, Daniel	Espieffs, Peter	Foote, Sheila	Parkhurst, Henry
Plifka, Stanley Jr	Pratt, John	Richardson, Barbara	Robertson, Timothy
Sawyer, Sheldon	Tilton, Anna	Weed, Charles	
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Remick, William	Richardson, Herbert	Stohl, Eric
Theberge, Robert	Tholl, John Jr		
GRAFTON			
Almy, Susan	Andersen, Gene	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Hammond, Lee	Harding, A Laurie
McLeod, Martha	Mulholland, Catherine	Naro, Debra	Nordgren, Sharon
Sokol, Hilda	Solomon, Peter	Ward, John	
HILLSBOROUGH			
Baines, Stephen	Baroody, Benjamin	Beaulieu, Jane	Bergin, Peter
Brassard, Paul	Brundige, Robert	Buhlman, David	Campbell, David
Carter, Mark	Chase, Claudia	Clemons, Jane	Cote, David
Craig, James	Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi
Dokmo, Cynthia	Emerton, Larry	Essex, David	Foster, Linda
Gargas, Carolyn	Garrity, Patrick	Ginsburg, Ruth	Golding, William
Goley, Jeffrey	Gorman, Mary	Graham, John	Haley, Robert
Hansen, Ryan	Harvey, Suzanne	Hebert, Raymond	Holden, Randolph
Hunter, Bruce	Infantine, William	Irwin, Anne-Marie	Jasper, Shawn

Jean, Claudette	Kopka, Angeline	L'Heureux, Robert	Lasky, Bette
Lefebvre, Roland	Martin, Mary Ellen	Matarazzo, Anthony Sr	Messier, Irene
Michon, Stephen	Mooney, Maureen	Movsesian, Lori	O'Connell, Timothy
Ober, Lynne	Pappas, Christopher	Pepino, Leo	Pilotte, Maurice
Price, Pamela	Reeves, Sandra	Rochette, Eric	Rosenwald, Cindy
Ross, Lawrence	Ryder, Donald	Scanlon, Michael	Schulze, Joan
Shaw, Barbara	Shaw, Kimberly	Smith, David	Sullivan, Francis
Sullivan, Peter	Tahir, Saghir	Velez, Hector	
MERRIMACK			
Bouchard, Candace	Brueggemann, Donald	Currier, David	Danforth, James
DeJoie, John	DeStefano, Stephen	Foose, Robert	French, Barbara
Gile, Mary	Greco, Vincent	Hager, Elizabeth	Hamm, Christine
Hess, David	Kidder, David	Klose, John	Lockwood, Priscilla
MacKay, James	McMahon, Patricia	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Rush, Deanna	Ryan, Jim
Shurtleff, Stephen	Soltani, Tony	Tilton, Joy	Tupper, Frank
Wallner, Mary Jane	Walz, Mary Beth	Whiting, Herbert	Williams, Robert
Yeaton, Charles			
ROCKINGHAM			
Abbott, Dennis	Belanger, Ronald	Bishop, Franklin	Blanchard, MaryAnn
Buxton, Donald	Cady, Harriet	Cali-Pitts, Jacqueline	Camm, Kevin
Casey, Kimberley	Charron, Gene	Cooney, Richard	DiFruscia, Anthony
Donahue, Richard Ken	Dowd, John	Dowling, Patricia	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Flockhart, Eileen	Forsing, Robert
Francoeur, Sheila	Gillick, Thomas	Gould, Kenneth	Griffin, Mary
Headd, James	Ingram, Russell	Introne, Robert	Johnson, Robert
Kobel, Rudolph	Langley, Jane	Mason, April	Moody, Marcia
Morris, Richard	Norelli, Terie	Nowe, Ronald	O'Neil, Michael
Packard, Sherman	Pantelakos, Laura	Powers, James	Priestley, Anne
Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew	Rausch, James
Robertson, Carl	Rolston, James	Sanders, Elisabeth	Scamman, Stella
Serlin, Christopher	Splaine, James	Stiles, Nancy	Stone, Joseph
Waterhouse, Kevin	Weare, E Albert	Wells, Roger	Weyler, Kenneth
Wiley, Robert	Zolla, William		
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Brown, Lawrence	Callaghan, Frank	Chaplin, Duncan	Cilley, Jacalyn
Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia	Goodwin, Earle
Grassie, Anne	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Wall, Janet			
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda

Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Prichard, Stephen	Rodeschin, Beverly
NAYS 107			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Heald, Bruce
Nedeau, Stephen	Pilliod, James	Rosen, Ralph	Veazey, John
Wendelboe, Fran	Whalley, Michael		
CARROLL			
Chandler, Gene	Knox, J David	McConkey, Mark	
CHESHIRE			
Dexter, Judson	Emerson, Susan	Hogancamp, Deborah	Hunt, John
Pelkey, Stephen	Roberts, Kris		
COOS			
Morneau, Renney			
GRAFTON			
Eaton, Stephanie	Gionet, Edmond	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie	Mirski, Paul	Sorg, Gregory	
HILLSBOROUGH			
Aboshar, Jeffrey	Adams, Jarvis IV	Allan, Nelson	Balboni, Michael
Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy	Boehm, Ralph
Calawa, Leon Jr	Carew, James	Carlson, Donald	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Coughlin, Pamela
Crane, Elenore Casey	Drisko, Richard	Elliott, Nancy	Francoeur, Bea
Gibson, John	Goyette, Peter Jr	Hawkins, Ken	Hinkle, Peyton
Hirschmann, Keith	Kurk, Neal	Lawrence, James	Lessard, Rudy
Manney, Pamela	McRae, Karen	Mead, Robert	O'Brien, William
Renzullo, Andrew	Rowe, Robert	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Vaillancourt, Steve	Villeneuve, Maurice	Wheeler, James
Wheeler, Robert			
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Field, William	Kennedy, Richard
Langlais, Thomas	Marple, Richard	Maxfield, Roy	Reed, Dennis
ROCKINGHAM			
Allen, Mary	Asselin, Michael	Bettencourt, David	Carson, Sharon
Coburn, James	Dalrymple, Janeen	Dodge, Robert	Garrity, James
Gilbert, Karl	Hopfgarten, Paul	Hughes, Daniel	Itse, Daniel

Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Lund, Howie
Major, Norman	Manning, John	McKinney, Betsy	McMahon, Charles
Parker, Benjamin	Smith, Paul	Welch, David	Weldy, Norman
Winchell, George			
STRAFFORD			
Campbell, W Packy	Cataldo, Sam	Easson, Timothy	Newton, Clifford
Twombly, James			
SULLIVAN			
Irish, Christopher			

and Section 1 of the committee amendment was adopted.

The question now being adoption of the remaining Sections of the amendment.

Rep. Rogers Johnson spoke against.

Rep. Sheila Francoeur spoke in favor.

Rep. Sheila Francoeur requested a roll call; sufficiently seconded.

The question being adoption of the remaining Sections of the amendment.

YEAS 279 NAYS 77			
YEAS 279			
BELKNAP			
Allen, Janet	Fitzgerald, James	Morrison, Gail	Pilliod, James
Russell, David	Thomas, John	Tilton, Franklin	Tobin, William
Wendelboe, Fran	Whalley, Michael		
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Buco, Thomas
Dickinson, Howard	Knox, J David	Martin, James	Merrow, Harry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dexter, Judson
Dunn, J Timothy	Eaton, Daniel	Emerson, Susan	Foote, Sheila
Parkhurst, Henry	Pelkey, Stephen	Plifka, Stanley Jr	Pratt, John
Richardson, Barbara	Robertson, Timothy	Sawyer, Sheldon	Tilton, Anna
Weed, Charles			
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Remick, William	Richardson, Herbert	Stohl, Eric
Theberge, Robert	Tholl, John Jr		
GRAFTON			
Almy, Susan	Andersen, Gene	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Hammond, Lee	Harding, A Laurie
McLeod, Martha	Mulholland, Catherine	Naro, Debra	Nordgren, Sharon

Sokol, Hilda	Solomon, Peter	Ward, John	
HILLSBOROUGH			
Allan, Nelson	Baines, Stephen	Barody, Benjamin	Batula, Peter
Beaulieu, Jane	Bergin, Peter	Brassard, Paul	Brundige, Robert
Buhlman, David	Calawa, Leon Jr	Campbell, David	Carew, James
Carlson, Donald	Carter, Mark	Chase, Claudia	Clemons, Jane
Cote, David	Coughlin, Pamela	Craig, James	Crane, Elenore Casey
Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi	Dokmo, Cynthia
Emerton, Larry	Essex, David	Foster, Linda	Gargas, Carolyn
Garrity, Patrick	Ginsburg, Ruth	Golding, William	Goley, Jeffrey
Gorman, Mary	Graham, John	Haley, Robert	Hansen, Ryan
Harvey, Suzanne	Hebert, Raymond	Holden, Randolph	Infantine, William
Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette	Kopka, Angeline
Kurk, Neal	L'Heureux, Robert	Lasky, Bette	Manney, Pamela
Matarazzo, Anthony Sr	Messier, Irene	Michon, Stephen	Mooney, Maureen
Movsesian, Lori	O'Brien, William	O'Connell, Timothy	Ober, Lynne
Pappas, Christopher	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Rochette, Eric	Rosenwald, Cindy	Ross, Lawrence	Rowe, Robert
Scanlon, Michael	Schulze, Joan	Shaw, Barbara	Shaw, Kimberly
Smith, David	Sullivan, Francis	Sullivan, Peter	Tahir, Saghir
Velez, Hector	Wheeler, Robert		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Currier, David	Danforth, James	DeJoie, John	DeStefano, Stephen
Foose, Robert	French, Barbara	Gile, Mary	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Hess, David	Kidder, David
Klose, John	Langlais, Thomas	Lockwood, Priscilla	MacKay, James
McMahon, Patricia	Osborne, Jessie	Owen, Derek	Potter, Frances
Reardon, Tara	Rush, Deanna	Ryan, Jim	Shurtleff, Stephen
Soltani, Tony	Tilton, Joy	Tupper, Frank	Wallner, Mary Jane
Walz, Mary Beth	Whiting, Herbert	Williams, Robert	Yeaton, Charles
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Asselin, Michael	Belanger, Ronald
Blanchard, MaryAnn	Buxton, Donald	Cady, Harriet	Cali-Pitts, Jacqueline
Camm, Kevin	Casey, Kimberley	Charron, Gene	Coburn, James
Cooney, Richard	Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert
Donahue, Richard Ken	Dowd, John	Dowling, Patricia	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Flockhart, Eileen	Forsing, Robert
Francoeur, Sheila	Garrity, James	Gilbert, Karl	Gillick, Thomas
Gould, Kenneth	Griffin, Mary	Headd, James	Ingram, Russell
Johnson, Robert	Langley, Jane	Major, Norman	Mason, April
McMahon, Charles	Moody, Marcia	Morris, Richard	Norelli, Terie
O'Neil, Michael	Packard, Sherman	Pantelakos, Laura	Powers, James
Priestley, Anne	Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew
Rausch, James	Robertson, Carl	Rolston, James	Sanders, Elisabeth
Scamman, Stella	Serlin, Christopher	Splaine, James	Stiles, Nancy
Stone, Joseph	Waterhouse, Kevin	Weare, E Albert	Wells, Roger

Weyler, Kenneth	Wiley, Robert	Winchell, George	Zolla, William
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Brown, Lawrence	Callaghan, Frank	Chaplin, Duncan	Cilley, Jacalyn
Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia	Goodwin, Earle
Grassie, Anne	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Wall, Janet			
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte	Irish, Christopher
Jillette, Arthur Jr	Osgood, Philip Sr	Phinizy, James	Prichard, Stephen
NAYS 77			
BELKNAP			
Boyce, Laurie	Clark, Charles	Flanders, Donald	Heald, Bruce
Nedeau, Stephen	Rosen, Ralph	Veazey, John	
CARROLL			
Chandler, Gene	McConkey, Mark		
CHESHIRE			
Hogancamp, Deborah	Hunt, John	Roberts, Kris	
COOS			
Morneau, Renney			
GRAFTON			
Eaton, Stephanie	Gionet, Edmond	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie	Mirski, Paul	Sorg, Gregory	
HILLSBOROUGH			
Adams, Jarvis IV	Balboni, Michael	Barry, J Gail	Bergeron, Jean-Guy
Boehm, Ralph	Chabot, Robert	Christensen, D L Chris	Clark, Mark
Drisko, Richard	Elliott, Nancy	Francoeur, Bea	Gibson, John
Goyette, Peter Jr	Hawkins, Ken	Hinkle, Peyton	Hirschmann, Keith
Hunter, Bruce	Lawrence, James	Lessard, Rudy	Martin, Mary Ellen
McRae, Karen	Mead, Robert	Renzullo, Andrew	Ryder, Donald
Slocum, Lee	Stepanek, Stephen	Vaillancourt, Steve	Villeneuve, Maurice
Wheeler, James			

MERRIMACK			
Field, William	Kennedy, Richard	Marple, Richard	Maxfield, Roy
Reed, Dennis			
ROCKINGHAM			
Bettencourt, David	Carson, Sharon	Hopfgarten, Paul	Hughes, Daniel
Introne, Robert	Itse, Daniel	Johnson, Rogers	Katsakiores, George
Katsakiores, Phyllis	Kobel, Rudolph	Lund, Howie	Manning, John
McKinney, Betsy	Nowe, Ronald	Parker, Benjamin	Smith, Paul
Welch, David	Weldy, Norman		
STRAFFORD			
Campbell, W Packy	Cataldo, Sam	Easson, Timothy	Newton, Clifford
Twombly, James			
SULLIVAN			
None			

and the remaining Sections of the committee amendment were adopted.

The question now being adoption of the committee report.

Rep. Sheila Francoeur requested a roll call; sufficiently seconded.

YEAS 256 NAYS 105			
YEAS 256			
BELKNAP			
Allen, Janet	Fitzgerald, James	Morrison, Gail	Thomas, John
Tilton, Franklin	Veazey, John		
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Buco, Thomas
Dickinson, Howard	Knox, J David	Martin, James	Merrow, Harry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dunn, J Timothy
Eaton, Daniel	Emerson, Susan	Espieffs, Peter	Foote, Sheila
Parkhurst, Henry	Pelkey, Stephen	Plifka, Stanley Jr	Pratt, John
Richardson, Barbara	Robertson, Timothy	Sawyer, Sheldon	Tilton, Anna
Weed, Charles			
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Remick, William	Richardson, Herbert	Stohl, Eric
Theberge, Robert	Tholl, John Jr		
GRAFTON			

Almy, Susan	Andersen, Gene	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Hammond, Lee	Harding, A Laurie
McLeod, Martha	Mulholland, Catherine	Naro, Debra	Nordgren, Sharon
Sokol, Hilda	Solomon, Peter	Ward, John	
HILLSBOROUGH			
Allan, Nelson	Baines, Stephen	Baroody, Benjamin	Beaulieu, Jane
Bergin, Peter	Brassard, Paul	Brundige, Robert	Buhlman, David
Calawa, Leon Jr	Campbell, David	Carew, James	Carlson, Donald
Carter, Mark	Chase, Claudia	Clemons, Jane	Cote, David
Craig, James	Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi
Dokmo, Cynthia	Emerton, Larry	Essex, David	Foster, Linda
Gargas, Carolyn	Garrity, Patrick	Ginsburg, Ruth	Golding, William
Goley, Jeffrey	Gorman, Mary	Graham, John	Haley, Robert
Hansen, Ryan	Harvey, Suzanne	Hebert, Raymond	Holden, Randolph
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Kopka, Angeline	L'Heureux, Robert	Lasky, Bette	Manney, Pamela
Matarazzo, Anthony Sr	Messier, Irene	Michon, Stephen	Movsesian, Lori
O'Brien, William	O'Connell, Timothy	Ober, Lynne	Pappas, Christopher
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Rochette, Eric
Rosenwald, Cindy	Ross, Lawrence	Schulze, Joan	Shaw, Barbara
Shaw, Kimberly	Smith, David	Sullivan, Francis	Sullivan, Peter
Tahir, Saghir	Velez, Hector		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Currier, David	Danforth, James	DeJoie, John	DeStefano, Stephen
Foose, Robert	French, Barbara	Gile, Mary	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Hess, David	Kidder, David
Klose, John	Lockwood, Priscilla	MacKay, James	McMahon, Patricia
Osborne, Jessie	Owen, Derek	Potter, Frances	Reardon, Tara
Rush, Deanna	Ryan, Jim	Shurtleff, Stephen	Soltani, Tony
Tilton, Joy	Tupper, Frank	Wallner, Mary Jane	Walz, Mary Beth
Whiting, Herbert	Williams, Robert	Yeaton, Charles	
ROCKINGHAM			
Abbott, Dennis	Asselin, Michael	Belanger, Ronald	Blanchard, MaryAnn
Buxton, Donald	Cady, Harriet	Cali-Pitts, Jacqueline	Casey, Kimberley
Charron, Gene	Cooney, Richard	DiFruscia, Anthony	Dowd, John
Dowling, Patricia	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Flockhart, Eileen	Francoeur, Sheila	Garrity, James	Gillick, Thomas
Gould, Kenneth	Griffin, Mary	Headd, James	Ingram, Russell
Introne, Robert	Kobel, Rudolph	Langley, Jane	Major, Norman
Mason, April	Moody, Marcia	Morris, Richard	Norelli, Terie
O'Neil, Michael	Packard, Sherman	Pantelakos, Laura	Powers, James
Priestley, Anne	Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew
Rausch, James	Robertson, Carl	Rolston, James	Sanders, Elisabeth
Scamman, Stella	Serlin, Christopher	Splaine, James	Stiles, Nancy
Stone, Joseph	Waterhouse, Kevin	Weare, E Albert	Wells, Roger

Weyler, Kenneth	Wiley, Robert	Zolla, William	
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Brown, Lawrence	Callaghan, Frank	Chaplin, Duncan	Cilley, Jacalyn
Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia	Goodwin, Earle
Grassie, Anne	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Knowles, William	Miller, Joseph	Rollo, Michael
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Wall, Janet
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Prichard, Stephen	Rodeschin, Beverly
NAYS 105			
BELKNAP			
Boyce, Laurie	Clark, Charles	Flanders, Donald	Heald, Bruce
Nedeau, Stephen	Pilliod, James	Rosen, Ralph	Russell, David
Tobin, William	Wendelboe, Fran	Whalley, Michael	
CARROLL			
Chandler, Gene	McConkey, Mark		
CHESHIRE			
Dexter, Judson	Hogancamp, Deborah	Hunt, John	Roberts, Kris
COOS			
Morneau, Renney			
GRAFTON			
Eaton, Stephanie	Gionet, Edmond	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie	Mirski, Paul	Sorg, Gregory	
HILLSBOROUGH			
Adams, Jarvis IV	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Boehm, Ralph	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clark, Mark	Coughlin, Pamela	Crane, Elenore Casey
Drisko, Richard	Elliott, Nancy	Francoeur, Bea	Gibson, John
Goyette, Peter Jr	Hawkins, Ken	Hinkle, Peyton	Hirschmann, Keith
Hunter, Bruce	Kurk, Neal	Lawrence, James	Lessard, Rudy
Martin, Mary Ellen	McRae, Karen	Mead, Robert	Mooney, Maureen
Renzullo, Andrew	Rowe, Robert	Ryder, Donald	Scanlon, Michael
Slocum, Lee	Souza, Kathleen	Stepanek, Stephen	Vaillancourt, Steve

Villeneuve, Maurice	Wheeler, James	Wheeler, Robert	
MERRIMACK			
Field, William	Kennedy, Richard	Langlais, Thomas	Marple, Richard
Maxfield, Roy	Reed, Dennis		
ROCKINGHAM			
Allen, Mary	Bettencourt, David	Bishop, Franklin	Camm, Kevin
Carson, Sharon	Coburn, James	Dalrymple, Janeen	Dodge, Robert
Donahue, Richard Ken	Forsing, Robert	Gilbert, Karl	Hopfgarten, Paul
Hughes, Daniel	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	Manning, John
McKinney, Betsy	McMahon, Charles	Nowe, Ronald	Parker, Benjamin
Smith, Paul	Welch, David	Weldy, Norman	Winchell, George
STRAFFORD			
Campbell, W Packy	Cataldo, Sam	Easson, Timothy	Keans, Sandra
Newton, Clifford	Twombly, James		
SULLIVAN			
Irish, Christopher			

and the committee report was adopted.

Ordered to third reading.

HB 197, decriminalizing marijuana. **INEXPEDIENT TO LEGISLATE**

Rep. Peter M. Sullivan for Criminal Justice and Public Safety: The committee heard intelligent and thoughtful testimony on both sides of the issue of marijuana decriminalization. Ultimately, it became apparent that this bill was not an appropriate course of action. The proposed legislation contains no mechanism for the regulation of marijuana and could lead to an ongoing state of legal confusion. In addition, the bill would permit the possession of quantities of marijuana that far exceed what anyone would need for strictly personal use. This would have the effect of decriminalizing not only possession, but also some trafficking. Given these concerns the committee cannot support this bill in its current form. Vote 13-2

Rep. Timothy Robertson spoke against and yielded to questions.

Rep. Peter Sullivan spoke in favor.

Rep. Soltani requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 295 NAYS 60			
YEAS 295			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Heald, Bruce	Morrison, Gail	Nedeau, Stephen
Pilliod, James	Rosen, Ralph	Russell, David	Thomas, John
Tilton, Franklin	Tobin, William	Veazey, John	Wendelboe, Fran
Whalley, Michael			

CARROLL			
Ahlgren, Christopher	Brown, Carolyn	Chandler, Gene	Dickinson, Howard
Knox, J David	Martin, James	McConkey, Mark	Merrow, Harry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley
CHESHIRE			
Butynski, William	Dexter, Judson	Dunn, J Timothy	Eaton, Daniel
Emerson, Susan	Espieffs, Peter	Footte, Sheila	Hogancamp, Deborah
Hunt, John	Pelkey, Stephen	Plifka, Stanley Jr	Roberts, Kris
COOS			
King, Frederick	Lary, Bruce	Mears, Edgar	Morneau, Renney
Remick, William	Richardson, Herbert	Stohl, Eric	Tholl, John Jr
GRAFTON			
Almy, Susan	Andersen, Gene	Barker, Robert	Bleyler, Ruth
Eaton, Stephanie	Gionet, Edmond	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie	McLeod, Martha	Mirski, Paul	Naro, Debra
Solomon, Peter	Ward, John		
HILLSBOROUGH			
Adams, Jarvis IV	Allan, Nelson	Baines, Stephen	Balboni, Michael
Baroody, Benjamin	Barry, J Gail	Batula, Peter	Beaulieu, Jane
Bergeron, Jean-Guy	Bergin, Peter	Biundo, Michael	Boehm, Ralph
Brassard, Paul	Brundige, Robert	Calawa, Leon Jr	Campbell, David
Carew, James	Carlson, Donald	Carter, Mark	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Cote, David
Coughlin, Pamela	Craig, James	Crane, Elenore Casey	Daniuk, Caitlin
Desmarais, Vivian	DeVries, Betsi	Dokmo, Cynthia	Drisko, Richard
Elliott, Nancy	Essex, David	Foster, Linda	Gibson, John
Golding, William	Goley, Jeffrey	Gorman, Mary	Goyette, Peter Jr
Graham, John	Hansen, Ryan	Harvey, Suzanne	Hawkins, Ken
Hebert, Raymond	Hinkle, Peyton	Hirschmann, Keith	Holden, Randolph
Hunter, Bruce	Infantine, William	Irwin, Anne-Marie	Jasper, Shawn
Jean, Claudette	Kopka, Angeline	Kurk, Neal	L'Heureux, Robert
Lasky, Bette	Lawrence, James	Lessard, Rudy	Manney, Pamela
Martin, Mary Ellen	Matarazzo, Anthony Sr	McRae, Karen	Mead, Robert
Messier, Irene	Michon, Stephen	Mooney, Maureen	Movsesian, Lori
O'Brien, William	O'Connell, Timothy	Ober, Lynne	Pilotte, Maurice
Price, Pamela	Reeves, Sandra	Renzullo, Andrew	Rochette, Eric
Rosenwald, Cindy	Rowe, Robert	Ryder, Donald	Scanlon, Michael
Schulze, Joan	Shaw, Kimberly	Slocum, Lee	Smith, David
Souza, Kathleen	Stepanek, Stephen	Sullivan, Francis	Sullivan, Peter
Tahir, Saghir	Villeneuve, Maurice	Wheeler, James	Wheeler, Robert
MERRIMACK			

Anderson, Eric	Blanchard, Elizabeth	Currier, David	Danforth, James
DeJoie, John	DeStefano, Stephen	Foose, Robert	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Hess, David	Kidder, David
Klose, John	Langlais, Thomas	Lockwood, Priscilla	MacKay, James
Maxfield, Roy	McMahon, Patricia	Potter, Frances	Reardon, Tara
Reed, Dennis	Rush, Deanna	Shurtleff, Stephen	Soltani, Tony
Tilton, Joy	Tupper, Frank	Walz, Mary Beth	Whiting, Herbert
Williams, Robert	Yeaton, Charles		
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Asselin, Michael	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Blanchard, MaryAnn	Buxton, Donald
Cady, Harriet	Cali-Pitts, Jacqueline	Camm, Kevin	Carson, Sharon
Casey, Kimberley	Charron, Gene	Coburn, James	Cooney, Richard
Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert	Donahue, Richard Ken
Dowd, John	Dowling, Patricia	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Flockhart, Eileen	Forsing, Robert	Francoeur, Sheila
Garrity, James	Gilbert, Karl	Gillick, Thomas	Gould, Kenneth
Griffin, Mary	Headd, James	Hopfgarten, Paul	Hughes, Daniel
Ingram, Russell	Introne, Robert	Itse, Daniel	Johnson, Robert
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Lund, Howie	Major, Norman	Manning, John	Mason, April
McKinney, Betsy	McMahon, Charles	Morris, Richard	Norelli, Terie
Nowe, Ronald	O'Neil, Michael	Packard, Sherman	Pantelakos, Laura
Parker, Benjamin	Priestley, Anne	Putnam, Ed II	Quandt, Marshall Lee
Quandt, Matthew	Rausch, James	Robertson, Carl	Rolston, James
Sanders, Elisabeth	Scamman, Stella	Smith, Paul	Stiles, Nancy
Stone, Joseph	Waterhouse, Kevin	Weare, E Albert	Welch, David
Weldy, Norman	Wells, Roger	Weyler, Kenneth	Wiley, Robert
Winchell, George	Zolla, William		
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Julie	Brown, Lawrence
Callaghan, Frank	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Dunlap, Patricia	Easson, Timothy	Goodwin, Earle	Grassie, Anne
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Knowles, William	Miller, Joseph	Newton, Clifford	Rollo, Michael
Schmidt, Peter	Snyder, Clair	Taylor, Kathleen	Twombly, James
Wall, Janet			
SULLIVAN			
Donovan, Thomas	Ferland, Brenda	Franklin, Peter	Gale, Harry
Irish, Christopher	Osgood, Philip Sr	Rodeschin, Beverly	
NAYS 60			
BELKNAP			
None			

CARROLL			
Babson, David Jr			
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Parkhurst, Henry	Pratt, John
Richardson, Barbara	Robertson, Timothy	Sawyer, Sheldon	Tilton, Anna
Weed, Charles			
COOS			
Buzzell, Bernard	Merrick, Scott	Theberge, Robert	
GRAFTON			
Benn, Bernard	Cooney, Mary	Hammond, Lee	Harding, A Laurie
Mulholland, Catherine	Nordgren, Sharon	Sokol, Hilda	Sorg, Gregory
HILLSBOROUGH			
Buhlman, David	Chase, Claudia	Francoeur, Bea	Garritty, Patrick
Haley, Robert	Pappas, Christopher	Shaw, Barbara	Vaillancourt, Steve
Velez, Hector			
MERRIMACK			
Bouchard, Candace	Brueggemann, Donald	Field, William	French, Barbara
Gile, Mary	Kennedy, Richard	Marple, Richard	Osborne, Jessie
Owen, Derek	Ryan, Jim	Wallner, Mary Jane	
ROCKINGHAM			
Moody, Marcia	Powers, James	Serlin, Christopher	Splaine, James
STRAFFORD			
Brown, Jennifer	Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin
Keans, Sandra	Rous, Emma	Smith, Marjorie	Spang, Judith
Taylor, Katherine			
SULLIVAN			
Cloutier, John	Converse, Larry	Houde-Quimby, Charlotte	Jillette, Arthur Jr
Phinizy, James	Prichard, Stephen		

and the committee report was adopted.

(Rep. Weyler in the Chair)

HB 208-FN, relative to criminal penalties for possession of a firearm in a safe school zone.

INEXPEDIENT TO LEGISLATE

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: To quote a past president of the United States, “It is more important to kill bad bills than to pass good ones....” This bill is one of those. It advises an otherwise honest, law abiding citizen who has a valid license to carry concealed within the State of New Hampshire, to be put at jeopardy of facing criminal charges. This bill is unnecessary. The Federal Safe School Act already offers the same protection without the criminal consequences against law abiding licensed citizens. This bill

would not address the person who had a firearm unloaded and locked in his car, or in a gun rack as the federal law does. In this bill, because the licensed owner wished to leave his car, he would now, while sitting behind the steering wheel, in heavy winter clothes, unload his firearm and put it “out of sight.” Anyone who has handled firearms knows the loading and unloading of that firearm is the most dangerous time and when most “accidental shootings” take place. And here we are on school grounds. We must ask ourselves, “Why this bill?” Are there people carrying openly on school grounds? The committee and the sub-committee heard of none. Shouldn’t we, as legislators adhere to the policy that the bills that come out of the committee are worded so that they do just what they are intended to do and not a great deal more? Further, this bill would make it a crime even to have pieces of a firearm such as trigger housing, or a starter pistol in your car. Present New Hampshire law does not. This bill does exactly what the sponsors do not want. It makes a “Safe School Zone”, not for teachers and students, but for the criminal. The criminal, who will not follow any laws of any government (that is why he is a criminal), will now act with impunity and do whatever he wishes to do. With HB 208, now he is aware he and only he will have a firearm. This bill, if passed, would create only an illusion of safety. Vote 7-6.

Rep. Cataldo spoke in favor.

Rep. Cataldo requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 273 NAYS 77			
YEAS 273			
BELKNAP			
Allen, Janet	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Heald, Bruce	Nedeau, Stephen	Pilliod, James
Rosen, Ralph	Russell, David	Thomas, John	Tilton, Franklin
Tobin, William	Veazey, John	Wendelboe, Fran	Whalley, Michael
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Brown, Carolyn	Chandler, Gene
Dickinson, Howard	Knox, J David	Martin, James	McConkey, Mark
Morrow, Harry	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald
CHESHIRE			
Allen, Peter	Dexter, Judson	Dunn, J Timothy	Eaton, Daniel
Emerson, Susan	Espieffs, Peter	Foote, Sheila	Hogancamp, Deborah
Hunt, John	Pelkey, Stephen	Plifka, Stanley Jr	Richardson, Barbara
Roberts, Kris	Sawyer, Sheldon		
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Morneau, Renney	Remick, William	Richardson, Herbert	Stohl, Eric

Tholl, John Jr			
GRAFTON			
Barker, Robert	Benn, Bernard	Cooney, Mary	Eaton, Stephanie
Gionet, Edmond	Ham, Bonnie	Ingbertson, Paul	Maybeck, Margie
Mirski, Paul	Naro, Debra	Solomon, Peter	Sorg, Gregory
Ward, John			
HILLSBOROUGH			
Adams, Jarvis IV	Allan, Nelson	Baines, Stephen	Balboni, Michael
Baroody, Benjamin	Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy
Biundo, Michael	Boehm, Ralph	Brassard, Paul	Brundige, Robert
Buhlman, David	Calawa, Leon Jr	Campbell, David	Carew, James
Carlson, Donald	Carter, Mark	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clark, Mark	Clemons, Jane	Cote, David
Coughlin, Pamela	Craig, James	Crane, Elenore Casey	Desmarais, Vivian
Dokmo, Cynthia	Drisko, Richard	Elliott, Nancy	Emerton, Larry
Essex, David	Foster, Linda	Francoeur, Bea	Gibson, John
Golding, William	Goley, Jeffrey	Gorman, Mary	Goyette, Peter Jr
Graham, John	Haley, Robert	Hansen, Ryan	Hawkins, Ken
Hebert, Raymond	Hinkle, Peyton	Hirschmann, Keith	Holden, Randolph
Hunter, Bruce	Infantine, William	Jasper, Shawn	Kurk, Neal
L'Heureux, Robert	Lasky, Bette	Lawrence, James	Lessard, Rudy
Manney, Pamela	Martin, Mary Ellen	McRae, Karen	Mead, Robert
Messier, Irene	Mooney, Maureen	Movsesian, Lori	O'Brien, William
O'Connell, Timothy	Ober, Lynne	Price, Pamela	Reeves, Sandra
Renzullo, Andrew	Ross, Lawrence	Rowe, Robert	Ryder, Donald
Scanlon, Michael	Shaw, Barbara	Shaw, Kimberly	Slocum, Lee
Smith, David	Souza, Kathleen	Stepanek, Stephen	Tahir, Saghir
Vaillancourt, Steve	Villeneuve, Maurice	Wheeler, James	Wheeler, Robert
MERRIMACK			
Anderson, Eric	Bouchard, Candace	Currier, David	Danforth, James
DeStefano, Stephen	Field, William	Foose, Robert	Greco, Vincent
Kennedy, Richard	Kidder, David	Klose, John	Langlais, Thomas
Lockwood, Priscilla	MacKay, James	Marple, Richard	Maxfield, Roy
McMahon, Patricia	Reed, Dennis	Rush, Deanna	Shurtleff, Stephen

Soltani, Tony	Walz, Mary Beth	Whiting, Herbert	
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Asselin, Michael	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Buxton, Donald	Cady, Harriet
Camm, Kevin	Carson, Sharon	Charron, Gene	Coburn, James
Cooney, Richard	Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert
Donahue, Richard Ken	Dowd, John	Dowling, Patricia	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Forsing, Robert	Francoeur, Sheila
Gilbert, Karl	Gillick, Thomas	Gould, Kenneth	Griffin, Mary
Headd, James	Hopfgarten, Paul	Hughes, Daniel	Introne, Robert
Itse, Daniel	Johnson, Robert	Katsakiores, George	Katsakiores, Phyllis
Kobel, Rudolph	Lund, Howie	Major, Norman	Mason, April
McKinney, Betsy	McMahon, Charles	Morris, Richard	Nowe, Ronald
O'Neil, Michael	Packard, Sherman	Pantelakos, Laura	Parker, Benjamin
Priestley, Anne	Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew
Rausch, James	Robertson, Carl	Rolston, James	Sanders, Elisabeth
Scamman, Stella	Smith, Paul	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weldy, Norman	Wells, Roger	Wiley, Robert
Zolla, William			
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Callaghan, Frank	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia
Easson, Timothy	Goodwin, Earle	Grassie, Anne	Heon, Richard
Hofemann, Roland	Kaen, Naida	Keans, Sandra	Newton, Clifford
Rollo, Michael	Rous, Emma	Snyder, Clair	Taylor, Kathleen
Twombly, James	Wall, Janet		
SULLIVAN			
Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gale, Harry	Irish, Christopher	Jillette, Arthur Jr
Osgood, Philip Sr	Phinizy, James	Rodeschin, Beverly	
NAYS 77			

BELKNAP			
Morrison, Gail			
CARROLL			
Stevens, Stanley			
CHESHIRE			
Butcher, Suzanne	Butynski, William	Parkhurst, Henry	Pratt, John
Robertson, Timothy	Tilton, Anna		
COOS			
Merrick, Scott	Theberge, Robert		
GRAFTON			
Almy, Susan	Andersen, Gene	Bleyler, Ruth	Hammond, Lee
Harding, A Laurie	McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon
Sokol, Hilda			
HILLSBOROUGH			
Beaulieu, Jane	Bergin, Peter	Chase, Claudia	Daniuk, Caitlin
DeVries, Betsi	Garrity, Patrick	Harvey, Suzanne	Irwin, Anne-Marie
Jean, Claudette	Kopka, Angeline	Matarazzo, Anthony Sr	Michon, Stephen
Pappas, Christopher	Pilotte, Maurice	Rochette, Eric	Schulze, Joan
Sullivan, Francis	Sullivan, Peter	Velez, Hector	
MERRIMACK			
Blanchard, Elizabeth	Brueggemann, Donald	French, Barbara	Gile, Mary
Hamm, Christine	Osborne, Jessie	Potter, Frances	Reardon, Tara
Ryan, Jim	Tilton, Joy	Tupper, Frank	Wallner, Mary Jane
Williams, Robert	Yeaton, Charles		
ROCKINGHAM			
Blanchard, MaryAnn	Cali-Pitts, Jacqueline	Casey, Kimberley	Flockhart, Eileen
Garrity, James	Ingram, Russell	Langley, Jane	Manning, John
Moody, Marcia	Norelli, Terie	Powers, James	Serlin, Christopher
Splaine, James	Stiles, Nancy	Stone, Joseph	Winchell, George
STRAFFORD			
Brown, Lawrence	Knowles, William	Miller, Joseph	Schmidt, Peter

Smith, Marjorie	Spang, Judith	Taylor, Katherine	
SULLIVAN			
Houde-Quimby, Charlotte	Prichard, Stephen		

and the committee report was adopted.

HB 285, relative to carrying a concealed weapon without a license. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Stanley E. Stevens for the Majority of Criminal Justice and Public Safety: This is a bill that would repeal certain statutes that prohibit carrying a pistol or revolver without obtaining a license. Specifically, it repeals RSA 159:4 Carrying without License. This is the statute that provides a penalty for any person convicted of carrying a loaded pistol or revolver in any vehicle, or concealed upon his person without a valid license therefore. The committee has heard, and rejected, several versions of this bill that have been brought forth in every session over the last several years. In each instance the House has supported the committee's position. New Hampshire already has some of the most permissive firearms laws in the United States. A person can already carry a loaded firearm as long as it is not both concealed, or in a vehicle. The current law works well and should remain in place. Vote 12-5.

Rep. Elbert I. Bicknell for the Minority of Criminal Justice and Public Safety: The committee members will, with very little dissent, admit that New Hampshire has some of the better gun laws in our United States. Other states, such as Arizona, as of last year, and before that Alaska, have done away with having their law abiding citizens apply for a license to carry a firearm concealed. Crime and violence have not taken over the streets of these states. In fact the opposite is true and crime has been reduced since now anyone can carry a firearm concealed legally. Vermont has never had a gun law and its streets are not awash in violent crimes. In fact, it is touted by the FBI as being one of the safest of all states. It is the minority's opinion that this bill would align us with the constitutions of New Hampshire and the United States and nothing more.

Rep. Mirski spoke against.

Rep. Stevens spoke in favor.

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

The question being adoption of the majority committee report.

YEAS 256 NAYS 97			
YEAS 256			
BELKNAP			
Clark, Charles	Fitzgerald, James	Flanders, Donald	Heald, Bruce
Morrison, Gail	Nedeau, Stephen	Pilliod, James	Russell, David
Thomas, John	Tobin, William	Veazey, John	Whalley, Michael
CARROLL			
Ahlgren, Christopher	Brown, Carolyn	Knox, J David	Martin, James
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley
CHESHIRE			
Butcher, Suzanne	Butynski, William	Dexter, Judson	Dunn, J Timothy
Eaton, Daniel	Espieffs, Peter	Foote, Sheila	Hogancamp, Deborah
Parkhurst, Henry	Plifka, Stanley Jr	Pratt, John	Richardson, Barbara

Roberts, Kris	Robertson, Timothy	Tilton, Anna	
COOS			
Buzzell, Bernard	King, Frederick	Lary, Bruce	Mears, Edgar
Merrick, Scott	Remick, William	Richardson, Herbert	Theberge, Robert
Tholl, John Jr			
GRAFTON			
Almy, Susan	Andersen, Gene	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Eaton, Stephanie	Ham, Bonnie	Hammond, Lee
Harding, A Laurie	McLeod, Martha	Mulholland, Catherine	Naro, Debra
Nordgren, Sharon	Sokol, Hilda	Solomon, Peter	
HILLSBOROUGH			
Allan, Nelson	Baines, Stephen	Baroody, Benjamin	Beaulieu, Jane
Bergin, Peter	Brassard, Paul	Calawa, Leon Jr	Campbell, David
Carew, James	Carlson, Donald	Carter, Mark	Chabot, Robert
Chase, Claudia	Christensen, D L Chris	Clemons, Jane	Cote, David
Craig, James	Daniuk, Caitlin	Desmarais, Vivian	DeVries, Betsi
Dokmo, Cynthia	Drisko, Richard	Emerton, Larry	Essex, David
Foster, Linda	Garrity, Patrick	Golding, William	Goley, Jeffrey
Gorman, Mary	Graham, John	Haley, Robert	Harvey, Suzanne
Hawkins, Ken	Hebert, Raymond	Holden, Randolph	Hunter, Bruce
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Kopka, Angeline	Kurk, Neal	L'Heureux, Robert	Lasky, Bette
Lessard, Rudy	Manney, Pamela	Matarazzo, Anthony Sr	Messier, Irene
Michon, Stephen	Movsesian, Lori	O'Connell, Timothy	Ober, Lynne
Pappas, Christopher	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Rochette, Eric	Rosenwald, Cindy	Ross, Lawrence	Ryder, Donald
Scanlon, Michael	Schulze, Joan	Shaw, Barbara	Shaw, Kimberly
Smith, David	Sullivan, Francis	Sullivan, Peter	Vaillancourt, Steve
Velez, Hector	Wheeler, Robert		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Currier, David	Danforth, James	DeJoie, John	DeStefano, Stephen
Field, William	Foose, Robert	French, Barbara	Gile, Mary
Greco, Vincent	Hager, Elizabeth	Hamm, Christine	Hess, David
Kidder, David	Klose, John	Lockwood, Priscilla	MacKay, James
Maxfield, Roy	McMahon, Patricia	Osborne, Jessie	Potter, Frances
Reardon, Tara	Reed, Dennis	Rush, Deanna	Ryan, Jim
Shurtleff, Stephen	Tilton, Joy	Tupper, Frank	Wallner, Mary Jane
Walz, Mary Beth	Williams, Robert	Yeaton, Charles	
ROCKINGHAM			
Abbott, Dennis	Asselin, Michael	Belanger, Ronald	Bettencourt, David
Blanchard, MaryAnn	Buxton, Donald	Cali-Pitts, Jacqueline	Carson, Sharon
Casey, Kimberley	Charron, Gene	Coburn, James	Cooney, Richard

DiFruscia, Anthony	Dodge, Robert	Dowd, John	Dowling, Patricia
Fesh, Bob	Flanders, John Sr	Flockhart, Eileen	Forsing, Robert
Francoeur, Sheila	Garrity, James	Gilbert, Karl	Gillick, Thomas
Gould, Kenneth	Griffin, Mary	Headd, James	Hughes, Daniel
Ingram, Russell	Johnson, Robert	Katsakiores, George	Katsakiores, Phyllis
Kobel, Rudolph	Langley, Jane	Major, Norman	Mason, April
McKinney, Betsy	McMahon, Charles	Moody, Marcia	Norelli, Terie
O'Neil, Michael	Pantelakos, Laura	Parker, Benjamin	Powers, James
Priestley, Anne	Rausch, James	Robertson, Carl	Scamman, Stella
Serlin, Christopher	Splaine, James	Stiles, Nancy	Stone, Joseph
Waterhouse, Kevin	Weare, E Albert	Wiley, Robert	Winchell, George
Zolla, William			
STRAFFORD			
Berube, Roger	Brown, Jennifer	Brown, Julie	Brown, Lawrence
Callaghan, Frank	Cilley, Jacalyn	Creteau, Irene	Domingo, Baldwin
Dunlap, Patricia	Goodwin, Earle	Grassie, Anne	Heon, Richard
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Knowles, William	Miller, Joseph	Rollo, Michael	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Wall, Janet			
SULLIVAN			
Cloutier, John	Donovan, Thomas	Ferland, Brenda	Franklin, Peter
Gale, Harry	Houde-Quimby, Charlotte	Jillette, Arthur Jr	Osgood, Philip Sr
Prichard, Stephen	Rodeschin, Beverly		
NAYS 97			
BELKNAP			
Allen, Janet	Boyce, Laurie	Rosen, Ralph	Tilton, Franklin
Wendelboe, Fran			
CARROLL			
Babson, David Jr	Chandler, Gene	Dickinson, Howard	McConkey, Mark
Merrow, Harry			
CHESHIRE			
Allen, Peter	Emerson, Susan	Hunt, John	Pelkey, Stephen
Sawyer, Sheldon			
COOS			
Morneau, Renney	Stohl, Eric		
GRAFTON			
Barker, Robert	Gionet, Edmond	Ingbretson, Paul	Maybeck, Margie
Mirski, Paul	Sorg, Gregory	Ward, John	

HILLSBOROUGH			
Adams, Jarvis IV	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Biundo, Michael	Boehm, Ralph	Brundige, Robert
Buhlman, David	Christiansen, Lars	Clark, Mark	Coughlin, Pamela
Crane, Elenore Casey	Elliott, Nancy	Francoeur, Bea	Gibson, John
Goyette, Peter Jr	Hansen, Ryan	Hinkle, Peyton	Hirschmann, Keith
Lawrence, James	McRae, Karen	Mead, Robert	Mooney, Maureen
O'Brien, William	Renzullo, Andrew	Rowe, Robert	Slocum, Lee
Souza, Kathleen	Stepanek, Stephen	Tahir, Saghir	Villeneuve, Maurice
Wheeler, James			
MERRIMACK			
Kennedy, Richard	Langlais, Thomas	Marple, Richard	Soltani, Tony
Whiting, Herbert			
ROCKINGHAM			
Allen, Mary	Bishop, Franklin	Cady, Harriet	Camm, Kevin
Donahue, Richard Ken	Dumaine, Dudley	Hopfgarten, Paul	Introne, Robert
Itse, Daniel	Lund, Howie	Manning, John	Morris, Richard
Nowe, Ronald	Packard, Sherman	Putnam, Ed II	Quandt, Marshall Lee
Quandt, Matthew	Rolston, James	Sanders, Elisabeth	Smith, Paul
Welch, David	Weldy, Norman	Wells, Roger	
STRAFFORD			
Bickford, David	Campbell, W Packy	Cataldo, Sam	Chaplin, Duncan
Easson, Timothy	Newton, Clifford	Taylor, Katherine	Taylor, Kathleen
Twombly, James			
SULLIVAN			
Converse, Larry	Irish, Christopher	Phinizy, James	

and the majority committee report was adopted.

CACR 14, relating to tax money and religious schools or institutions. Providing that the language in article 83 of the second part of the New Hampshire constitution which states that "': Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination" shall be deleted from the article. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Deanna P. Rush for the Majority of Education: CACR 14 removes the Blaine amendment from the New Hampshire constitution, which could result in allowing public tax dollars to support schools or institutions of religious sects or denominations. Our constitution is very specific. It says that no money raised by taxes should go to sectarian schools of any sect. If we remove this wording from the New Hampshire constitution, it could allow public tax dollars to be used for private religious schools. Vote 11-10.

Rep. W. Packy Campbell for the Minority of Education: The minority feels that parents are denied the right to religious freedom in choice of educational environments under the current law. Religious freedom is not a luxury for those who can afford it, but a God given right. The minority feels this amendment is unconstitutional and conflicts with Part I, Article 6 of the Bill of Rights. Failing to remove this amendment to our constitution opens the public schools

to lawsuits, whereby they violate the constitution by the denial of the existence of God through omission and establish a state sponsored non-religion. The minority believes this country is founded on the principle, "Freedom of Religion not the Freedom from Religion." Reps. Ingbreton and Soltani spoke against.

Rep. Marjorie Smith spoke in favor.

Rep. Packy Campbell spoke against and yielded to questions.

Reps. David Campbell and Rush spoke in favor.

Rep. Soltani requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

YEAS 225 NAYS 123			
YEAS 225			
BELKNAP			
Nedeau, Stephen	Pilliod, James	Russell, David	Thomas, John
Tobin, William	Veazey, John		
CARROLL			
Ahlgren, Christopher	Babson, David Jr	Buco, Thomas	Knox, J David
Merrow, Harry	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald
CHESHIRE			
Allen, Peter	Butcher, Suzanne	Butynski, William	Dexter, Judson
Dunn, J Timothy	Eaton, Daniel	Emerson, Susan	Espieffs, Peter
Foote, Sheila	Hogancamp, Deborah	Parkhurst, Henry	Plifka, Stanley Jr
Pratt, John	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Tilton, Anna			
COOS			
Buzzell, Bernard	Mears, Edgar	Merrick, Scott	Morneau, Renney
Remick, William	Richardson, Herbert	Stohl, Eric	Theberge, Robert
Tholl, John Jr			
GRAFTON			
Almy, Susan	Andersen, Gene	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Eaton, Stephanie	Ham, Bonnie	Hammond, Lee
Harding, A Laurie	McLeod, Martha	Mulholland, Catherine	Naro, Debra
Nordgren, Sharon	Sokol, Hilda	Solomon, Peter	
HILLSBOROUGH			
Baines, Stephen	Baroody, Benjamin	Beaulieu, Jane	Bergin, Peter
Boehm, Ralph	Campbell, David	Carlson, Donald	Chabot, Robert
Chase, Claudia	Clemons, Jane	Cote, David	Coughlin, Pamela
Craig, James	Daniuk, Caitlin	DeVries, Betsi	Dokmo, Cynthia
Drisko, Richard	Emerton, Larry	Essex, David	Foster, Linda
Garrity, Patrick	Goley, Jeffrey	Gorman, Mary	Graham, John
Haley, Robert	Harvey, Suzanne	Holden, Randolph	Irwin, Anne-Marie

Jean, Claudette	Kopka, Angeline	Kurk, Neal	L'Heureux, Robert
Lasky, Bette	Messier, Irene	Michon, Stephen	Movsesian, Lori
O'Connell, Timothy	Ober, Lynne	Pappas, Christopher	Price, Pamela
Rochette, Eric	Rosenwald, Cindy	Ross, Lawrence	Rowe, Robert
Ryder, Donald	Schulze, Joan	Shaw, Barbara	Shaw, Kimberly
Smith, David	Sullivan, Francis	Tahir, Saghir	Vaillancourt, Steve
Velez, Hector	Wheeler, Robert		
MERRIMACK			
Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Currier, David	Danforth, James	DeJoie, John	DeStefano, Stephen
Foose, Robert	French, Barbara	Gile, Mary	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Klose, John	Lockwood, Priscilla
MacKay, James	Marple, Richard	Maxfield, Roy	McMahon, Patricia
Osborne, Jessie	Potter, Frances	Reardon, Tara	Reed, Dennis
Rush, Deanna	Ryan, Jim	Shurtleff, Stephen	Tilton, Joy
Tupper, Frank	Wallner, Mary Jane	Walz, Mary Beth	Whiting, Herbert
Williams, Robert	Yeaton, Charles		
ROCKINGHAM			
Abbott, Dennis	Allen, Mary	Asselin, Michael	Belanger, Ronald
Blanchard, MaryAnn	Buxton, Donald	Cali-Pitts, Jacqueline	Casey, Kimberley
Cooney, Richard	Dowling, Patricia	Fesh, Bob	Flanders, John Sr
Flockhart, Eileen	Francoeur, Sheila	Gilbert, Karl	Gillick, Thomas
Gould, Kenneth	Griffin, Mary	Hughes, Daniel	Ingram, Russell
Johnson, Robert	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Langley, Jane	Major, Norman	Manning, John	Moody, Marcia
Norelli, Terie	Packard, Sherman	Pantelakos, Laura	Parker, Benjamin
Powers, James	Priestley, Anne	Rausch, James	Robertson, Carl
Sanders, Elisabeth	Scamman, Stella	Serlin, Christopher	Splaine, James
Stiles, Nancy	Stone, Joseph	Weare, E Albert	Winchell, George
STRAFFORD			
Berube, Roger	Bickford, David	Brown, Jennifer	Brown, Julie
Brown, Lawrence	Callaghan, Frank	Cataldo, Sam	Cilley, Jacalyn
Creteau, Irene	Domingo, Baldwin	Dunlap, Patricia	Grassie, Anne
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Rollo, Michael
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Wall, Janet
SULLIVAN			
Cloutier, John	Converse, Larry	Ferland, Brenda	Franklin, Peter
Gale, Harry	Houde-Quimby, Charlotte	Irish, Christopher	Jillette, Arthur Jr
Phinizy, James	Prichard, Stephen		
NAYS 123			
BELKNAP			

Allen, Janet	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Rosen, Ralph	Tilton, Franklin	Wendelboe, Fran
Whalley, Michael			
CARROLL			
Brown, Carolyn	Chandler, Gene	Dickinson, Howard	Martin, James
McConkey, Mark	Stevens, Stanley		
CHESHIRE			
Hunt, John	Pelkey, Stephen	Sawyer, Sheldon	
COOS			
None			
GRAFTON			
Barker, Robert	Gionet, Edmond	Ingbertson, Paul	Maybeck, Margie
Mirski, Paul	Sorg, Gregory	Ward, John	
HILLSBOROUGH			
Adams, Jarvis IV	Allan, Nelson	Balboni, Michael	Barry, J Gail
Batula, Peter	Bergeron, Jean-Guy	Biundo, Michael	Brassard, Paul
Brundige, Robert	Buhlman, David	Carew, James	Carter, Mark
Christensen, D L Chris	Christiansen, Lars	Clark, Mark	Crane, Elenore Casey
Desmarais, Vivian	Elliott, Nancy	Francoeur, Bea	Gibson, John
Golding, William	Goyette, Peter Jr	Hansen, Ryan	Hawkins, Ken
Hebert, Raymond	Hinkle, Peyton	Hirschmann, Keith	Infantine, William
Jasper, Shawn	Lawrence, James	Lessard, Rudy	Manney, Pamela
Martin, Mary Ellen	Matarazzo, Anthony Sr	McRae, Karen	Mead, Robert
Mooney, Maureen	O'Brien, William	Pilote, Maurice	Reeves, Sandra
Renzullo, Andrew	Scanlon, Michael	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Sullivan, Peter	Villeneuve, Maurice	Wheeler, James
MERRIMACK			
Field, William	Hess, David	Kennedy, Richard	Kidder, David
L'Heureux, Stephen	Langlais, Thomas	Soltani, Tony	
ROCKINGHAM			
Bettencourt, David	Bishop, Franklin	Cady, Harriet	Camm, Kevin
Carson, Sharon	Charron, Gene	Coburn, James	DiFruscia, Anthony
Dodge, Robert	Donahue, Richard Ken	Dowd, John	Dumaine, Dudley
Garrity, James	Headd, James	Hopfgarten, Paul	Introne, Robert
Itse, Daniel	Lund, Howie	Mason, April	McKinney, Betsy
McMahon, Charles	Morris, Richard	Nowe, Ronald	O'Neil, Michael
Putnam, Ed II	Quandt, Marshall Lee	Quandt, Matthew	Rolston, James
Smith, Paul	Waterhouse, Kevin	Welch, David	Weldy, Norman
Wells, Roger	Wiley, Robert	Zolla, William	

STRAFFORD			
Campbell, W Packy	Chaplin, Duncan	Easson, Timothy	Newton, Clifford
Twombly, James			
SULLIVAN			
Donovan, Thomas	Osgood, Philip Sr	Rodeschin, Beverly	

and the majority committee report was adopted.

(Rep. Scamman in the Chair)

RESOLUTION

Without objection, Rep. O'Neil moved that all bills ordered to third reading be read a third time by this motion, and that all titles of bills be the same as adopted, and that they be passed at the present time.
Adopted.

Third reading and final passage

HB 214, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

HB 220, establishing a committee to study the ability of homeless youth in New Hampshire to make a successful transition to adulthood.

HB 510, relative to financial affidavits in domestic relations cases.

HB 511, relative to the confidentiality of records pertaining to the support of dependent children.

HB 585, relative to grounds for termination of parental rights.

HB 586, relative to the periodic review of child support guidelines.

HB 640-FN, relative to parental rights and responsibilities.

HB 299, establishing a committee to study state laws governing liens for labor and materials.

HB 348, relative to real and personal property conveyances made under powers of attorney.

HB 469, regulating disputes between homeowners and contractors relative to residential construction defects.

HB 490, relative to law enforcement access to financial records under the New Hampshire right to privacy act.

HB 583, establishing an oversight committee to study medical malpractice insurance rates in this state.

HB 68, relative to the enforcement of disorderly conduct by reason of noise.

HB 125, relative to ignition interlock devices.

HB 294, relative to annulment of arrest records.

HB 440, relative to hearing ear dogs, guide dogs, and service dogs.

HB 468, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff.

HB 533-FN, relative to penalties for aggravated felonious sexual assault.

HB 558, relative to the circumstances constituting sexual assault.

SB 76, relative to the extension of restraining orders under the domestic violence protection act.

HB 248, authorizing semi-annual payments of school building aid.

HB 301-L, relative to parent advisory councils for pupils with educational disabilities.

HB 389, relative to the duties of the postsecondary education commission.

HB 435, establishing a separate high school civics graduation requirement.

HB 557, relative to the submission of data to the department of education.

HR 12, proclaiming the first week of each school year as "Dictionary Week."

HB 366, relative to maintenance of voter checklists.

HB 381-FN, relative to special elections, voter lists, and conduct of elections.

HB 293, establishing a commission to study the feasibility of developing a materials resource and recovery facility in Sullivan county.

HB 560, relative to timber harvesting.

HB 562, relative to eliminating certain mercury-added products.

HB 573, establishing a commission to study automobile recycling issues, including disposal fees.

HB 580, establishing a commission to study the procedures for the formation and dissolution of solid waste management districts under RSA 53-B and the procedures for the dissolution of an interstate waste compact under RSA 53-D.

HB 114, relative to the regulation of pharmacists and pharmacy technicians by the pharmacy board.

HB 354, relative to the review, approval, and adoption of agency rules.

HB 383, relative to vital records administration.

HB 420, relative to receiving and addressing complaints against licensees by the board of mental health practice.

HB 465-FN, authorizing the board of medicine to take non-disciplinary remedial action against physicians.

HB 481, establishing a commission to study the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1.

HB 532, relative to the licensure of dentists by the board of dental examiners.

HB 595-FN, establishing the position of state meat inspector.

HB 637-FN, relative to licensure of alcohol and drug abuse professionals.

HB 272-FN-A, making an appropriation to the barn preservation fund.

HB 547-FN, changing the funding limit for on-premise-use fuel oil storage facilities.

HB 542, making technical corrections to the uniform trust code.

HB 617, establishing a commission to study the future role of court reporters in New Hampshire's court system.

HB 672-FN, relative to notaries public, justices of the peace, and adopting the Uniform Law on Notarial Acts.

HB 126, relative to a public employee right of free speech.

HB 170, relative to unemployment compensation.

HB 246, establishing a committee to study the classification of employees as independent contractors.

HB 329, establishing the crime victim employment leave act.

HB 393, establishing a committee to study methods for requiring employers to permit voluntary and paid on-call emergency first responders to respond to calls.

HB 404, permitting employees to request a wage deduction for contributions to a political action committee.

HB 561, relative to reasonable accommodation by employers under the state law against discrimination.

HB 618-FN-L, relative to persons acting as volunteers to a state agency.

HCR 2, declaring October 27 to be Boston Red Sox Day.

SJR 1, declaring the month of April 2005 to be Boston Red Sox Month.

HB 311-L, enabling towns to establish revolving funds for certain purposes.

HB 359, defining "unnecessary hardship" for purposes of zoning variances

HB 394, relative to real estate tax lien procedures for tax collectors.

HB 429, relative to representation by nonattorneys before the board of tax and land appeals and relative to condemnation proceedings conducted by the board of tax and land appeal.

HB 437, relative to the disposition of municipal records.

HB 480, relative to innovative land use controls.

HB 549, modifying notice requirements for the acceptance of unanticipated funds by a school district, city, town, or public library.

HB 570, relative to preliminary site plan review and the definition of inclusionary zoning.

HB 428, relative to clarifying the authority of the Pease development authority and the division of ports and harbors.

HB 215-FN, relative to water management.

HB 342, establishing a commission to study the barriers to the establishment of all-terrain vehicle trails on public and private lands.

HB 343, establishing a commission to study accessibility for New Hampshire citizens to the water bodies in the state.

HB 487-FN, establishing a volunteer lake assessment program in the department of environmental services.

HB 491, relative to the inherent dangers of OHRV operation and limiting landowner liability for certain fish and game related land uses.

HB 315, relative to best available technology for air pollution control.

HCR 4, urging Congress to find that the Piscataqua River and Portsmouth Harbor lie within the state of New Hampshire.

HCR 8, urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations and to ensure that such agreements, policies, and participation are in the best interests of the citizens of the state of New Hampshire and the United States.

HB 205, relative to licensing requirements for certain drivers.

HB 244-FN, relative to statutory liens by the department of safety.

HB 599-FN, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles.

HB 683-FN, relative to reporting of motor vehicle offenses by driver education instructors and drivers' school licensees.

HB 567, relative to mediation in family law cases involving children.

HB 177, relative to home improvement contracts.

HB 611-FN, relative to small group insurers.

RECESS

Rep. O'Neil moved that the House stand in recess until 10:00 a.m. tomorrow.
Adopted.

The House recessed at 5:15 p.m.

RECESS