

HOUSE RECORD

First Year of the 160th General Court Calendar and Journal of the 2007 Session

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Concord, N.H.

Tuesday, March 6, 2007

No. 20

HOUSE JOURNAL No. 6 (cont.)

Wednesday, February 21, 2007

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 7

Tuesday, March 6, 2007

The House assembled at 1:00 p.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by the member from Holderness, Representative Sid Lovett.
O Thou who art the Lord over Nations and the life force within history – whose requirements for us are to do justice, to love mercy and to walk humbly with Thee – and one another. We are grateful for the opportunity to serve as stewards for New Hampshire. May the so called “New Hampshire advantage” be for the least of our citizens – the fragile, the neglected, the children with needs – and not for ourselves. May our equal branches of government flourish with their distinct duties and challenges. Help us to doubt the simplistic slogans and spins. Let there be nothing true that we would be afraid to know and nothing false that we would wish to believe. Guide those in authority with wisdom and courage – guard those who stand in harms way for us. Grant us the serenity which comes from our deepest trust in Thee.
Amen.

Rep. Barbara Shaw, member from Manchester, led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Beauchesne, Belanger, George Brown, Peter Cote, Forsing, Hofemann, Stephen Johnson, Jane Kelley, Laliberte, Loll, Benjamin Moore, Oliver and Priestley, the day, illness.
Reps. Bleyler, Buxton, Charles Clark, Drisko, Donald Flanders, Fletcher, Greco, Hansen, Hawkins, Heald, Hubbard, Infantine, Sally Kelly, Lisle, McRae, Pelkey, Reeves, Rochette, Warren and Wickson, the day, important business.
Rep. Hutchinson, the day, illness in the family.
Rep. Pilotte, the day, death in the family.

INTRODUCTION OF GUESTS

Hon. Roy Maxfield, former member from Loudon and Hon. Sam Cataldo, former member from Farmington, guests of Rep. John Thomas. Barry Palmer, guest of Rep. David Smith. Gary Cloney, brother of Rep. Sandra Smith. Rachel Normandin, guest of the Belknap County delegation. Hon. Raymond Buckley, former member from Manchester, guest of the Majority Leader, Rep. Wallner.

MOTION TO VACATE

Rep. Almy moved that the House vacate the reference of **HB 829**, establishing authority for a state property tax bank administered by the housing finance authority and requiring the housing finance authority board to develop a proposal and report to the general court, to the Committee on Ways and Means.

Adopted.

The Speaker referred HB 829 to the Committee on Municipal and County Government.

COMMITTEE REPORTS

CONSENT CALENDAR

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

HB 97, relative to the recording of audio and video images on private property for security purposes, removed by Rep. Dumaine.

HB 171, clarifying the wiretapping and eavesdropping statute, removed by Rep. Ulery.

HB 177-FN, including "unborn child" in the definition of "another" for the purpose of first and second degree murder, manslaughter, and negligent homicide, removed by Rep. Dumaine.

HB 419-FN-L, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility, removed by Rep. Rodeschin.

HB 488-FN-A-L, relative to the state chief medical examiner and medico-legal death investigations, removed by Rep. Rodeschin.

HB 610-FN-A, requiring the criminal justice and public safety committee to review motor vehicle fines and extending the effective date for certain motor vehicle fine reductions, removed by Rep. Rodeschin.

HB 752-FN, relative to per pupil funding for charter school pupils, removed by Rep. Rodeschin.

HB 660-FN, relative to an assistant state veterinarian, removed by Rep. Rodeschin.

HB 704-FN-A, relative to the commission on the status of men and making an appropriation therefor, removed by Rep. Rodeschin.

HB 433-FN-A, relative to funding of fish and game department search and rescue operations, removed by Rep. Rodeschin.

HB 846, transferring certain land in the town of Stoddard from the Trust for Public Land to the fish and game department, removed by Rep. Rodeschin.

HB 597-FN, relative to expenditure caps for institutional health facilities under the certificate of need law, removed by Rep. Itse.

HB 858-FN, relative to a discount medical plan organization, removed by Rep. Itse.

HB 862-FN, establishing an incapacitated adult fatality review committee, removed by Rep. Itse.

HB 391, establishing a committee to study the implementation of a circuit breaker on property tax liability, removed by Rep. Kennedy.

HB 851-FN-A-L, relative to the determination of county payments for nursing home services, removed by Rep. Schmidt.

HB 157, establishing a committee to determine a permanent location for the old state house, removed by Rep. Cali-Pitts.

HB 403, establishing the Interstate 93 widening commission, removed by Rep. Kurk.

HB 189, relative to swim lines in public waters, removed by Rep. Rodeschin.

HB 440-FN, relative to the authority to quarantine to prevent dissemination of forest pests, relative to police training for forest rangers, and relative to forest resources and timber harvesting, removed by Rep. Rodeschin.

HB 498-FN-A, dedicating certain OHRV and snowmobile unrefunded road tolls to the fish and game department, removed by Rep. Graham.

HB 664-FN, relative to annual dam registration and permit application fees, removed by Rep. Rodeschin.

HB 449-FN, relative to motor vehicle inspections, removed by Rep. Vaillancourt.
Consent Calendar adopted.

HB 93, relative to use of the child support guidelines worksheet. **OUGHT TO PASS.**
Rep. Jayne E. Spaulding for Children and Family Law: This bill requires that the child support guidelines worksheets used to determine the amount of child support be filed with the court and made available to the parties. The committee felt this bill provides an improved level of transparency in the determination of child support. Vote 17-0.

HB 94, relative to overpayments of child support. **OUGHT TO PASS.**
Rep. Daniel C. Itse for Children and Family Law: This bill modifies the child support statutes to provide for recovery of overpayment of child support by an obligor. It allows judges to provide for repayment in lump sum, or by adjustment of the order, and to prevent undue hardship to the obligee. Vote 17-1.

HB 195, relative to the calculation of child support on a per child basis. **INEXPEDIENT TO LEGISLATE.**
Rep. Daniel C. Itse for Children and Family Law: This bill proposes to make two changes to existing law: First, to change from a calculation that recognizes that additional children progressively require less expense than the first child to one that does not; second, to automatically remove the child support obligation when a child is no longer entitled to child support, without requiring a review of the current financial circumstances. The committee agrees with the concept of graduated child support and does not believe it is wise to attempt such a change without a comprehensive review of the child support statutes. The committee also finds that a hearing for child support modification can be requested whenever there is a substantial change in circumstance and that the hearing must be granted, and that this event is defined as a substantial change in circumstance. The committee believes that such modifications ought not to occur without a full review of financial circumstance. Finally, the committee believes that any obligor with the opportunity and desire to reduce their child support obligation will have the knowledge of their power to do so. The child support calculation guideline is available from the court online since September and is straightforward; therefore, the modification can be readily executed pro se. Vote 16-0.

HB 240, relative to the amount of child support arrearage triggering the denial of a passport. **OUGHT TO PASS.**
Rep. Barbara Hull Richardson for Children and Family Law: This bill authorizes the New

Hampshire Department of Health and Human Services to certify to the United States Secretary of Health and Human Services that an obligor who owes child support arrearages in the amount specified by the federal law may be denied a passport. Failure to meet this requirement would result in the possible loss of \$14 million for the State of New Hampshire. Vote 17-0.

HB 292, relative to consideration of the preference of a mature minor in the determination of parental rights and responsibilities. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carolyn M. Gargas for Children and Family Law: This bill makes consistent the wording in the statute regarding the ability of the court to consider the wishes of a mature minor. Vote 15-0.

Amendment (0375h)

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

AN ACT relative to consideration of the preference of a mature minor in the modification of parental rights and responsibilities.

Amend the bill by replacing section 1 with the following:

1 Modification of Parental Rights and Responsibilities; Preference of Mature Minor.

Amend RSA 461-A:11, I(e) to read as follows:

(e) If the court finds by clear and convincing evidence that a minor child is of sufficient maturity to make a sound judgment [~~about his or her proper custody~~], the court may give substantial weight to the preference of the mature minor child as to the [~~parent with whom he or she wants to live~~] **determination of parental rights and responsibilities**. Under these circumstances, the court shall also give due consideration to other factors which may have affected the minor child's preference, including whether the minor child's preference was based on undesirable or improper influences.

HB 322, establishing a committee to study enhancing training for retail liquor licensees. **INEXPEDIENT TO LEGISLATE.**

Rep. Jill Shaffer Hammond for Commerce: The issues sought to be addressed by this study committee were rolled into the duties of the study committee established by HB 323. Vote 17-0.

HB 323, establishing a committee to study the liquor commission and liquor revenues. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James R. Martin for Commerce: The committee had three bills to study various issues relating to the Liquor Commission. The committee combined all of the issues raised by the three study committee bills into this bill which will study training of licensees, revenues, enforcement, advertising, age restrictions in drinking establishments, the appeal process and any other pertinent matters. We also included the subject matter included in a liquor study committee bill before Executive Departments and Administration Committee. Vote 18-0.

Amendment (0270h)

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

AN ACT establishing a committee to study liquor commission revenues, enforcement, and training.

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

1 Committee Established. There is established a committee to study liquor commission revenues, enforcement, and training.

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.

I. The committee shall study enhancing training by the liquor commission for retail liquor licensees. The committee's study shall include an examination of liquor commission rules on training and the current status of licensee training in other states. The committee shall solicit testimony from retail license holders and from alcoholism problem prevention, treatment, and rehabilitation professionals.

II. The committee shall study operations and policies of the liquor commission. The committee shall examine the revenues of the liquor commission and assess whether the liquor commission is adequately maximizing revenue sources. The committee's study shall include whether there are liquor-related sources of revenue that are not currently fulfilled by the liquor commission.

III. The committee shall review current laws and rules enforced by the liquor commission and any other matters that the committee deems necessary. The laws and rules reviewed by the committee shall include those relating to:

- (a) Advertising.
- (b) Age restrictions for admittance to certain establishments.
- (c) Enforcement.
- (d) The appeal process for violations and fines levied by the commission.
- (e) Licensing.

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, 2007.

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

AMENDED ANALYSIS

This bill establishes a committee to study liquor commission revenues, enforcement, and training.

HB 341, establishing a study committee to review current laws and rules enforced by the liquor commission. **INEXPEDIENT TO LEGISLATE.**

Rep. Jill Shaffer Hammond for Commerce: All of the issues sought to be addressed by this study committee were rolled into the duties of the study committee established by HB 323. Vote 17-0.

HB 357, relative to disclosure of the sale of revolving credit loans to third parties. **INEXPEDIENT TO LEGISLATE.**

Rep. Stephen T. DeStefano for Commerce: This bill requires that if a bank sells an account that is in default to a third party, the bank shall provide to the borrower the amount that the third party paid for the account in default upon the written request of the borrower. The committee felt that since many of these loans are bundled together, finding the exact discount amount would be difficult and unrealistic. Vote 16-0.

HB 409, relative to liquor licenses for sports recreation facilities. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Joel F. Winters for Commerce: Liquor licenses for recreation facilities currently make up six of the more than fifty types of licenses: This bill would have created a seventh, a

sports recreation facility' liquor license. In order to begin lightening the load of liquor laws, the committee amended the bill to group the six other types of licenses under the new "sports recreation facility" definition and delete the superfluous ones. Vigorously maintaining the status quo, the sports recreation facility license does not change the fees or definitions of any of the deleted licenses, except for striking the word "indoor" from the current description of a qualifying tennis court under the "racquet sports facility" definition. Enabling language is also included to allow the liquor commission to issue rules defining other types of recreation facilities without additional legislation. Vote 17-0.

Amendment (0235h)

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Definitions; Sports Recreation Facility; Defined. Amend RSA 175:1 by inserting after paragraph LXIV-b the following new paragraph:

LXIV-c "Sports recreation facility" means a facility that is primarily established for general sports, fitness, and recreation services. Recreation facilities include the following types: alpine slide facility, bowling facility, golf facility, racquet sports facility, ski facility, billiards/pool hall, or any similar recreation facility approved by the commission in rules.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 6:

3 Racquet sports facility; Definition. Amend RSA 175:1, LVII to read as follows:

LVII. "Racquet sport facility" means a facility which has at least one [indoor] regulation size tennis or regulation racquetball court, or 2 regulation size curling links, which are kept in proper condition.

4 On-Premises Liquor Licenses; Fees. Amend RSA 178:29, I to read as follows:

I. On-premises licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$ 1,200
[Alpine Slide				\$ 1,200]
Ballroom	\$ 45			\$ 1,200
Bed and Breakfast		\$ 480	\$ 840	
Beer Festival				
One-day	\$ 250			
Two-day	\$ 300			
Three-day	\$ 350			
[Billiards/Pool Hall				\$ 1,200
Bowling Facility				\$ 1,200]
Catering (all)				\$ 1,200
Catering (off-site only)				\$ 840
Catering (on-site only)				
18 events-	\$ 5			
36 events-	\$ 5			
52 events-	\$ 5			
Club Military				\$ 100
Club Social				
9 event	\$ 250			
18 events	\$ 450			
36 events	\$ 750			
52 events	\$1,200			
Club Private				\$ 1,200
Club Veterans				
9 events	\$ 250			
18 events	\$ 450			

36 events	\$ 750		
52 events	\$1,200		
College Club			\$ 1,200
Convention Center			\$ 2,400
Dining Car	\$ 480		\$ 840
Fairs	\$ 112		
[Golf Facility			\$ 1,200]
Hotel	\$ 840		\$ 1,200
One day License			\$ 100
Performing Arts			\$ 360
Racetrack/Motor Vehicle			\$ 1,800
Racetrack/Pari-Mutuel			\$ 3,000
[Racquet Sports			\$ 1,200]
Rail Cars			\$ 1,200
Restaurant	\$ 480	\$ 840	\$ 1,200
[Ski Facility			\$ 1,200]
Special License		\$ 25	
Sports/Entertainment Complex			\$ 1,800
9 events	\$ 250		
18 events	\$ 450		
36 events	\$ 750		
52 events	\$1,200		
Sports Recreation Facility			\$ 1,200
Vessel	\$ 480	\$ 840	\$ 1,200

5 Repeal. The following are repealed:

- I. RSA 178:22, V(b), relative to alpine slides.
- II. RSA 178:22, V(d), relative to bowling facilities.
- III. RSA 178:22, V(j), relative to golf facilities.
- IV. RSA 178:22, V(o), relative to racquet sports facilities.
- V. RSA 178:22, V(r), relative to ski areas.
- VI. RSA 178:22, V(t), relative to billiards/pool halls.

AMENDED ANALYSIS

This bill establishes a cocktail lounge license for sports recreation facilities and eliminates the separate licenses for facilities that are eligible for the sports recreation facility license.

HB 579-FN-A, establishing a health care fund, continually appropriating a special fund, and requiring certain employers to report certain information to the department of health and human services. **INEXPEDIENT TO LEGISLATE.**

Rep. John B. Hunt for Commerce: The bill as introduced would have affected only businesses with more than 1500 employees. Federal ERISA rules regulate large employers so the courts have already ruled against this legislation in other states. The sponsor did bring in an amendment that had some reporting requirements of all employers with 50 or more employees. The committee understands the sponsor's underlying concern to insure that all New Hampshire citizens have health insurance. There will be another bill from the committee that will be tasked to help all New Hampshire's citizens find affordable health insurance. Vote 18-0.

HB 194, relative to laboratories conducting alcohol concentration tests. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David A. Welch for Criminal Justice and Public Safety: This bill is a request of the Department of Safety. Currently, RSA 265-A:7 states that a defendant who has had a blood alcohol test has the right to have an independent analysis of the BAC sample at his or her

own expense. RSA 265-A:5(e) authorizes the commissioner to adopt rules relative to procedures for certification of any laboratory that conducts tests pursuant to RSA 265-A:7. This amendment to the statute eliminates a conflict of interest that may exist by having the Department of Safety oversee the independent laboratories. The bill, if passed, allows a laboratory to be accredited by a nationally recognized accrediting body instead of the Department of Safety. Vote 14-0.

Amendment (0121h)

Amend the bill by replacing section 1 with the following:

1 Administration of Alcohol Concentration Tests; Rules; Laboratories. Amend RSA 265-A:5, V(e) to read as follows:

(e) ~~[Procedures for certification of]~~ **A requirement that** any laboratory that conducts tests pursuant to RSA 265-A:7 **be accredited by any nationally recognized accrediting body;** and

AMENDED ANALYSIS

This bill requires that laboratories conducting alcohol concentration tests be accredited by any nationally recognized accrediting body.

This bill is a request of the department of safety.

HB 227, relative to identity theft. OUGHT TO PASS WITH AMENDMENT.

Rep. Jeffrey P. Fontas for Criminal Justice and Public Safety: This bill allows for victims of identity theft to pursue damages in civil court. Damages could be pursued if a person obtains or records personal information of the victim, uses that information to acquire goods or services, obtains personal information in another person's name, or possess personal information and gives it to a third party. Additionally, this bill also allows for victims to submit an order obtained under this chapter as proof to a government entity or private business that financial accounts were fraudulently altered. The amendment changes the word "bank" to "financial institution," adds electronic and digital transactions under the definition of financial device, adds "driver's license" under the definition of personal information and adds the phrase "Unless otherwise permitted by state law or rules or federal statute or regulation," under prohibited conduct. Vote 14-0.

Amendment (0127h)

Amend RSA 359-I as inserted by section 1 of the bill by replacing it with the following:

CHAPTER 359-I

IDENTITY THEFT

359-I:1 Definitions. In this chapter:

I. "Financial device" means any instrument or device that can be used to obtain cash, credit, property, services, or any other thing of value or to make financial payments, including but not limited to any of the following:

(a) A credit card, banking card, debit card, electronic fund transfer card, or guaranteed check card.

(b) A check.

(c) A negotiable order of withdrawal.

(d) A share draft.

(e) A money order.

(f) An Automated Clearing House ("ACH") or other electronic transaction.

(g) Any device or process, whether based on a binary or digital code used to transfer value from one person or entity to another.

II. "Personal information" shall include any one or more of the following, whether the information is owned by or assigned to the person it relates to:

(a) A first and last name of a user, whether given at birth or adoption, assumed, or legally changed.

- (b) A home or physical address.
- (c) An electronic mail address.
- (d) A telephone number.
- (e) A social security number.
- (f) Any personal identification number.
- (g) A credit or debit card number.
- (h) Any access code associated with a credit or debit card.
- (i) A date of birth, birth certificate number, or place of birth.
- (j) A password or access code.
- (k) A financial institution account number.
- (l) A driver's license or other governmental identification.

III. "Victim" means any person whose personal information or financial device has been obtained, accessed, possessed, or recorded in violation of this chapter or any person that provided money, credit, goods, services, or anything of value and has suffered financial loss as a direct result of the commission or attempted commission of a violation of this chapter.

IV. "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association, limited liability company, or other form of entity, or any agency, authority, board, court, department, division, commission, institution, bureau, or other state governmental entity, or any political subdivision of the state.

359-I:2 Prohibited Conduct.

I. Unless otherwise permitted by state law or rules or federal statute or regulation, no person shall, without the authorization, consent, or permission of the other person, do any of the following:

(a) Obtain, record, or access personal information or a financial device that would assist the person in accessing financial resources or obtaining personal information owned by the other person other than that which is necessary to process a transaction for the benefit of the other person.

(b) Obtain goods, services, or some other benefit through the use of personal information or a financial device of the other person.

(c) Obtain personal information or financial device documents in the other person's name.

(d) Possess the personal information or a financial device of the other person without permission or lawful authority, with the intent to use or to aid or permit some third person to use such information or device to obtain cash, credit, property, services, or any other thing of value or to make a financial payment.

(e) Use or possess personal information or a financial device of the other person without permission or lawful authority with the intent to obtain, or to aid or permit some third person to obtain, a government-issued document.

(f) Falsely make, complete, or alter a written instrument containing any personal information of the other person.

(g) Make or convey a materially false statement, without permission or lawful authority, with the intent to obtain, record, or access the personal information or financial device of the other person.

II. This section shall not apply when a person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

359-I:3 Liability. In addition to any other remedies provided by law, a victim may bring an action in his or her county of residence or any county in which any part of the act took place, regardless of whether the person who committed the violation was ever actually present in that county, against the person who violated this chapter to recover the following:

I. \$5,000 for each incident, or 3 times the actual damages, whichever is greater.

II. Reasonable attorney's fees and court costs.

359-I:4 Correction of Public and Private Records.

I. Any order obtained under this chapter, or any conviction under RSA 638:26, may be submitted in any civil proceeding to set aside a judgment against the victim.

II. The victim may submit the order obtained under this chapter, or any conviction under RSA 638:26, to any governmental entity or private business as proof that any financial accounts therein created or altered in violation of this chapter, RSA 638:26, or RSA 638:5 and were not the actions of the victim.

HB 37, relative to notification requirements for criminal offenders. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Barbara E. Shaw for Education This bill requires a school administrative unit, school district, or charter school to adopt a policy designating certain categories of volunteers as “designated volunteers” who may be required to undergo a background investigation and a criminal history records check and provides limited liability to the school administrative unit, school district, or charter school for permitting certain volunteers to have direct contact with students when this requirement is met. It also allows local law enforcement agencies to notify schools within their jurisdiction of the address of a registered criminal offender. The amendment changes the words “all schools” to “school administrative unit, school district, or charter school.” Vote 12-0.

Amendment (0300h)

Amend RSA 651-B:3, I-II as inserted by section 3 of the bill by replacing it with the following:
651-B:3 Release of Certain Sexual Offenders Into the Community; Duties.

I. Upon release of any sexual offender or offender against children required to register, whether on probation, parole, conditional or unconditional release, completion of sentence, release from secure psychiatric care, release into the community after involuntary commitment, release from a juvenile detention facility, or for any other reason, the official in charge of such release shall notify the offender of the offender’s duty to report under this chapter. The offender shall acknowledge in writing that he has received such notice. The official shall obtain the address at which the offender expects to reside upon release and shall report such address to the department. The department shall inform the local law enforcement agency *in the city or town* where the offender expects to reside. *The local law enforcement agency in the city or town where the offender expects to reside may notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of the address at which the offender expects to reside. If such notification occurs, the local law enforcement agency shall also notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of any changes to the offender’s information made pursuant to RSA 651-B:5.* The division shall enter the information concerning the offender’s release and notification in the LENS system.

II. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, the department shall obtain the address at which the offender expects to reside and shall inform the local law enforcement agency. *The local law enforcement agency in the city or town where the offender expects to reside may notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of the address at which the offender expects to reside.* The department shall locate and shall serve notice upon such offender of the offender’s duty to report under this chapter. Service by the department is not required if the offender has already registered with the local law enforcement agency in which the offender resides or is located as required by this chapter. At the time of the initial registration, the offender shall acknowledge in writing that the offender has received notice of the duty to report. The division shall enter the information concerning the offender’s location in New Hampshire and notification in the LENS system.

This paragraph shall not apply to a sexual offender or offender against children who has moved to New Hampshire and has registered with a local law enforcement agency. Amend RSA 651-B:5, II as inserted by section 4 of the bill by replacing it with the following:

II. The local law enforcement agency in the city or town where the offender resides may notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of a new place of residence, a change of name, or a change of an alias, of a person required to be registered under this chapter.

AMENDED ANALYSIS

This bill:

I. Requires a school administrative unit, school district, or charter school to adopt a policy designating certain categories of volunteers as “designated volunteers” who may be required to undergo a background investigation and a criminal history records check.

II. Allows local law enforcement agencies to notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of the address of a registered criminal offender.

III. Provides limited liability to a school administrative unit, school district, or charter school for permitting certain volunteers to have direct contact with students.

HB 651-L, extending the school building aid grant program to cover kindergarten construction costs. **INEXPEDIENT TO LEGISLATE.**

Rep. Judith E. Day for Education: The committee determined that this bill was unnecessary because extending kindergarten aid is addressed in HB 669. Vote 14-0.

HB 120, relative to extending polling hours. **OUGHT TO PASS.**

Rep. Betty B. Hall for Election Law: The bill enables the governing body of a town to extend the polling hours. It does not allow the towns to decrease from the current statutory requirement. The committee believes local communities and their governing bodies can make the decision to extend hours if they believe it is necessary. Vote 14-1.

HB 127, relative to voter registration forms. **INEXPEDIENT TO LEGISLATE.**

Rep. Charles F. Weed for Election Law: The majority found that the intent of the sponsor was to remove possibly intimidating language in the form of a “civics lesson” warning legally domiciled voters that they would be treated as legal residents in terms of drivers and motor vehicle licensing. Another bill under consideration by the committee includes removing the “civics lesson” and clarifying the domicile law. Vote 15-1.

HB 146, relative to nicknames on ballots. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Charles F. Weed for Election Law: The purpose of this bill was to clarify how one designates his or her name when filing as a candidate. The committee removed language requiring burden of proof and permits nicknames by which the candidate is commonly recognized. The candidates may not imply they are some other person and may not chose a slogan associated with a cause or that is offensive. The designated name may be the given name or its shortened form or a one word nickname. The designation may include a middle initial and shall include his or her surname. The Secretary of State believes this is a great improvement. Vote 15-0.

Amendment (0122h)

Amend the bill by replacing section 1 with the following:

1 Form of Candidate’s Name on Ballot; Nicknames. Amend RSA 655:14-b, I-II to read as follows:

I. Every candidate for state or federal office who intends to have his or her name printed upon the ballot of any party for a primary shall designate in the declaration of

candidacy, or on the primary petitions and assents to candidacy, the form in which the candidate's name shall be printed on the ballot. ~~[The candidate may designate his or her given, first, and middle name, the initials of his or her given, first, and middle name, a nickname, or any combination thereof as the form in which the candidate's name shall be printed on the ballot, but the candidate shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with the candidate's given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his or her surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name, or, if the nickname is not customarily related to the candidate's given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2 word nicknames customarily related to the candidate's given name.]~~ ***The designated name may include the candidate's given name or a shortened form of the candidate's given name or a one-word nickname by which the candidate is commonly recognized. The designated name may also include a middle initial.*** No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning. A candidate shall include his or her surname in the designation of the form in which the candidate's name shall be printed on the ballot.

II. Every candidate for state or federal office who intends to have his or her name placed on the ballot for the state general election by means other than nomination by party primary shall designate in the declaration of intent the form in which the candidate's name shall be printed on the ballot. ~~[The candidate may designate his or her given, first, and middle name, the initials of his or her given, first, and middle name, a nickname, or any combination thereof as the form in which the candidate's name shall be printed on the ballot, but the candidate shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with the candidate's given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his or her surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name, or, if the nickname is not customarily related to the candidate's given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2 word nicknames customarily related to the candidate's given name.]~~ ***The designated name may include the candidate's given name or a shortened form of the candidate's given name or a one-word nickname by which the candidate is commonly recognized. The designated name may also include a middle initial.*** No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning. A candidate shall include his or her surname in the designation of the form in which the candidate's name shall be printed on the ballot.

AMENDED ANALYSIS

This bill limits the names that a candidate may designate for printing on ballots and eliminates requirements for the use of nicknames not related to the candidate's given name.

HB 163, relative to the definition of "slaughterer." **INEXPEDIENT TO LEGISLATE.**

Rep. Timothy D. O'Connell for Environment and Agriculture: The New Hampshire Fish and Game Department testified in opposition to this bill indicating that the Department of Agriculture, Markets, and Food has already, under rulemaking, clearly included propagator to the list of persons defined as slaughterer under RSA 427:33. Vote 18-0.

HB 204, relative to the sale of unpasteurized milk. **INEXPEDIENT TO LEGISLATE.**

Rep. Timothy D. O'Connell for Environment and Agriculture: No one testified in favor of the bill including the prime sponsor who recommended that the bill be Inexpedient to Legislate. The sponsor also indicated that the Department of Health and Human Services had no concerns with the ITL recommendation. Vote 16-0.

HB 208, relative to the definition of swine as a nuisance. **OUGHT TO PASS.**

Rep. Burton W. Williams for Environment and Agriculture: Removing the definition of Swine as a nuisance from RSA 147:10 would improve the law and have no effect on the duties of local health officers who already have extensive powers in this regard. Vote 17-1. Referred to the Committee on Municipal and County Government.

HB 236, relative to the use of "farmer's markets" in trade names. **OUGHT TO PASS.**

Rep. Jane E. Beaulieu for Environment and Agriculture: This bill clearly defines what constitutes a "farmers market" and this term has become widely understood to mean exactly what the statutory definition says: a gathering of two or more vendors of agricultural and other commodities that is not held on the property of any of the participating vendors. Some businesses which do not meet the statutory definition of the term use the name farmers markets. This bill does not impinge upon any business enterprise using the term "farmers' market" in its trade name if that name has already been registered at the time of passage of this bill. Vote 15-1.

HB 585-FN, assessing a fee on all dogs and cats sold at retail that are not sexually sterilized, to be deposited in the companion animal neutering fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Steve Vaillancourt for Environment and Agriculture: This bill, as amended, represents an attempt to provide additional funding for the state's neutering program for dogs and cats. Originally, the bill established a \$20 fee on all unneutered dogs and cats sold at retail. The committee believes a better solution came forward from the State Veterinarian who authored the amendment which makes the fee \$40 but then would rebate the entire amount should the new owner of the dog or cat have the animal neutered within a specified time after purchase. Thus, this is not a mandatory fee and this does not represent an attempt to force any animal to be neutered. It does, however, recognize that neutering is beneficial to both animals and our society and provides an incentive to that end. Since the state's spaying and neutering program has gone into effect, the euthanasia rate for dogs and cats has dropped from 45 to 18 percent, one of the lowest in the nation. However, the cost of neutering animals continues to increase, from less than \$100 for a male cat to upwards of \$500 for a female dog, and in recent years the neutering fund has been drained prior to year's end. Estimates are that 40 percent of adult dogs and 20 percent of adult household cats are unneutered. At that rate, the \$40 fee would not be rebated to 20 percent of 1100-1400 cat owners and 40 percent of 3000-3500 dog owners, generating approximately \$65,000 for the fund. If fewer monies are forthcoming, the news is still good since that would mean more animals are being neutered. It's a classic win-win situation with the additional benefit that, unlike in the past when dog owners bore the brunt of the neutering program (through registration fees), cat owners would now pay a share. Monies are also generated without having to resort to a new tax. Vote 17-1.

Amendment (0241h)

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

AN ACT requiring all animal shelter facilities, pet shops and commercial kennels to collect a neutering deposit when placing a cat or dog that has not been neutered.

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

1 New Section; Dog and Cat Neutering Deposit. Amend RSA 437 by inserting after section 10 the following new section:

437:10-a Dog and Cat Neutering Deposit.

I. No animal shelter facility, pet shop, or commercial kennel licensed by the department in accordance with RSA 437:1 shall sell, give away, adopt, or otherwise transfer ownership of any dog or cat that has not been permanently sexually sterilized without collecting a neutering deposit of no less than \$40 at or before the time of transfer. At the time of receipt of such deposit, the pet shop, commercial kennel, or animal shelter facility shall provide a sterilization certificate to the person who has paid the deposit. The sterilization certificate shall be on a form provided by the commissioner and shall state the date by which the animal must be sterilized in order for the depositor to secure the return of the deposit. In the case of kittens or puppies that are less than 5 months old at the time of transfer, that date shall be on or before the date the kitten or puppy becomes 6 months of age. In the case of cats or dogs 5 months of age or older at the time of transfer, the date of sterilization shall be within 30 days of the date of transfer.

II. To reclaim the neutering deposit, the depositor must submit the sterilization certificate to the animal shelter facility, commercial kennel, or pet shop which took the deposit within 60 days of the date the sterilization was performed. The certificate must be signed by a licensed veterinarian and specify the date on which the sterilization was performed. If the depositor does not submit the signed sterilization certificate within the time period specified above, the deposit shall be considered to have been forfeited. All forfeited neutering deposits shall be remitted by the animal shelter facility, commercial kennel, or pet shop to the commissioner on a quarterly basis. The commissioner shall deposit all forfeited neutering deposits in the companion animal neutering fund established under RSA 437-A:4-a.

2 New Paragraph; Rulemaking. Amend RSA 437:5 by inserting after paragraph III the following new paragraph:

IV. The commissioner shall adopt rules under RSA 541-A to implement the collection of neutering deposits on the transfer of unneutered dogs and cats under RSA 437:10-a.

3 Companion Animal Fund. Amend RSA 6:12, I(b)(59) to read as follows:

(59) Moneys received under RSA 466:4, I(c), RSA 466:6, III, ***RSA 437:10-a***, and RSA 437-A which shall be credited to the companion animal neutering fund, established in RSA 437-A:4-a.

4 Effective Date. This act shall take effect January 1, 2008.

AMENDED ANALYSIS

This bill requires animal shelter facilities, pet shops, and commercial kennels to collect a neutering deposit when placing a cat or dog that has not been neutered.

This bill also requires that the deposit be remitted to the companion animal neutering fund if the depositor does not return a certificate of sterilization to the animal shelter facility, commercial kennel, or pet shop that placed the cat or dog with the depositor.

Referred to the Committee on Ways and Means.

HB 135, establishing the second Sunday in October as Firefighters Memorial Day. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Pamela V. Manney for Executive Departments and Administration: This bill would designate the second Sunday in October as Firefighters Memorial Day in recognition of the service given by the men and women who have been killed or disabled in the line of duty and those still serving. This date would coincide with New Hampshire Fire Prevention Week held the second week of October. Vote 16-0.

Amendment (0166h)

Amend RSA 4:13-m as inserted by section 1 of the bill by replacing it with the following:

4:13-m Firefighters Memorial Day. In recognition of the service given by the men and women who, night and day, serve the people of this state as firefighters, and inviting the governments, communities, and people of this state to observe such day with appropriate ceremonies and activities, the governor shall proclaim the second Sunday in October of each year as Firefighters Memorial Day in honor of the firefighters who have been killed or disabled in the line of duty and those still serving.

HB 160, relative to the appointment of the executive director of the public employee labor relations board. **INEXPEDIENT TO LEGISLATE.**

Rep. Ken Hawkins for Executive Departments and Administration: This bill would have changed the appointment of the director of the public employee labor relations board from the labor relations board to the governor and council. The testimony was mostly against this bill because of the fear it would politicize the position. The governor and council appoint the nine members of the board and it was felt they would best be able to find a director that would fit their needs. There was much testimony to the effect that if it isn't broken, don't fix it. Vote 14-1.

HB 170, relative to professional membership on certain occupational regulatory boards. **INEXPEDIENT TO LEGISLATE.**

Rep. Suzanne E. Beauchesne for Executive Departments and Administration: This bill would change the membership on occupational licensing and regulatory boards so that at least one-half of the membership are not persons regulated by the respective boards. The intention of the sponsor was to include more public members on regulatory boards, and the sponsor was the only person to speak in support of the bill. After fifty members, both professional and public members indicated their opposition to the legislation. Public members are already members of boards and finding willing people to serve can be problematic. Additionally these boards are regulatory in nature and involve credentialing, licensing and disciplinary procedures. The committee agreed that public participation is very important but should not outweigh the professional membership. Vote 14-0.

HB 249, extending the study committee on the rules process. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Ken Hawkins for Executive Departments and Administration: This bill extends the administrative rules process study committee until November 1, 2008. We must vote every two years to extend the study committee. We also eliminated some language that was redundant. The Joint legislative Committee on Administrative Rules may send a copy of their objection to a new rule to the appropriate policy committee. Vote 15-0.

Amendment (0155h)

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

AN ACT relative to preliminary objections to rules made by the joint legislative committee on administrative rules, and relative to extending the study committee on the rules process. Amend the bill by replacing all after the enacting clause with the following:

1 Rulemaking; Preliminary Objections by the Joint Legislative Committee on Administrative Rules; Policy Committee Review. Amend RSA 541-A:13, V(b) to read as follows:

(b) If the committee objects to the final proposal as filed or as amended pursuant to paragraph II, the committee shall send the agency a preliminary written objection stating the basis for the objection. A preliminary objection or conditional approval shall require the assent of a majority of the votes cast, a quorum being present. If a preliminary objection is made ~~[to a rule proposed to implement a new or newly amended state statute]~~, the committee

may send a copy of the preliminary objection to the appropriate standing policy committees and, if so, shall give notice to the agency. Within 30 days of the date the preliminary objection was entered, the standing policy committee may review the proposed rules and the preliminary objection and may advise the committee relative to the basis for the preliminary objection.

2 Study Committee of the Rules Process Extended. Amend 2006, 145:10, VI to read as follows:

VI. The committee shall report its findings, any recommendations for proposed legislation, and any specific recommendations for implementing procedures designed to improve rulemaking that do not require statutory changes. Such report shall be submitted to the appropriate policy committees of the house of representatives and the senate, the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, ~~2006~~ **2008**.

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

AMENDED ANALYSIS

This bill clarifies the procedure for the joint legislative committee on administrative rules to make a preliminary objection and send the proposed rule to the standing policy committees for review. This bill also extends the study committee on the rules process established in 2006, 145:10.

HB 326, relative to disclosure of the basis for disciplinary proceedings among members of the board of medicine. **INEXPEDIENT TO LEGISLATE.**

Rep. Carl G. Robertson for Executive Departments and Administration: This bill would require disciplinary proceedings before the Medical Review Board to be disclosed to all the members of the review committee and the Board of Medicine. The committee, after listening to the testimony, felt that the proceedings asked for in the bill were already in practice. It was also disclosed that any problems of communication would be cited in the ongoing performance audit that is being conducted by the Legislative Budget Office. The audit will review all processes of the Medical Review Board and make recommendations, including future legislation. Vote 17-0.

HB 362, relative to the director of the division of vital records. **OUGHT TO PASS WITH AMENDMENT.**

Rep. A. Laurie Harding for Executive Departments and Administration: This bill, as amended, fine tunes a section of the Vital Records statute, (RSA 126:24-g and h) that was passed two years ago that established an Advisory Committee on Quality of Vital Records Information. The purpose of the committee is to provide some quality assurance oversight for the two departments involved with the utilization of the vital record data: the Secretary of State's office and the Department of Public Health. The amendment adds the Secretary of State or designee to the membership and clarifies how the chair is selected. Vote 16-0.

Amendment (0160h)

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

AN ACT relative to the advisory committee on quality of vital records information.

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

1 Report by Advisory Committee on Quality of Vital Records Information. Amend RSA 126:24-g to read as follows:

126:24-g Report. Annually, on or after April 30 for birth data, and on or after August 31 for death data, the committee **established in RSA 126:24-h** shall produce a report on the quality of the prior year's vital records data based on the final data year reports received from the National Center for Health Statistics for natality and mortality demographic files. The report shall include a statement on the quality and completeness of each element recorded on the statistical forms as they are maintained electronically. The report shall be

submitted to the commissioner, or designee, the secretary of state, the registrar of vital records, the speaker of the house of representatives, and the president of the senate.

2 New Subparagraph; Membership of Advisory Committee on Quality of Vital Records Information; Secretary of State Added. Amend RSA 126:24-h, I by inserting after subparagraph (i) the following new subparagraph:

(j) The secretary of state, or designee.

3 Advisory Committee on Quality of Vital Records Information; Terms. Amend RSA 126:24-h, II to read as follows:

II. The members of the committee shall choose a chairperson by majority vote. Members of the advisory committee shall serve 2-year terms and no member shall serve more than 2 consecutive terms. The members under subparagraphs I(e) through ~~(f)~~ (j) shall serve terms coterminous with their terms of office.

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

AMENDED ANALYSIS

The bill clarifies the reporting requirement for the advisory committee on quality of vital records information and adds the secretary of state, or the secretary of state's designee, to the committee.

HB 388-FN-A, establishing the position of fire protection engineer and requiring the commissioner of safety to establish fees for building, life safety, and fire protection system plan review by the state fire marshal. **INEXPEDIENT TO LEGISLATE.**

Rep. John Reagan for Executive Departments and Administration: Testimony supported the requirement to have building plans reviewed by a fire protection engineer. The review requirement is a good practice to ensure life safety and building integrity under the stress of a fire or other calamity. However, the expansion of the Department of Safety would be the most expensive method for the New Hampshire taxpayer and fails to guarantee timely plan review. Timeliness of plan review is a current and persistent complaint of builders, developers and inspectors across the state. By requiring the developer to have the plans reviewed by a licensed professional engineer certified as a fire protection engineer firm would guarantee the timeliness of review. By leaving the plans review to the private sector, New Hampshire avoids adding to the public payroll. The private plan review would leave the cost with the developer where all other plans reviews are paid for now. Vote 13-2.

HB 439, relative to certain rulemaking authority of the commissioner of environmental services. **OUGHT TO PASS.**

Rep. Ken Hawkins for Executive Departments and Administration: This bill came about from a performance audit conducted by the Legislative Budget Office. There were a number of areas where Administrative rules were not adopted as required in the statutes. Testimony was given that in some cases the rules were put in as statutes and in other cases the federal law mandated the rules. Therefore, we are removing the rulemaking authority from eight RSAs. Vote 17-0.

HB 482, adding the song "Live Free or Die" as an official state song. **OUGHT TO PASS.**

Rep. Catriona D. Beck for Executive Departments and Administration: Fourth grade students from Birch Hill Elementary School in Nashua appeared before the committee and sang a song, "Live Free or Die," which upon passage would be added as another official state song. This song speaks to the history and patriotism of New Hampshire, unlike all other state songs which address the beauty of our fine state. The testimony given by the students compelled the committee to pass this bill. Vote 14-1.

HB 489-FN, changing the salary grade of certain department of safety positions. **INEXPEDIENT TO LEGISLATE.**

Rep. Russell C. Day for Executive Departments and Administration: This bill would affect

four positions in the Department of Safety. The committee opposed this bill as there already exist methods of achieving equity in salary for supervisory personnel to receive a higher salary than a subordinate. The bill would be in conflict with the system-wide New Hampshire personnel structure, the Hay Group Report and negate the efficacy that currently exists. Vote 16-0.

HB 580-FN, relative to certain accidental disability retirement allowances payable to surviving spouses of retired members. **INEXPEDIENT TO LEGISLATE.**

Rep. Ken Hawkins for Executive Departments and Administration: Testimony was given that a number of persons (20 to be exact) were harmed by the RSA that limits the surviving spouse to collect 50% of the retirement benefit after the death of the retired member. This bill would have changed that to 100% of the benefit. This goes against the entire retirement system option of receiving payments. When a member retires, they have the option of taking larger monthly benefits that end upon their death or to take smaller checks that will continue until both the spouse and member die. This bill could have an impact upon the retirement system by changing the 50% to 100% for anyone becoming disabled in the future. Vote 16-0.

HB 834-FN-A, relative to sales of tobacco products in state liquor stores. **INEXPEDIENT TO LEGISLATE.**

Rep. Pamela V. Manney for Executive Departments and Administration: This bill's intent was to take all retail sales of tobacco products out of the hands of retail merchants to be exclusively sold in liquor stores. This bill imposes an 80 cent tax on each pack of cigarettes and a 17% tax on wholesale tobacco products other than cigarettes. This bill would exempt one portion of the populace, New Hampshire Veterans' Home residents, from paying the tax, with a limit of two cartons each a week. The committee could not support this bill for several reasons. The Liquor Commission testified against it citing lack of space, time, desire and cost to implement. The negative impact on state revenue and the unintended consequence of this bill regarding the damage the passage of this bill would cause to the livelihood of retail business owners, especially small business owners and those border business owners was of concern to the committee. Vote 15-0.

HB 59, relative to crossbow hunting by a person with a disability. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jesse J. Martineau for Fish and Game: The purpose of this bill is to allow persons with a disability who are issued crossbow permits to take any species permitted to be taken by bow and arrow, pursuant to RSA 208:5. Currently, persons who have permanent physical disabilities are restricted to taking only deer during bow and arrow season, bear during the specified season, wild turkey and carp from Mascoma Lake. This bill has the support of the Fish and Game Department. Vote 17-0.

Amendment (0055h)

Amend the bill by replacing section 1 with the following:

1 Crossbow Hunting by Persons With a Disability. Amend RSA 207:10-c, I to read as follows:

I. Notwithstanding the provisions of RSA 207:10, a crossbow permit may be issued to a person who has a permanent physical disability and as a result of that disability the person cannot operate a conventional longbow or compound bow safely. Such permit shall allow that person to take ~~[deer during bow and arrow hunting season, bear during the specified season, wild turkey, and carp from Mascoma lake pursuant to RSA 211:2.]~~ **any species permitted to be taken by bow and arrow pursuant to RSA 208:5**, provided that the **bow and arrow license under RSA 208:5 and the** necessary licenses under RSA 208, RSA 209, and RSA 214 have been acquired each year. The permit applicant may be required to appear

before the executive director, the director's designee or designated medical consultant or consultants to substantiate the presence of the disability and demonstrate the ability to safely use a crossbow. The applicant shall be responsible for submitting medical documentation as required by the executive director. The executive director may require a second medical opinion from a medical consultant or physician designated by the executive director to verify the disability. Any costs associated with obtaining the medical documentation, re-evaluation of the information or a second medical opinion, upon recommendation of the medical consultant or consultants, are the responsibility of the applicant. The executive director shall determine the eligibility of the applicant, and the executive director's decision shall be final.

AMENDED ANALYSIS

This bill allows persons with disabilities who are issued crossbow permits to take any species permitted to be taken by bow and arrow.

HB 248, eliminating a separate dedicated account for the fish and game department trapping education program and transferring the sum into the fish and game fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert J. L'Heureux for Fish and Game: This bill eliminates certain dedicated accounts, derived from illegal taking or possessing, that were dedicated to the Fish and Game Department trapping education program, and transfers the sum into the Fish and Game Department general fund. This legislation, which has the support of the Fish and Game Department, is the result of an ad hoc committee recommendation, which reviewed all of the department dedicated funds. The amendment simply returns a provision of the law that was inadvertently omitted. Vote 17-0.

Amendment (0094h)

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

AN ACT eliminating separate dedicated accounts in the fish and game department and transferring the sums into the fish and game fund.

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

3 Restitution for Illegal Taking or Possessing; Funds. Amend RSA 207:55, III to read as follows:

III. Courts ordering such reimbursement damages shall remit such monies as prescribed in RSA 206:34. Monies collected from such reimbursement damages shall be ~~[used for game management activities within the fish and game department and such funds shall be nonlapsing]~~ **deposited in the fish and game fund.**

4 Transfer. All sums dedicated for the fish and game department trapping education program or for restitution for illegal taking or possessing held in account by the state treasurer on the effective date of this act shall be deposited into the fish and game fund for the use of the fish and game department.

5 Repeal. The following are repealed:

I. RSA 6:12, I(b)(214) relative to funds in the trapping education program.

II. RSA 6:12, I(b)(216) relative to funds from restitution for illegal taking.

6 Effective Date. This act shall take effect July 1, 2007.

AMENDED ANALYSIS

This bill removes requirements that certain revenues of the fish and game department be dedicated to the trapping education program. The bill also removes a dedicated fund for restitution for illegal taking or possessing.

This bill is a request of the fish and game department.

HB 411, establishing a committee to study the absorption of the fish and game department by other state agencies. **INEXPEDIENT TO LEGISLATE.**

Rep. James E. Kennedy for Fish and Game: The committee feels that establishing a

committee to study the absorption of Fish and Game Department is not necessary and the conduct of the Fish and Game performance audit will answer a lot of questions. We recommend waiting and act at the end of the audit to correct problems and propose changes at that time. Vote 14-1.

HB 453, establishing a committee to study the feasibility of merging marine patrol and fish and game department law enforcement staffing and resources. **INEXPEDIENT TO LEGISLATE.**

Rep. Vincent E. Greco for Fish and Game: It was the feeling of the committee initiating a study committee for such a merger would not be of benefit at this time, especially with a performance audit in the making. Such an audit could answer these needs. Vote 16-0.

HB 570-FN-A, increasing the fee for a wild turkey hunting license. **OUGHT TO PASS.**

Rep. Richard E. Fletcher for Fish and Game: This bill increases the fee for turkey hunting licenses from \$5 in the spring and \$5 in the fall to \$15 to cover both turkey hunting seasons. This bill brings the permit fee in line with neighboring states but does not raise it above the two states. This bill also eliminates a fee to hunt with a shotgun in the fall for turkey in those parts of the states where it is legal. Fish and Game estimates a revenue increase of \$134,470 in 2008. This bill is to take effect on January 1, 2008. Vote 11-0. Referred to the Committee on Ways and Means.

HB 576-FN-A, increasing certain fish and game nonresident license or permit fees. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert J. L'Heureux for Fish and Game: This legislation would increase the non-resident moose permit fee to a minimum of \$450.00 and the non-resident turkey fee to \$30.00 to bring these fees more in line with our neighboring states. There has not been a moose permit fee increase since the moose lottery was instituted in 1988. The amendment removes the proposed increase in non-resident bear tags and duplicate license fees for both resident and non-residents. The amendment also changes the effective date to January 1, 2008. This bill as amended has the support of the Fish and Game Department. Vote 11-0.

Amendment (0221h)

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

2 Wild Turkey; Nonresident Fee. Amend RSA 214:9, XI to read as follows:

XI. If the applicant ***is a resident and*** wishes to hunt wild turkeys, \$5, ***and if the applicant is a nonresident and wishes to hunt wild turkeys, \$30,*** and the fish and game department shall thereupon issue a wild turkey license or permit which shall entitle the licensee to hunt, shoot, kill and take turkey, except by the use of traps.

3 Effective Date. This act shall take effect January 1, 2008.

AMENDED ANALYSIS

This bill sets a required minimum moose permit fee for nonresidents and increases the nonresident wild turkey license or permit fee issued by the fish and game department. Referred to the Committee on Ways and Means.

HB 623-FN, establishing a game management account in the fish and game fund and transferring certain other fish and game accounts into the game management account. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Dennis F. Abbott for Fish and Game: This bill, as amended, removes separate dedicated funds for moose, bear, wild turkey and waterfowl licenses or permits, and transfers the balances in those accounts into a new game management account. The game management fund will allow the Fish and Game Department to expend funds in the best interests of the resource and to the best benefit of all our citizens. The consolidation of the dedicated funds will also reduce administration costs amounting to over \$50,000 per year.

Vote 16-0.

Amendment (0194h)

Amend RSA 206:34-b, I as inserted by section 3 of the bill by replacing it with the following:

I. The state treasurer shall establish a separate nonlapsing account within the fish and game fund, to be known as the game management account. Each month the department shall determine the number of stamps, licenses, applications or permits sold for moose, bear, turkey, and waterfowl and, for each, transfer \$10 to the game management account. The moneys in this account shall be used exclusively for the implementation of a comprehensive population and habitat management program, including research and management, protection, education, and outreach for game as defined in RSA 207:1, IX, fur-bearing animals as defined in RSA 207:1, VIII, and migratory game birds as defined in RSA 209:5 to include waterfowl, snipe, and woodcock. Funds in the game management account are hereby continually appropriated for said purposes. Said funds shall be expended for the purposes of this section as determined by the executive director with approval of the commission.

AMENDED ANALYSIS

This bill establishes a game management account in the fish and game fund, removes separate accounts for moose, bear, wild turkey, and waterfowl stamps, licenses, applications, or permits, and transfers balances in those accounts into the game management account.

This bill is a request of the fish and game department.

Referred to the Committee on Finance.

HB 517, establishing a commission to investigate cost drivers in providing health care. **OUGHT TO PASS.**

Rep. Evalyn S. Merrick for Health, Human Services and Elderly Affairs: This commission will establish a forum to review and study health care costs and the issues that drive those costs to rise unnecessarily. These issues include, but are not limited to, cost shifts associated with federal and state reimbursements and medical malpractice insurance, and regional issues that may affect costs of providing health care. The Business and Industry Association of America supports this bill. The committee believes that only evaluation and analyzing what drives the cost of medical care can effect change in a positive direction. Vote 18-0.

HB 644-FN, relative to differential pay of direct care employees at state institutions. **INEXPEDIENT TO LEGISLATE.**

Rep. Joan H. Schulze for Health, Human Services and Elderly Affairs: This bill was brought on behalf of persons who work at the New Hampshire Hospital, Laconia Developmental Services, Glencliff Home for the Elderly, New Hampshire Veterans' Home and the Youth Development Center. They have requested a weekly salary differential increase from \$5 to \$25. The employees are caring for persons who are at times difficult to cope with because of obstreperous behaviors. They believe the pay differential is warranted because of possible hazardous situations for themselves. While the committee was sympathetic, this is a policy committee and does not deal with specific financial requests. Vote 18-1.

HB 723, extending the moratoriums on nursing home beds and rehabilitation. **OUGHT TO PASS.**

Rep. Jennifer Daler for Health, Human Services and Elderly Affairs: This bill extends the moratorium on nursing home beds and rehabilitation until June 30, 2009 unless sooner authorized by the General Court. The testimony presented during the hearing indicated that there is no present need for more nursing home beds. The committee as well as the Department of Health and Human Services would like to provide more home and community based care for people who need these or similar services. The moratorium would also assist in keeping the cost of nursing home care down. Vote 18-0.

HB 67, relative to liens filed with public servants. **INEXPEDIENT TO LEGISLATE.**
Representative Gregory M. Sorg for Judiciary: This bill would prohibit Registers of Deeds from recording federal tax liens not showing evidence that they had been issued by a judge. Currently, such liens are filed by the Secretary of the Treasury or his or her designee, subject to the requirement of simultaneous notice to the taxpayer both of the filing and of his or her right to a prompt administrative appeal. The basis of this bill is a 2005 ruling of the United States Court of Appeals for the Second Circuit holding that certain IRS summonses have no legal standing until judicial enforcement proceedings have been initiated. The committee's research has satisfied it that the 2005 ruling was on a narrow legal issue, and does not apply to other IRS procedures, in particular to those pertaining to administrative distraint and levy. Moreover, a Second Circuit ruling is not authority in New Hampshire unless accepted by the First Circuit – of which New Hampshire is a part – or affirmed by the United States Supreme Court. Vote 17-0.

HB 526-FN-A, requiring district court judges to annually attend an educational program offered by the National Judicial College and establishing a surcharge on fines collected in the district court to pay for the costs of such attendance. **INEXPEDIENT TO LEGISLATE.**
Rep. Robert H. Rowe for Judiciary: District judges are highly trained and highly skilled, and continuing training is required by the Judicial Branch. The committee believes the judiciary is doing its job well on a continuing basis. Vote 11-0.

CACR 10, relating to sessions of the legislature. Providing that the legislature meet biennially and meet after June 30 in odd-numbered years only in special session called by the governor or by 2/3 vote of the general court. **INEXPEDIENT TO LEGISLATE.**
Rep. Betsy McKinney for Legislative Administration: This CACR would change the constitution back to the pre-1984 situation of meeting biennially. The sponsor hoped that this would reduce the number of bills that come up year after year, and encourage more people to run for office. The committee felt that this would not solve the problem, wouldn't cut down the work or encourage more people to be involved in the process and would be disadvantageous to freshmen. Vote 10-0.

HB 218, relative to chief firewards, engineers, or fire chiefs. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Laurie J. Boyce for Municipal and County Government: To ensure parity and due process when a fire chief has been suspended, the bill was amended to change the number of days to notify the clerk of the superior court from 10 days to 45 days. The bill was also amended to change the effective date from 60 days to upon passage. Vote 17-0.

Amendment (0154h)

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

1 Chief Fireward, Engineer, or Fire Chief. Amend RSA 154:5, II to read as follows:

II. Subject to such written formal policies as may be adopted by the appointing authority, each chief fireward, engineer, or fire chief of any city or town who is appointed rather than elected, shall have authority to direct and control all employees of his or her department in their normal course of duty and shall be responsible for the efficient and economical use of all department equipment. Such chief fireward, engineer, or fire chief shall be subject to suspension without pay or dismissal only for cause, and after he or she has been presented with a written specification of the reasons. Upon such suspension or dismissal, the chief fireward, engineer, or fire chief shall be entitled to a hearing, on the merits and reasonableness of the action, in superior court in the county in which the municipality is located, provided that the chief fireward, engineer, or fire chief petitions the clerk of the superior court for such a hearing within ~~[40]~~ **45** days of suspension or dismissal.

The court shall have the power to affirm, modify or negate such suspension or dismissal, based upon its findings.

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

AMENDED ANALYSIS

This bill increases the time a chief fireward, engineer, or fire chief has to petition the court for a hearing following suspension or dismissal.

HB 226, relative to the investment of trust funds. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Bennett F. Moore for Municipal and County Government: The bill, as amended, expands allowable investments to include closed ended in addition to open ended mutual funds and reorganizes the language in RSA 31:25 which sets forth the procedure that a collateral trust may be required from a fiduciary. The bill also clarifies the requirements for investment policies for trust funds in RSAs 31:25, 31:5 and 31:9 and stipulates that a copy of such policies be filed annually with the Attorney General's office. Vote 16-0.

Amendment (0132h)

Amend the bill by replacing section 1 with the following:

1 Investment Policy. Amend RSA 31:25 to read as follows:

31:25 Custody; Investment. The trustees shall have the custody of all trust funds held by their town. ***Any person who directly or indirectly receives any such trust funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the town depositing or investing such funds. Only securities defined by the bank commissioner, as provided by rules adopted pursuant to RSA 386:57, shall be eligible to be pledged as collateral.*** The funds shall be invested only in deposits in any federally or state-chartered bank or association authorized to engage in a banking business in this state, or in deposits in any credit union in this state, or in bonds, notes or other obligations of the United States government, or in state, county, town, city, school district, water and sewer district bonds and the notes of towns or cities in this state; and such stocks and bonds as are legal for investment by any bank or association chartered by this state to engage in a banking business; and in participation units in the public deposit investment pool established pursuant to RSA 383:22. Deposits in a federally or state-chartered bank or association or credit union shall be made in the name of the town which holds the same as a trust, and it shall appear upon the books thereof as a trust fund. ~~[Any person who directly or indirectly receives any such trust funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the town depositing or investing such funds. Only securities defined by the bank commissioner, as provided by rules adopted pursuant to RSA 386:57, shall be eligible to be pledged as collateral.]~~ Shares of ~~[open ended]~~ mutual funds are also permitted if they are registered with the Securities and Exchange Commission, qualified for sale in the state of New Hampshire in accordance with the New Hampshire uniform securities act of the New Hampshire secretary of state's office, and which have in their prospectus a stated investment policy which is consistent with the investment policy adopted by the trustees of trust funds in accordance with ~~[RSA 35:9]~~ ***this chapter***, and when so invested, the trustees shall not be liable for the loss thereof. The trustees may retain investments as received from donors, until the maturity thereof. The trustees shall formally adopt an investment policy for all investments made by them or by their agents for any trust funds in their custody ***in conformance with the provisions of applicable statutes.*** Such investment policy shall

be reviewed and confirmed at least annually. ***A copy of the investment policy shall be filed with the attorney general.***

HB 274, relative to income and asset limits and amount of the elderly property tax exemption. **INEXPEDIENT TO LEGISLATE.**

Rep. Eric G. Stohl for Municipal and County Government: The intent of the bill is two-fold. First, it seeks to increase income and asset limits for the elderly property tax exemption. The income limit would be raised \$13,400 to \$35,000 for a single person and from \$20,400 to \$50,000 for married persons. The asset limit would be raised from \$35,000 to \$150,000 excluding the value of the residence. Secondly, it establishes a minimum amount of the exemption in each age category. The minimum exemption presently in law is \$5,000 for all age groups. This bill would create a minimum exemption of \$50,000 for a person 65 years of age up to 75 years of age, \$90,000 for a person 75 years of age to 80 years of age, and \$100,000 for a person 80 years of age and older. If this legislation were to pass, it would raise the minimum income and asset limits in most municipalities which already have the ability to change these exemption levels. Vote 17-0.

HB 398, establishing a committee to study implementing a bedroom tax on residential dwellings. **INEXPEDIENT TO LEGISLATE.**

Rep. Bennett F. Moore for Municipal and County Government: The committee did not believe that a study of a bedroom tax as a substitute for the statewide property tax would be worthwhile. Such a tax would create another administrative burden on an assessing department. More importantly, if enacted, a bedroom tax would shift a portion of property taxes from commercial and industrial property to residential property, thereby increasing housing costs across the entire state. Vote 17-0.

HB 422, authorizing the granting of abatements to persons whose children are enrolled in schools other than the local public schools. **INEXPEDIENT TO LEGISLATE.**

Rep. Jessie L. Osborne for Municipal and County Government: The committee believes that this bill is unconstitutional and violates Part I article 6 and Part II, article 83 of the New Hampshire Constitution. This bill would impose user fees for public education and possibly create a new type of tax abatement. The New Hampshire Constitution clearly forbids the funding of religious, private schools. Vote 17-0.

HB 496, relative to a property tax exemption for portable docks, piers, and wharves. **INEXPEDIENT TO LEGISLATE.**

Rep. Eric G. Stohl for Municipal and County Government: This bill requires that portable docks, piers, and wharves shall be exempt from taxation as real property. The committee heard testimony as to how this would add complexity and ambiguity to the assessment of real estate for tax purposes. The existence of a dock, pier, or wharf will affect the value of the real estate more or less depending on the portability of such structure, including its size, location, condition, and relative permanence. Since the portability of such structure may already be taken into consideration, the committee believes the proposed exemption will unnecessarily complicate the assessment of waterfront property. The committee expects there would be significant differences of opinion about whether something is "capable of being removed seasonally," depending on the ease with which it can be removed. In addition, if this bill were to pass it would immediately call into question the status of any such structure that is not permanently affixed to the ground. Vote 17-0.

HB 852-FN-A-L, changing the rate and distribution of the excavation tax. **INEXPEDIENT TO LEGISLATE.**

Rep. Betsey L. Patten for Municipal and County Government: The original intent of the excavation tax in 1997 was to provide a solution regarding property appraisal for real estate

purposes for sand and gravel operations. The tax was enacted after many years of study and agreement between the sand and gravel industry and the municipalities. The excavation tax is a mechanism designed to supplement and complement the property tax associated with the commercial activity. This legislation would change the amount paid from \$.02/cubic yard of earth excavated and distributed to the municipalities general fund to \$.50/cubic yard with fifty percent of the amount received distributed to the state for the general fund. The intent of this large increase and change in distribution targets a specific industry to fill the coffers of the general fund. The unintended consequences of this increase are the higher costs for our home construction industry, along with the increased cost for our municipalities and department of transportation in the construction of our roadways. The committee strongly believes the excavation tax should not be used outside of its original intent. Vote 13-0.

HB 297*, relative to signs for the Souhegan Valley. **INEXPEDIENT TO LEGISLATE.*

Rep. Kevin K. Waterhouse for Public Works and Highways: While the committee sympathizes with the sponsors' desire to help a local Chamber of Commerce in its efforts to welcome travelers, we feel that the Department of Transportation right-of-way should have very limited access to signage. The committee will work with the Commissioner of Transportation to set policy regarding directional and welcome signs within the state right-of-way. This bill was unanimously seen as requiring an excessive number of signs to be placed within the right-of-way and would be a bad precedent for the legislature to set. Vote 14-0.

HB 313*, establishing a committee to study reimbursing towns for emergency services on interstate highways. **INEXPEDIENT TO LEGISLATE.*

Rep. James B. Rausch for Public Works and Highways: The committee recognized the concerns of the sponsors in seeking reimbursement for emergency services. However, the committee acknowledged that a study committee would not be able to find an equitable solution because all communities have benefits and liabilities that can not be proportionally delineated for equitable state funded reimbursement. The reimbursements should continue to reside in receiving compensation from the responsible parties and their insurance companies. Vote 13-1.

HB 317*, requiring improvements to state highways by developers to meet the same standards as federally or state funded improvements. **INEXPEDIENT TO LEGISLATE.*

Rep. Franklin T. Tilton for Public Works and Highways: The committee determined that sufficient controls currently exist within the permitting process, both at local planning boards and at the Department of Transportation, to require developers to meet appropriate standards, and that these controls are being used regularly and successfully. Vote 16-0.

HB 418*, relative to RV friendly highway signs. **OUGHT TO PASS WITH AMENDMENT.*

Rep. David B. Campbell for Public Works and Highways: This bill allows the NHDOT to affix "recreational vehicle friendly" markers or decals to the corner of business directional signs (such as fast food and other restaurants) to indicate that the business establishment can accommodate RV vehicles. The committee overwhelmingly believes this bill promotes tourism and makes New Hampshire a more RV and motor home "friendly" state. The amendment clarifies that the cost of the "RV friendly" markers will be solely borne by the business establishment and better defines what constitutes a "hard surface" able to support Recreational vehicles. Vote 17-1.

Amendment (0247h)

Amend RSA 236:73-a as inserted by section 1 of the bill by replacing it with the following:
236:73-a "RV Friendly" Markers.

I. Subject to the prior approval of the Federal Highway Administration, the department of transportation shall incorporate the use of “RV friendly” markers on specific business directional signs for business establishments that cater to the needs of persons driving recreational vehicles. A business establishment that qualifies for a business directional sign and that also qualifies as “RV friendly” may request that an “RV friendly” marker be displayed immediately adjacent to such establishment’s business logo sign on the appropriate background sign panel. The business applicant shall pay all costs of the “RV friendly” marker. For purposes of this section, the “RV friendly” marker to be displayed shall be such marker as may be approved by the Federal Highway Administration in the Manual on Uniform Traffic Control Devices.

II. In accordance with the provisions of RSA 21-L:12, and subject to the approval of the Federal Highway Administration, the department shall adopt rules, pursuant to RSA 541-A, necessary to implement the provisions of this section, including rules setting forth the minimum requirements for business establishments to qualify as “RV friendly.” Such requirements shall include, but shall not be limited to:

(a) Roadways shall be hard surface, such as gravel, compacted stone dust, pavement, or other firm surface, and at least 12 feet wide with a minimum swing radius of 50 feet for entering and exiting the facility.

(b) Roadway access and parking facilities shall be free of any obstructions up to 14 feet above the surface.

(c) Facilities requiring short-term parking shall have 2 or more spaces that are 12 feet wide and 65 feet long with a swing radius of 50 feet to enter and exit the spaces.

(d) Fueling facilities with canopies shall have a 14-foot clearance and facilities selling diesel fuel shall have pumps with non-commercial nozzles.

(e) Fueling facilities shall allow for pull-through with a swing radius of 50 feet.

(f) Campgrounds shall have 2 or more spaces that are 18 feet wide and 45 feet long.

HB 466-L*, relative to removal of vehicles from state park and ride lots. **OUGHT TO PASS WITH AMENDMENT.*

Rep. James B. Rausch for Public Works and Highways: The amendment clarifies the original wording of the bill and allows for the removal of abandoned vehicles as described in RSA 262:30 from state owned park and ride lots. Vote 17-0.

Amendment (0249h)

Amend RSA 262:40-a, I-II as inserted by section 1 of the bill by replacing them with the following:

I. The owner or person in lawful possession of any private property ***or the manager of a state-owned park and ride lot*** on which a vehicle is parked without ~~[his or her]~~ permission or is apparently abandoned may:

(a) Cause the removal of the vehicle in a reasonable manner provided he or she gives notice of such removal to a peace officer as soon as reasonably possible; or

(b) Notify a peace officer that he or she wishes to have such a vehicle removed from the property, whereupon the peace officer or another authorized official shall cause the removal of such vehicle pursuant to the removal, impoundment, and notice procedures required by this subdivision.

II. The department of transportation shall give authorized persons permission to remove vehicles which are abandoned, as described in RSA 262:32, at state-owned park and rides.

HB 796*, relative to civil liability for damaging highway protective barriers. **OUGHT TO PASS WITH AMENDMENT.*

Rep. Alfred C. Lerandeau for Public Works and Highways: This bill adds protective barriers

(guardrails) and clarifies the language of RSA 236:39. At the request of the Attorney General's office the amendment replaced the word "negligence" for "without authority." The amendment also includes Municipal Highway Agents (towns) which was part of RSA 236:39 but omitted in this bill. Vote 13-0.

Amendment (0304h)

Amend the bill by replacing section 1 with the following:

1 Civil Liability Expanded. RSA 236:39 is repealed and reenacted to read as follows:

236:39 Civil Liability. Any person who, without authority, places any obstruction on a highway, or causes any defect in a highway or highway protective barrier which renders the highway hazardous or unpassable in any safe manner, or damages the barrier to the extent that the department of transportation or the municipal highway agent determines that it requires replacement or repair, shall be liable to the state for all damages to the highway or protective barrier when maintained by the state, and to the town for all damages to other highways or protective barriers, and for all damages and costs which the town shall be compelled to pay to any person injured by such obstruction or defect. Damages to highways or protective barriers shall include the cost of labor.

Referred to the Committee on Judiciary.

HB 845-FN-A, making an appropriation to the town of Dorchester to rebuild the Province road bridge. **INEXPEDIENT TO LEGISLATE.**

Rep. Edmond D. Gionet for Public Works and Highways: Even though the committee sympathizes with the bill sponsors and having considered the facts, the referenced bridge is only used seasonally serving a recreation area on a Class V road. This bill requires a general fund appropriation of \$1,000,000. The bridge was destroyed in a flood. To do what this bill requires would not be fair to the other towns in the state. Vote 18-0.

HB 144, relative to operation of boats on Spectacle Pond. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Pamela J. Hubbard for Resources, Recreation and Development: The bill was written at the request of the owner of properties around Spectacle Pond, in Groton and Hebron. It removes a sunset clause set in 1985 that would prevent newer landowners from getting a permit to operate 7.5 horse power petroleum powered motors on Spectacle Pond. This permit is issued only to property owners with no other access to the town landing. The permit issued will last for the duration of ownership of the property and the boat. The bill as amended removes the necessity for re-applying for this permit annually, and instates a limitation to trips only to and from the pond's landing. Vote 15-1.

Amendment (0060h)

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

1 Spectacle Pond. Amend RSA 270:96, I to read as follows:

I. No person shall use or operate any powerboat equipped with any petroleum-powered motor upon the waters of Spectacle Pond in the towns of Groton and Hebron; provided, however, that ~~[on July 1, 1986,]~~ the contiguous property owners of the pond who own and operate petroleum-powered motors not in excess of 7.5 horsepower on said pond may continue to do so ***for the duration of their ownership of the property and the boat*** upon application and demonstration of hardship to the department of safety as provided in paragraph II. ***The use of these permitted petroleum-powered motor boats shall be limited to travel to and from the public landing and the owner's property.***

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

AMENDED ANALYSIS

This bill removes a date restriction on and clarifies the permissible use of petroleum-powered boats by contiguous property owners on Spectacle Pond.

HB 216, establishing a commission to study the causes, effects, and remediation of siltation in the Great Bay Estuary. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Elisabeth N. Sanders for Resources, Recreation and Development: This bill would establish a 21 member commission to determine the many causes of the increasing deposit of sediments in the bottom of the Great Bay and its five tributary rivers. This sediment has had a negative impact on oyster beds, eelgrass cover and water depths. The formation of a diverse member commission would provide a broad scientific assessment of the siltation process and recommend possible long term management solutions to a complex situation. The amendment made minor changes in the commission membership. Sediment has also reduced the navigability of the bay and rivers, restricting recreational use. Vote 18-0.

Amendment (0074h)

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

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

(a) Three members of the house of representatives, at least one of whom is a member of the resources, recreation and development committee, appointed by the speaker of the house of representatives.

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

(c) The director of the division of ports and harbors, Pease development authority, or designee.

(d) Two professionals in marine studies from the university of New Hampshire, at least one from the Jackson estuarine laboratory, appointed by the president of the university of New Hampshire.

(e) One representative of the Nature Conservancy, appointed by that organization.

(f) One representative from the department of environmental services, appointed by the commissioner.

(g) One representative of the Strafford regional planning commission, appointed by that commission.

(h) One representative of the Rockingham regional planning commission, appointed by that commission.

(i) Two representatives from conservation commissions in estuarine towns, appointed by the governor.

(j) The manager of the Great Bay Estuarine Research Reserve, or designee.

(k) The commissioner of the department of fish and game, or designee.

(l) One representative from the New Hampshire estuaries project, appointed by the director.

(m) Two representatives of water-related recreational interests, appointed by the governor.

(n) Two representatives of water-dependent commercial interests, appointed by the governor.

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

I. Seek the assistance of the Environmental Protection Agency, National Oceanic and Atmospheric Administration, United States Fish and Wildlife Service, National Marine Fisheries Service, the United States Army Corps of Engineers, and the United States Geological Survey, as appropriate.

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, and the state library in an interim report filed on or before November 30, 2008 and in a final report filed on or before November 30, 2009.

HB 458, relative to the exemption of replacement or redundant wells from the large groundwater withdrawal permitting process. **OUGHT TO PASS.**

Rep. Donald A. Brueggemann for Resources, Recreation and Development: This bill allows for the exemption of replacement or redundant wells from the large groundwater withdrawal permitting process. Applications submitted to DES for these wells must include hydrologic information to assure that the effects will be substantially the same as the well being replaced. The committee agreed that this would be adequate to allow for maintaining older wells without placing an undue burden on well owners. Vote 20-0.

HB 464, relative to Silver Lake in Belmont and Tilton. **INEXPEDIENT TO LEGISLATE.**

Rep. Lawrence M. Kappler for Resources, Recreation and Development: This bill would have declared a certain height of water in Silver Lake in Belmont and Tilton as its “full lake level” and required that when the water rose two feet above that level, a no-wake zone would be instituted for the whole water body. The attorney general attested that this cannot be legislated, but must be established scientifically, which the Department of Environmental Services (DES) is in the process of doing. Further, the committee felt that establishing a no-wake area for certain sporadic time periods may be unworkable, but needs to be addressed with marine safety. Further research revealed that the problems of flooding of the lake can be addressed by property owner petition to DES via the Winnepesaukee River Watershed Advisory Committee. Vote 18-0.

HB 468, relative to establishing the freedom's way heritage area and commission. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Judith T. Spang for Resources, Recreation and Development: The purpose of this bill is to recognize, protect, promote and interpret the significant historic, cultural and natural resources of nine towns proposed for a NH freedom's way heritage area. An advisory commission would be established that would solicit, accept and manage gifts, grants and federal funds, coordinate activities and prepare annual study reports. The heritage area would complement a similar area in nearby Massachusetts. The amendment added a member of the Resources, Recreation and Development Committee to the commission, added Merrimack to the area, and included historic dams and bridges to the resources eligible for funding. Vote 17-0.

Amendment (0290h)

Amend RSA 217-B:1 as inserted by section 1 of the bill by replacing it with the following:

217-B:1 Freedom's Way Heritage Area Established. There is hereby established the freedom's way heritage area, hereinafter referred to as the area, which shall include the cities and towns of Amherst, Brookline, Greenville, Hollis, Mason, Milford, Merrimack, Nashua, and New Ipswich. The purpose of such designation shall be to recognize the significant historic, cultural, and natural resources of the area and to preserve and interpret them for the education and inspiration of present and future generations. Nothing in this chapter shall be construed to limit the rights of private property owners or of the cities and towns in the area to develop the lands, buildings, and resources in the manner they determine appropriate. It is the purpose of this act to provide a management framework to assist the state and the area's municipalities in the development and implementation of integrated cultural, historical, land, and water resource management programs in cooperation with the federal government and the state in order to retain, enhance, and interpret the significant values of the natural and cultural resources in the area.

Amend RSA 217-B:2, III(d) and (e) as inserted by section 1 of the bill by replacing them with the following:

(d) The commissioner of the department of resources and economic development, or designee.

(e) The director of the division of historical resources, or designee.

(f) One member of the house of representatives standing committee responsible for issues pertaining to resources, recreation, and development.

Amend RSA 217-B:4, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Make loans and grants from funds donated or otherwise made available to the commission for the purpose of conserving and protecting sites, buildings, bridges, dams, landscapes, resources, and objects which are included or eligible for inclusion on the state or National Register of Historic Places or for the purposes of providing educational and cultural programs which encourage appreciation of the resources in the area.

Amend RSA 217-B:4 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. Receive and review petitions from towns requesting inclusion in the freedom's way heritage area with the objective of finalizing the boundaries of the freedom's way heritage area within 2 years of the effective date of this section.

AMENDED ANALYSIS

This bill designates Amherst, Brookline, Greenville, Hollis, Mason, Milford, Merrimack, Nashua, and New Ipswich as the freedom's way heritage area and establishes the freedom's way heritage area commission to assist in preserving and promoting the area's natural and cultural resources.

HB 531, establishing a tourism radio sign program. **INEXPEDIENT TO LEGISLATE.**

Rep. Sid Lovett for Resources, Recreation and Development: This bill would have established a tourist radio station program within the Department of Resources and Economic Development (DRED), such as that used in the Mt. Washington Valley. The bill focused on the roadside signs which would have been able to exceed the state's maximum sign size by a significant amount. The committee did not wish to use legislation to regulate the design of signs or the content of radio station broadcasts. Vote 17-1.

HB 837, relative to easements and the land and community heritage investment program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Judith T. Spang for Resources, Recreation and Development This bill clarifies language in the statute establishing term easements for farms by specifying that such an easement shall be available only to farms participating in an established farm viability program with the department of agriculture, markets and food. It further provides that when such a program ends, the easement shall also expire. The amendment replaces the original bill. Vote 15-0.

Amendment (0382h)

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

AN ACT relative to easements and the land and community heritage investment program and creating a farm viability program.

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

1 Easement Interest; Farm Viability Programs. Amend RSA 227-M:2, IV to read as follows:

IV. "Easement interests" means conservation, historic preservation, or scenic easements, development rights, or any other similar protective interest in real property held in perpetuity, or a term easement held for a specific period of time and not in perpetuity **as part of a farm viability program overseen by the department of agriculture, markets, and food.**

2 Public Access; Agricultural Term Easements. Amend the introductory paragraph of RSA 227-M:15 and RSA 227-M:15, I to read as follows:

227-M:15 Public Access; Liability. Lands and interests in lands purchased with funds from this program by any eligible applicant shall be open in perpetuity for passive

recreational purposes [~~except as provided in paragraph I~~] **or for the term of any farm viability term easements as provided for in RSA 227-M:2, IV.** Language to be used in easement interests secured through the program shall approximate the intent of the following:

I. There is hereby conveyed pedestrian access to, on, and across the property for hunting, fishing, and transitory passive recreational purposes, but not camping, by members of the public. A grantor may reserve the right to post against vehicles, motorized or otherwise and against access to active livestock fields, against access to agricultural cropland during planting and growing season, and against access to forest land during harvesting or establishment of plantations. [~~Such term easements as described in RSA 227-M:2, IV will be granted where participation in such program fosters farm viability entered into by the authority or the department of agriculture, markets, and food.~~]

3 New Section; Farm Viability Program. Amend RSA 227-M by inserting after section 17 the following new section:

227-M:18 Farm Viability Program.

I. There is established in the department of agriculture, markets and food, a 2 year pilot farm viability program. Such program shall expand the New Hampshire agricultural innovation program by strengthening farm viability and ensuring the contribution of New Hampshire agriculture to the state's economic livelihood, public health, and general quality of life through capital investments in the form of grants from the community heritage investment program to be used towards agricultural infrastructure and equipment.

II. For each grant accepted by a land owner, a term easement shall be granted by the grant recipient to the state of New Hampshire through the community heritage investment program.

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

AMENDED ANALYSIS

This bill restricts term easements used in the land and community heritage investment program to those farm viability programs where a partnership exists with the department of agriculture, markets, and food.

This bill also creates a farm viability program in the department of agriculture, markets and food.

Referred to the Committee on Environment and Agriculture.

HB 899-FN-A, assessing a fee on water withdrawn for sale or resale from water supply sources in the state. **INEXPEDIENT TO LEGISLATE.**

Rep. Frank A. Tupper for Resources, Recreation and Development: This bill established a fee of \$.10 per gallon of water withdrawn in excess of 50,000 gallons per day for sale or resale. The bill would have created many inequities for municipalities and private companies that supply water to local residents. The fee would also be too costly for in-state manufacturers of beer and soda and unidentified other users. SB 155, Chapter 305:1, Laws of 2003, the ground water study commission, will be studying this very complex concept in depth. Vote 14-1.

HB 119, relative to the sunset provision of the system benefits charge. **OUGHT TO PASS.**

Rep. James M. Garrity for Science, Technology and Energy: The system benefits charge is that portion of electric utility bills which is used to fund both energy efficiency and low-income electrical assistance programs. This bill eliminates the sunset provision of the low-income electrical assistance program; the sunset date was scheduled for June 30, 2008. The committee feels that the low-income electrical assistance program is a very effective program which helps many of our neediest fellow citizens with their electrical energy costs. The program is well run and is reviewed at least annually by the Public Utilities Commission and several legislative oversight committees. This beneficial program should be continued at current levels. Vote 10-0.

HB 415-FN, establishing a geothermal assessment project. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John H. Thomas for Science, Technology and Energy: The committee feels the issue of renewable energy is very important and any discovery or exploration of source is part of the overall issue. The state geologist brought forth a concern with the reporting date. The amendment takes care of that issue. Vote 14-0.

Amendment (0257h)

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. The state geologist shall make a preliminary report of the results of the geothermal assessment project 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 July 1, 2008. The state geologist shall make a final report of the results of the geothermal assessment project 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 July 1, 2009.

Referred to the Committee on Finance.

HB 751-FN-A, relative to biodiesel road toll revenue. **INEXPEDIENT TO LEGISLATE.**

Rep. Thomas R. Fargo for Science, Technology and Energy: This bill requires the road toll administrator to estimate the road toll paid on biodiesel used for off-road purposes and pay that amount into a biodiesel development fund. The committee unanimously agreed that insufficient data are available to accurately estimate the amount of biodiesel used off-road, although estimates suggested that the fund would receive less than \$10,000 annually. In addition, the bill lacked clarity on how the biodiesel development fund would be used. While the intent of the bill was to promote a greater use of biodiesel for environmental benefits, the committee recognized that existing incentive programs could be enhanced to serve that purpose. Vote 14-0.

HB 832-FN, relative to financial relief for members of the military reserve or national guard called to active duty. **INEXPEDIENT TO LEGISLATE.**

Rep. Alfred P. Baldasaro for State-Federal Relations and Veterans Affairs: It was very clear that the purpose of this bill was to address serious financial problems that sometimes occur as the result of long term federal deployment. However, it was determined that the Service members Civil Relief Act of 2003 (SCRA) formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA) and RSA 110-C: 2 (National Guard Rights and Protective Act) provide a very high level of protection for our men and women who go in harm's way. Additionally it was determined that some parts of HB 832-FN could cause serious and unintentional legal problems and wouldn't be in the best interest of our citizen soldiers. Vote 11-0.

HB 110, relative to commercial driver licenses when the license holder fails a drug or alcohol test. **INEXPEDIENT TO LEGISLATE.**

Rep. Michael B. O'Brien for Transportation: The bill attempted to put into place additional requirements or penalties for commercial drivers who fail drug or alcohol tests. The goals of the sponsor and the interest of the sponsor in safety is compelling. Nevertheless, as ably demonstrated by the NH Motor Transport Association, federal regulation in this area is comprehensive and the addition of further requirements at the state level would not measurably increase the public safety. Correspondingly, the bill is inexpedient to legislate. Vote 12-0.

HB 176, relative to the return of replaced parts by a motor vehicle repair facility.

INEXPEDIENT TO LEGISLATE.

Rep. Jennifer M. Brown for Transportation: The bill attempts to alter the process of alerting customers to the return of parts after auto repair. Current law adequately covers the return of parts to consumers and the proposed legislation would not demonstrably add to the limited interest in the motoring public in having parts returned. Correspondingly, the bill is inexpedient to legislate at this time, but the committee will keep a vigilant eye on future legislation relating to old parts consistent with ongoing efforts around the State to carefully manage waste. Vote 12-0.

HB 182-FN, relative to indicating the branch of service on special number plates for veterans. **INEXPEDIENT TO LEGISLATE.**

Rep. Peter F. Bergin for Transportation: The committee appreciated the intent of the sponsor to recognize branch of service on special number plates for veterans. However, the Department of Safety presently does not have the computer system to handle tracking the different branch of service decal. In addition it would add additional cost to implement such a system. It was suggested that the American Legion implement this program, but the committee was never presented a plan. In addition the committee felt that if we made an exception to the veteran plate we would then be inundated with other groups for special plates. Vote 17-0.

HB 202, relative to a point system for automobile dealer and inspection station violations. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Sherman A. Packard for Transportation: This bill, as amended, sets a point system in place for licensed automobile dealers and licensed inspection stations. The New Hampshire Automobile Dealer's Association has requested this legislation so a fairer, unified system be put in place when an infraction occurs. Now, whether it is a small or large infraction a dealer license or inspection station license can be revoked because of the lack of any uniformity or predictability. The point system clearly outlines prohibited conduct and penalties and removes the chance of unfair results. This bill would also protect a dealer from being severely punished because of the unknown actions of a bad employee. Vote 17-0.

Amendment (0192h)

Amend the bill by replacing section 1 with the following:

1 New Section; Administration of Motor Vehicle Laws; Point System for Automobile Dealer and Inspection Station Violations. Amend RSA 260 by inserting after section 6-a the following new section:

260:6-b Point System for Automobile Dealer and Inspection Station Violations.

I. The director of motor vehicles may adopt rules pursuant to RSA 260:5 to establish 2 different uniform point systems for separately identifying automobile dealers and inspection stations which have violated the provisions of this title or rules adopted under this title. The rules shall include a designated level of point accumulation which so identifies automobile dealers and inspection stations.

II. The director may assess points for violations of this title or rules adopted pursuant to this title which have been found by a court of law or a hearing officer to have been violated. Notice of the assessment of points shall be given in accordance with the rules adopted by the director.

III. In the case of a conviction or finding against a dealer or inspection station of 2 or more violations committed on a single occasion, such dealer or inspection station shall be assessed points for one offense only, under each separate point system if the same entity holds both a dealer's registration, license, or privileges, and inspection station privileges. If the offenses have different point values, the dealer or inspection station shall be assessed for the offense having the greater point value.

IV. The director may suspend or revoke the dealer's registration, license or privileges, or in the case of an inspection station the inspection station privileges, in accordance with the rules adopted under this section. The rules shall provide a mechanism for reduction of points for a dealer or inspection station that has completed a training course approved by the director.

V. The director may distinguish between larger and smaller dealers and inspection stations in establishing the point system. For the purposes of the point system established under this section, an inspection station may not be liable for violations committed by an individual mechanic if the mechanic deliberately commits an action that is contrary to the law, the rules of the department, or the policies and procedures of the station.

VI. Both point systems authorized under this section shall only count points for violations committed within the 3 most recent calendar years and shall only count violations that are committed on or after the effective date of the rules adopted under this section.

HB 209, relative to eligibility for farm plates. **OUGHT TO PASS.**

Rep. Brenda L. Ferland for Transportation: This bill will require the use of a specific form. The form will establish the eligibility for farm plates when registering vehicles with the town clerks. There is a difference between agricultural plates that cost less, the miles to be traveled are restricted and vehicles have some inspection requirements compared to farm plates that cost more and have restrictions of 16,000 pounds and 74 cents a pound thereafter. The Department of Safety and Commissioner of Agriculture support this bill. This bill was a recommendation of the recent farm study. Vote 17-0.

HB 714-FN, relative to motorized watercraft rental agencies. **OUGHT TO PASS.**

Rep. Jim Ryan for Transportation: Interest in safety along the state waterways has intensified in recent years as the popularity of recreational boating along our lakes has increased. This bill increases the state's interest in safety on our lakes and waterways by requiring those who rent boats to provide the rental agent with clear certification that the renter understands safety regulations and is conversant with the state's interest in boating safety. NH boat owners and recreational users are obliged by a variety of regulations and laws to promote and insure boating safety. Current law only requires an all-too-brief declaration by a renter that he or she is familiar with our law. The committee believes that renters should come under the same regulatory oversight as local residents. Vote 12-0. Referred to the Committee on Ways and Means.

HB 347, establishing a committee to study establishing classes of property to be taxed at different rates under the statewide enhanced education tax. **INEXPEDIENT TO LEGISLATE.**

Rep. Peyton B. Hinkle for Ways and Means: If established, this committee was to consider classes of property including "primary residential," "second homes," "business and commercial," and "resident and non-resident." The committee was concerned that this could lead to business and commercial properties being taxed at a higher rate, which would be regressive to economic development. On the other hand, if residential property was taxed at a higher rate, an undue tax burden would be placed on the individual home owner. There was also a concern over establishing tax rates for mixed use properties which could lead to ambiguities in taxation. Vote 16-0.

HB 351, clarifying that the definition of "overseas business organization" includes all foreign incorporated business organizations and all 80/20 business organizations, and redefining "business activity" for purposes of the business profits tax. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Norman L. Major for Ways and Means: This bill was requested by the Department of Revenue Administration and Section 1 of this bill is a technical correction, which is very

important to Business Profits Tax statutory clarity. Laws must evolve to fit today's economic systems. The Business Profits Tax was formulated in 1970; 2007 is not the same economic world. This change follows a national trend to clearly define who should file and what their tax is based on. A number of other states have adopted these economic nexus statutes. You do not have to have a physical presence here to have economic nexus. If business organizations are availing themselves of the benefits of the NH economic markets, including such factors as our well educated workforce, our court system, and our banking and consumer and protection laws, then they have economic nexus. This correction places language in the statute to tell out-of-state headquartered businesses they must file if they do business in NH. This does not change how we tax or what we tax. However, those that perceive there is a tax planning opportunity if you don't use the common language may attempt to avoid NH tax. Sections 2 and 3 are true housekeeping sections. They make it clear as to who can be a member of a "water's edge combined group." The "water's edge" we talk about is the Atlantic and Pacific oceans – the bounds of the US. The changes in the four definitions used for 1) "Water's edge Combined Group," 2) "Foreign dividends," 3) "Foreign property, payroll and sales," and 4) "Overseas business organizations," will bring the language the state uses in agreement with the language used by the Internal Revenue Code. The amendment corrects statute references in section 1 and 2 of the bill to read "RSA 77-A:1." Vote 17-0.

Amendment (0191h)

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

1 Definitions; Business Activity. Amend RSA 77-A:1, XII to read as follows:

XII. "Business activity" means ***a substantial economic presence evidenced by a purposeful direction of business toward the state examined in light of the frequency, quantity, and systematic nature of a business organization's economic contacts with the state.*** "Business activity" includes, but is not limited to, a group of actions performed by a business organization for the purpose of earning income or profit from such actions and includes every operation which forms a part of, or a step in, the process of earning income or profit from such group of actions. The actions ordinarily include, but are not limited to, ***the employment of business assets***, the receipt of money, property, or other items of value and the incurring or payment of expenses. Notwithstanding any other provision of this paragraph, a holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI, shall not be deemed to be carrying on any business activity within this state due solely to its holding an ownership interest in such qualified investment company.

2 Definitions; Water's Edge Combined Group. Amend RSA 77-A:1, XV to read as follows:

XV. "Water's edge combined group" means a group of business organizations as defined in RSA 77-A:1, I operating a unitary business, except for overseas business organizations, as defined in paragraph XIX; provided, however, ~~[overseas]~~ **80/20** business organizations shall only be excluded from the definition of "water's edge combined group" if the following criteria are met:

HB 354, establishing a committee to study the feasibility of establishing ecological consumption taxes as a source of revenue for the state. **INEXPEDIENT TO LEGISLATE.** Rep. Michael G. Marsh for Ways and Means: This legislation would have established a joint study committee to determine whether or not to establish one or more taxes on the sources of pollution in the state, including carbon dioxide. Without passing judgment on the merits of the bill, the committee noted that there is a similar bill, HB 165, establishing a committee to study carbon reduction incentives, already before the Science, Technology, and Energy Committee. There is no need to establish two study committees, and the specifics of this bill will be considered as part of HB 165. Vote 16-0.

HB 372-FN-A, exempting motor vehicles equipped and used for transporting disabled persons from the tax on rental of motor vehicles. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Ron J. Mack for Ways and Means: The purpose of the bill is to relieve disabled persons and their families of the car rental tax burden. After hearing testimony from various parties including companies specializing in the rental of handicap equipped vehicles, the committee believes that the existing rental tax imposes an undue financial hardship on the majority of users and their families. The Department of Revenue Administration indicates this bill will decrease state education trust fund revenue by an insignificant amount in FY 2008 and each year thereafter. The department states it can absorb the cost of administering this bill within its existing budget. Vote 16-0.

Amendment (0252h)

Amend the bill by replacing section 1 with the following:

1 Tax on Rental of Motor Vehicles; Application for Exemption. Amend RSA 78-A:8-a to read as follows:

78-A:8-a Application for Exemption.

I. Application for an exemption from payment of the tax imposed by this chapter based upon the definition of "rent" under RSA 78-A:3, VIII shall be made in writing to the commissioner.

II. Application for an exemption from payment of the tax imposed by this chapter based upon the definition of "motor vehicle" under RSA 78-A:3, XIV shall be made in writing to the commissioner. The application shall be made for each motor vehicle for which an exemption is sought. A motor vehicle eligible for exemption shall be one that possesses modifications suitable for the transport of passengers with physical disabilities that require a wheelchair or other special adaptations. An application for exemption shall be approved upon submission of such evidence as required by and acceptable to the commissioner pursuant to rules adopted under RSA 541-A.

AMENDED ANALYSIS

This bill allows for exempting motor vehicles possessing modifications suitable for transporting persons with physical disabilities from the tax on rental of motor vehicles.

HB 452-FN, dedicating a percentage of liquor, wine, and beer revenues to the education trust fund. **INEXPEDIENT TO LEGISLATE.**

Rep. Michael D. Brunelle for Ways and Means: This bill would have taken 3% of liquor, beer, and wine revenues from the general fund and dedicated them to the education trust fund. Although the committee appreciates the sponsor's desire to address our state's education funding predicament, we believe the redistribution of revenue would not only fail to adequately address the issue, but also result in cuts in programs that rely on the dollars removed from the general fund. In addition, the committee felt that the passage of this legislation could lead to the habitual dedication of future general funds, and ultimately set a precedent that jeopardizes the long-term stability of other state services. Vote 16-0.

HB 843-FN, requiring excess revenue stabilization reserve account funds to be used to make payments to all homeowners of primary residences in this state. **INEXPEDIENT TO LEGISLATE.**

Rep. Norman L. Major for Ways and Means: This bill required excess revenue stabilization reserve account funds to be deposited in a new "Homeownership Incentive Account" to be used to make equal payments to all homeowners of primary residences in this state to provide an incentive for continued homeownership in the future. The sponsors did not know how much it would cost to implement or how to accomplish the payments to all homeowners. Part of the cost is to identify and update the list of eligible homeowners in the state and their

address. The cost for sending payments out to homeowners could exceed the costs of the excess reserves since only a few dollars could trigger this mechanism. The committee felt if there were excess revenues it would be better to reduce tax rates, thereby benefiting all tax payers. Vote 16-0.

REGULAR CALENDAR

HB 77, prohibiting cancellation of property and liability insurance on the basis of certain political activities. **INEXPEDIENT TO LEGISLATE.**

Rep. James R. Martin for Commerce: This bill applies to excess coverage or umbrella coverage which is generally sold with limits of one million to five million dollars. The testimony from the insurance department and others was that excess coverage is widely available. Some excess carriers, based upon their own business judgments, exclude coverage for sports figures, radio and TV broadcasters, entertainers, politicians, editors and other high profile people. Some excess carriers exclude some of these risks, others cover them. Coverage is available at reasonable rates. This bill would harm small insurance companies in the state who do not have the resources to underwrite one to five million dollar risks. They have to reinsure those risks with reinsurers, all of whom are domiciled out of state. Those reinsurance companies make their own underwriting decisions. The bottom line is that the insurance is generally available. Vote 12-4.
Committee report adopted.

HB 102, relative to requirements for restaurants operating cocktail lounges. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John B. Hunt for Commerce: The original bill was an attempt to address the problems the city of Manchester has had with several "restaurant" establishments. Under current law, every restaurant with sales less than \$75,000 must have food sales equal to liquor sales. The problem seems to be that non-alcohol drinks are considered food. The amendment defines food as a "solid nutritive material as distinguished from drink." The majority of the committee felt this was a necessary clarification of the current law. Vote 12-5.

Amendment (0336h)

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

AN ACT defining "food" for purposes of the alcoholic beverages laws.

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

1 New Paragraph; Alcoholic Beverages; Definitions; Food. Amend RSA 175:1 by inserting after paragraph XXXI-a the following new paragraph:

XXXI-aa. "Food" means solid nutritive material as distinguished from drink.

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

AMENDED ANALYSIS

This bill defines "food" for purposes of the alcoholic beverages laws.

Amendment adopted.

Committee report adopted.

Ordered to third reading.

HB 599-FN, requiring restaurant operators to produce a meals and rentals licenses in order to obtain a liquor license and establishing an annual renewal fee for meals and rentals licenses and a penalty for failure to renew such license. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James R. Martin for Commerce: This bill was introduced at the request of the Department of Revenue Administration (DRA) to enable DRA to keep track of restaurant and restaurant licensees, many of whom change hands without notifying DRA thus making the collection of the meals and rentals tax difficult. In years past, restaurants and rental licenses expired every two years but the statute was amended to make the licenses of

indefinite term. As a result of that experiment, DRA has found it difficult to track the current owner of some facilities in order to collect the tax. This bill solves that problem at minimum cost and inconvenience to the owners. Vote 16-2.

Amendment (0281h)

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

AN ACT relative to fees for meals and rentals licenses.

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

1 Meals and Rentals Licenses; Fees. Amend RSA 78-A:4 to read as follows:

78-A:4 ***Meals and Rentals*** Licenses Required; Penalty.

I. Each operator shall register with the department the name and address of each place of business within the state where it operates a hotel, sells taxable meals, or rents motor vehicles. The operator shall complete a registration, upon receipt of which the department shall issue a ***meals and rentals*** license for each place in such form as it determines, attesting that the registration has been made. ~~[The license remains valid until]~~ ***Licenses shall expire on June 30 in each odd-numbered year, unless*** the business ceases operation, a change in ownership occurs, or the license is revoked or suspended by the department ***prior to expiration of the license***. The license shall be conspicuously posted in a public area upon the premises to which it relates.

II. The fee for an original license or timely license renewal shall be \$5. The fee shall be waived for an original license, if the license is issued less than 6 months prior to a required renewal date.

~~[H.]~~ ***III.*** No person shall engage in serving taxable meals, renting rooms, or renting motor vehicles without first obtaining the license required by this section. The license is nonassignable and cannot be transferred. Any person who fails to register or obtain a license as provided in this section shall be subject to the penalty provisions of RSA 21-J:39.

2 Effective Date. This act shall take effect July 1, 2007.

AMENDED ANALYSIS

This bill establishes an original license fee and a renewal fee for meals and rentals licenses.

This bill was requested by the department of revenue administration.

Amendment adopted.

Committee report adopted.

Referred to the Committee on Ways and Means.

HB 874-FN-A, establishing a New Hampshire health access corporation, continually appropriating a special fund, and allowing the healthy kids corporation to cover certain adults. **INEXPEDIENT TO LEGISLATE.**

Rep. John B. Hunt for Commerce: Although this bill calls for an appropriation, there was no dollar amount in the bill. The committee is working on another bill that will have a similar task to broaden affordable insurance options in New Hampshire. Vote 17-1.

Committee report adopted.

HB 661-FN-A, establishing an executive planning commission on special education.

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

Rep. Nancy F. Stiles for the Majority of Education: This bill is the first of six and the only early bill coming forth this session from a committee charged to review New Hampshire's special education statutes. HB661-FN-A repeals RSA 189-C:21 and 189-C:22 and replaces them with a planning commission to be established for one year to identify the personnel shortages that affect the capacity of schools to provide educational services to children with highly challenging needs or low-incidence (uncommon) disabilities. There is nothing in the current RSA 186-C:21 that isn't covered in federal law so there will be no negative effect on students or the local districts. The commission is to address opportunities and resources to

support the local school districts in developing scientifically based student specific supports to assist the schools in eliminating out of district private or public placements, all of which have high human and financial costs. The commission will also address the pre-service and in-service educational opportunities for professionals, paraprofessionals and administrative personnel in our college and university system and identify how they might identify the emerging special education needs and provide support to the local districts in evaluating or plan design. The strategic plan is to be reported to the General Court and the Governor by October 1, 2008. The study committee that worked over the past ten months with five subcommittees and came to consensus on the final draft of this bill included representation from six legislators, three having a background in special education, the Department of Education, the Special Education Directors Association as well as active directors, consultants, parents, homeschools, charter schools, Disabilities Rights Center, school board members, legal representation of students and parents of students with disabilities, Parent Information Center, members of the State Advisory Committee (SAC) and presentations from the Dept. of Health and Human Services, the Dept. of Corrections and South Eastern Regional Education Service Center (SERESC). Vote 11-4.

Rep. Paul Ingbertson for the Minority of Education: Though presented as a bill to create a commission, this bill actually of itself changes five points of New Hampshire law related to developmentally disabled children. The removed statutes are actually part of federal requirements, yet reasons for their removal were not forthcoming.

Majority committee report adopted.

Referred to the Committee on Finance.

HB 669-FN-A-L, relative to kindergarten aid and kindergarten construction aid.

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

Rep. Judith E. Day for the Majority of Education: This bill extends policy of 1997 to provide school districts \$1200 per pupil in aid for new kindergarten students until said students are counted in the average daily membership for kindergarten. It also extends aid for construction of kindergartens. This aid provides an incentive for districts to establish public kindergarten programs where none currently exist. The chance to participate in kindergarten provides an added opportunity for an equitable education for all New Hampshire students. This bill could cost the state \$14 million only if 66 classrooms were built in all of the districts currently without kindergarten and 15 children were in each of these classrooms. Vote 11-3.

Rep. Paul Ingbertson for the Minority of Education: Department of Education numbers indicate this bill would cost, even as amended, an additional \$14 million. It would increase pressures on districts that have repeatedly opposed such programs and construction. The money does not follow the child.

Majority Amendment (0383h)

Amend RSA 198:48-a, XII(b) as inserted by section 1 of the bill by replacing it with the following:

(b) After pupils enrolled in an approved kindergarten program have been counted in the average daily membership in residence, school districts shall only receive, for each such pupil, an education grant calculated in accordance with RSA 198:41 through RSA 198:42.

Majority amendment adopted.

Majority committee report adopted.

Referred to the Committee on Finance.

HB 693-FN-A-L, establishing a school choice certificate program. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Kimberley S. Casey for the Majority of Education: This legislation, which establishes a school choice certificate (voucher) program, is identical to HB 1707 of 2006 which was voted down by a sizable margin. Nothing new has been added to this bill to address the concerns that led to its defeat last year. Those same concerns were not addressed to the satisfaction of the majority of the committee during its most recent hearing. The bill as it stands continues to violate the New Hampshire Constitution (Part 1, Article 6, and Part 2, Article 83), which specifically and unequivocally forbids public monies to be used for sectarian schools. The US Supreme Court finding regarding the Cleveland School District does not in this case apply, as it was a very narrow finding and does not trump New Hampshire Constitutional law. Additionally, as education policy, the majority of the committee felt that school choice programs should be implemented through school districts, and existing laws already provide for that. As written, the law would drain scarce revenues away from public education. When districts already face federal cuts, NCLB unfunded mandates, escalating special education costs and tighter state resources, draining another 17.9 million dollars in state aid to public education, as this bill provides, was considered ill advised. This bill will not help children by draining money from the public system, and draining this money could feasibly force local districts to make up this money leading to higher local school taxes. The bill as written disallows eligible families who already have their children in private school, at their own expense, to participate in the program. This bill, as written, allows private schools to accept only those students it chooses, and the sponsor was unable to address the areas of concern that private schools may, in fact, not accept children with special needs. Worse, if a special needs child is accepted, it is up to the local PUBLIC school to provide those services. Vote 8-4.

Rep. Pamela G. Price for the Minority of Education: The minority believes that we must offer choice in education for our students who don't succeed in the public schools. This bill proposes to provide a certificate to the parents for the child's tuition at an approved non-public school. The certificates are distributed by lottery to students whose family income does not exceed 200 percent of the federal poverty level. This may be raised to 300 percent if there are unused certificates. The value of the certificate is less than the state aid. The bill addresses the constitutional issues by making the voucher payable to the parents. This is essentially the same bill which passed the Education Committee last term. The minority believes that this is about helping our children achieve an education. There are some children, for whatever reason, who don't succeed in the public school system. We must provide alternatives for these students. This bill provides some options for low income students which they might not have otherwise. For these reasons, the minority supports ought to pass.

Reps. Lund and Ulery spoke against.

Rep. Bedrick spoke against and yielded to questions.

Rep. Casey spoke in favor and yielded to questions.

Rep. Claire Clarke spoke in favor.

Rep. Lund requested a roll call; sufficiently seconded.

YEAS 238 NAYS 109

YEAS 238

BELKNAP

Arsenault, Beth
Pilliod, James

Millham, Alida
Reever, Judith

Morrison, Gail
Tobin, William

Nedeau, Stephen
Wood, Jane

CARROLL

Bridgham, Robert
Heard, Virginia

Buco, Thomas

Butler, Edward

Cunningham, Howard

CHESHIRE

Allen, Peter
Butynski, William
Espieffs, Peter
Plifka, Stanley Jr
Sad, Tara

Burridge, Delmar
Chase, William
Lerandeau, Alfred
Richardson, Barbara
Weber, Lucy

Butcher, Suzanne
Dunn, J. Timothy
Mitchell, Bonnie
Roberts, Kris
Weed, Charles

Butterworth, Timothy
Eaton, Daniel
Parkhurst, Henry
Robertson, Timothy

COOS

Hatch, William
Merrick, Scott
Thomas, Yvonne

Ingersoll, Paul Sr
Remick, William

Mears, Edgar
Stohl, Eric

Merrick, Evalyn
Theberge, Robert

GRAFTON

Aguiar, James
Cooney, Mary
Hammond, Lee
Mulholland, Catherine
Williams, Burton

Almy, Susan
Estes, Carole
Harding, A Laurie
Pierce, David

Benn, Bernard
Friedrich, Carol
Lovett, Sid
Preston, Philip

Bulis, Lyle
Gionet, Edmond
Matheson, Robert
Solomon, Peter

HILLSBOROUGH

Baroody, Benjamin
Brunelle, Michael
Cote, David
Essex, David
Gargas, Carolyn
Gorman, Mary
Hall, Betty
Holden, Randolph
Kaelin, Michael
Kopka, Angeline
Levesque, Melanie

Beaulieu, Jane
Campbell, David
Daler, Jennifer
Farley, Michael
Garrity, Patrick
Graham, John
Hammond, Jill
Irwin, Anne-Marie
Kelley, John
Lasky, Bette
Long, Patrick

Beck, Catriona
Chase, Claudia
Dokmo, Cynthia
Fontas, Jeffrey
Ginsburg, Ruth
Hackel, Paul
Harvey, Suzanne
Jean, Claudette
Knowles, John
Leishman, Peter
Mack, Ron

Bergin, Peter
Clemons, Jane
Edwards, Andrew
Foster, Linda
Goley, Jeffrey
Haley, Robert
Hebert, Roger
Jeudy, Jean
Knowles, Mary Ann
Levasseur, Nickolas
Matarazzo, Anthony
Sr
O'Brien, Michael Sr
Reuschel, Michael
Shaw, Barbara
Spratt, Stephen
Tahir, Saghir

Mesa, Lily
O'Connell, Timothy
Rosenwald, Cindy
Simon, Anthony
Sullivan, Daniel
Vaillancourt, Steve

Messier, Irene
O'Neil, James
Schulze, Joan
Smith, David
Sullivan, Francis
Velez, Hector

Movsesian, Lori
Peterson, Andy
Shattuck, Gilman
Smith, Sandra
Sysyn, Mary

MERRIMACK

Baxley, Maureen
Brueggemann, Donald
DeStefano, Stephen
Gile, Mary
Kjellman, Eleanor
Glynn
Owen, Derek
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Blanchard, Elizabeth
Clarke, Claire
Ehlers, Eileen
Hager, Elizabeth
Lockwood, Priscilla
Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Bouchard, Candace
Davis, Frank
Foote, Robert
Hamm, Christine
McMahon, Patricia
Potter, Frances
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

Brown, Carole
DeJoie, John
French, Barbara
Kidder, David
Osborne, Jessie
Reardon, Tara
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Abbott, Dennis	Allen, Mary	Borden, David	Brown, C. Pennington
Cali-Pitts, Jacqueline	Casey, Kimberley	Day, Judith	Devine, James
DiFruscia, Anthony	Flanders, John Sr	Flockhart, Eileen	Gould, Kenneth
Grote, Otto	Henson, John	Howard, Doreen	Johnson, Robert
Katsakiores, George	Kennedy, James	Kepner, Susan	Lister, Charlotte
Marsh, Michael	McCarthy, Linda	McEachern, Paul	McGuirk, Thomas
McKenna, Daniel	Moody, Marcia	Moore, Bennett	Nord, Susi
Pantelakos, Laura	Powers, James	Preston, Mark	Robertson, Carl
Russell, Trinka	Serlin, Christopher	Snow, Richard	Splaine, James
Waterhouse, Kevin	Wells, Roger	Winchell, George	

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Jennifer
Brown, Julie	Brown, Larry	Browne, Brendon	Burke, Rachel
Cyr, James	DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas
Grassie, Anne	Hutz, Sarah	Kaen, Naida	Knowles, William
Mickelonis, Shawn	Miller, Joseph	Perry, Robert	Rollo, Deanna
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Sprague, Dale	Sr nec, Robert	Vachon, Dennis
Wall, Janet	Watson, Robert		

SULLIVAN

Cloutier, John	Converse, Larry	Ferland, Brenda	Franklin, Peter
Gagnon, Raymond	Gottling, Suzanne	Houde, Matthew	Jillette, Arthur Jr
Nielsen, Ellen	Phinizy, James		

NAYS 109

BELKNAP

Allen, Janet	Boyce, Laurie	Russell, David	Thomas, John
Tilton, Franklin	Wendelboe, Fran	Whalley, Michael	

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Chandler, Gene	Denley, William
Martin, James	Merrow, Harry	Patten, Betsey	Stevens, Stanley

CHESHIRE

Emerson, Susan	Hunt, John	Johnson, Jane
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COOS

King, Frederick	Tholl, John Jr
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GRAFTON

Dingman, Vernon III	Eaton, Stephanie	Ingbretson, Paul	Sorg, Gregory
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HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christensen, Chris
Christiansen, Lars	Clark, Mark	Coughlin, Pamela	Crane, Elenore Casey
Daniels, Gary	Day, Russell	Elliott, Nancy	Emerton, Larry

Francoeur, Bea
Hunter, Bruce
Lessard, Rudy
Moran, Edward
Renzullo, Andrew
Stepanek, Stephen

Haefner, Robert
Kurk, Neal
Manney, Pamela
Ober, Lynne
Rowe, Robert
Ulery, Jordan

Hinkle, Peyton
L'Heureux, Robert
Martineau, Jesse
Ober, Russell III
Soucy, Connie
Villeneuve, Maurice

Hogan, Edith
Lawrence, James
Mooney, Maureen
Price, Pamela
Spaulding, Jayne
Winters, Joel

MERRIMACK

Anderson, Eric
Reed, Dennis

Hess, David

Humphries, Charlie

MackKay, James

ROCKINGHAM

Baldasaro, Alfred
Carson, Sharon
Dumaine, Dudley
Forsing, Robert
Guthrie, Joseph
Introne, Robert
Lund, Howie
Nowe, Ronald
Quandt, Matthew
Stiles, Nancy

Bedrick, Jason
Case, Frank
Elliott, Robert
Garcia, Marilinda
Headd, James
Itse, Daniel
Major, Norman
Packard, Sherman
Rausch, James
Weare, Everett

Bettencourt, David
Charron, Gene
Emiro, Frank
Garrity, James
Hopfgarten, Paul
Kappler, Lawrence
McKinney, Betsy
Pearson, Mark
Reagan, John
Welch, David

Camm, Kevin
Dalrymple, David
Fesh, Bob
Griffin, Mary
Ingram, Russell
Katsakiores, Phyllis
McMahon, Charles
Quandt, Marshall
Sanders, Elisabeth
Weyler, Kenneth

STRAFFORD

Goodwin, Earle

SULLIVAN

Donovan, Thomas Rodeschin, Beverly Skinder, Carla
and the majority committee report was adopted.

HB 861-FN, allowing certain members of the United States armed forces and their dependents to attend public postsecondary institutions at the in-state resident tuition rate. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Sharon M. Carson for Education: This bill recognizes the service of our active duty members of our armed forces and their dependents. It allows those active duty members and their dependents stationed in New Hampshire or living in New Hampshire with duty stations in contiguous states to attend New Hampshire post secondary institutions at the in-state tuition rate. Vote 7-4.

Amendment (0307h)

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

AN ACT allowing certain active duty members of the United States armed forces and their dependents to attend public postsecondary institutions at the in-state resident tuition rate.

Amend RSA 110-B:81 as inserted by section 1 of the bill by replacing it with the following:

110-B:81 Active Duty Members of the Armed Forces; In-State Resident Tuition Rate.
Active duty members and dependents of active duty members of the United States armed forces who are stationed in New Hampshire or living in New Hampshire with duty stations in contiguous states, who are otherwise eligible to attend public postsecondary institutions, may take courses at such institutions at the in-state resident tuition rate.

AMENDED ANALYSIS

This bill allows active duty members and dependents of active duty members of the United States armed forces who are stationed in New Hampshire or living in New

Hampshire with duty stations in contiguous states to attend public postsecondary institutions at the in-state resident tuition rate.

Amendment adopted.

Committee report adopted.

Referred to the Committee on Finance.

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

HB 870-FN-A-L, relative to the calculation and disbursement of adequate education grants. **INEXPEDIENT TO LEGISLATE.**

Rep. Paul Ingbreton for Education: At the public hearing, both sponsors testified that the bill as it was before the committee was intended to be only the starting point for a major and comprehensive revision. It represented a current version of what had first been enacted in 1999 and remained in law with only minor changes for more than four years. As the two sponsors strongly believe that all four issues concerning an adequate education should be addressed simultaneously and comprehensively this year, they expressly asked the committee not to retain this bill. Vote 11-2.

Committee report adopted.

HB 112, relative to the method of depositing a ballot. **INEXPEDIENT TO LEGISLATE.**

Rep. Janet F. Allen for Election Law: This bill deals only with towns that hand count their ballots and would require the voters to deposit their ballots into the ballot box without any assistance from the moderator. The secretary of state's office testified in opposition to this bill. They believe that it would be too easy to duplicate the ballot. If we are going to question the integrity of ballot counting machines and the possibility of election fraud, then we should look at all aspects of election fraud including voter fraud. The purpose of the moderator touching the ballot is to insure that there is only one ballot. The majority of our committee did not believe that there is a problem with the process that is now in effect. Vote 8-7.

Committee report adopted.

HB 136, relative to approval of voting machines. **INEXPEDIENT TO LEGISLATE.**

Rep. David M. Pierce for Election Law: The majority of the committee voted against this bill as a matter of process, not necessarily as a substantive objection to the bill's subject matter. Other legislation dealing with issue related to this bill are forthcoming and the committee will retain some of those bills for further study. It is contemplated that portions of this bill will be consolidated with those retained bills. In this way, the committee can study and report out a comprehensive bill dealing with all aspects of the subject of electronic vote counting machines used in New Hampshire elections. Vote 13-4.

Committee report adopted.

HB 138, relative to disclosure of voting machine information. **INEXPEDIENT TO LEGISLATE.**

Rep. Claudia A. Chase for Election Law: The majority of the committee voted against this bill as a matter of process, not necessarily as the substantative objections to the bill's subject matter. Other legislation dealing with issues related to this bill are forthcoming and the committee will retain some of those bills for further study. It is contemplated that portions of this bill will be consolidated with those retained bills. In this way, the committee can study and report out a comprehensive bill dealing with all aspects of the subject of electronic vote counting machines used in New Hampshire elections. Vote 15-2.

Committee report adopted.

HB 239-FN-A, appropriating funds to the barn preservation fund matching grants program. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Jane E. Beaulieu for the Majority of Environment and Agriculture: Locating financial resources to do repairs and updates has led to many barns demise in recent years. Some are dismantled and sold to other states. Funding this bill would assist maintaining a valuable New Hampshire resource – agricultural heritage. Vote 15-1.

Rep. Steve Vaillancourt for the Minority of Environment and Agriculture: Like the bill calling for state support for educating a “large animal” veterinarian, this bill provides special funding for a purpose far from vital to our society or our state. As such, even though the bill will have to go to the Finance Committee for final adjudication, the minority feels obligated to express opposition at this time. The Governor, in his budget, called for a \$12 million appropriation for LCHIP. This bill would commit another \$75,000 per year (\$150,000 for the biennium) to the barn preservation fund which has not been previously funded. At a time when we are uncertain about education funding; at a time when the developmental disability waiting list totals 150 or more individuals; at a time when so many vital state services will go unfunded, the minority cannot in good conscience recommend barn preservation as a priority. Even if this type of thing were to be a priority, monies should certainly come from the LCHIP monies even if an amendment to the LCHIP bill is needed to achieve that. Truly, government cannot be all things to all people, but we must put people ahead of barns whose owners already got a potential windfall with the bill passed earlier this session.

Rep. Vaillancourt spoke against.

Reps. Beaulieu and Essex spoke in favor.

Rep. Hopfgarten requested a roll call; sufficiently seconded.

YEAS 219 NAYS 131

YEAS 219

BELKNAP

Arsenault, Beth
Reever, Judith

Millham, Alida
Russell, David

Morrison, Gail
Tobin, William

Pilliod, James
Wood, Jane

CARROLL

Bridgham, Robert
Heard, Virginia

Buco, Thomas
Knox, J. David

Butler, Edward

Cunningham, Howard

CHESHIRE

Allen, Peter
Butynski, William
Lerandeau, Alfred
Richardson, Barbara
Weed, Charles

Burridge, Delmar
Chase, William
Mitchell, Bonnie
Roberts, Kris

Butcher, Suzanne
Dunn, J. Timothy
Parkhurst, Henry
Sad, Tara

Butterworth, Timothy
Eaton, Daniel
Plifka, Stanley Jr
Weber, Lucy

COOS

Hatch, William
Merrick, Scott

Ingersoll, Paul Sr
Theberge, Robert

Mears, Edgar
Thomas, Yvonne

Merrick, Evalyn

GRAFTON

Aguiar, James
Cooney, Mary
Friedrich, Carol
Matheson, Robert
Pierce, David

Almy, Susan
Dingman, Vernon III
Hammond, Lee
McLeod, Martha
Preston, Philip

Andersen, Gene
Eaton, Stephanie
Harding, A Laurie
Mulholland, Catherine
Solomon, Peter

Benn, Bernard
Estes, Carole
Lovett, Sid
Nordgren, Sharon
Williams, Burton

HILLSBOROUGH

Baroody, Benjamin Brunelle, Michael Cote, David Emerton, Larry Foster, Linda Goley, Jeffrey Hammond, Jill Irwin, Anne-Marie Kelley, John Lasky, Bette Mack, Ron	Beaulieu, Jane Campbell, David Coughlin, Pamela Essex, David Gargas, Carolyn Gorman, Mary Harvey, Suzanne Jean, Claudette Knowles, John Leishman, Peter Martineau, Jesse	Beck, Catriona Chase, Claudia Daler, Jennifer Farley, Michael Garritty, Patrick Hackel, Paul Hebert, Roger Jeudy, Jean Knowles, Mary Ann Levesque, Melanie Matarazzo, Anthony Sr O'Connell, Timothy Shattuck, Gilman Spaulding, Jayne Sysyn, Mary	Bergin, Peter Clemons, Jane Edwards, Andrew Fontas, Jeffrey Ginsburg, Ruth Hall, Betty Holden, Randolph Kaelin, Michael Kopka, Angeline Long, Patrick Mesa, Lily O'Neil, James Shaw, Barbara Spratt, Stephen Velez, Hector
Messier, Irene Reuschel, Michael Simon, Anthony Sullivan, Daniel	Movsesian, Lori Rosenwald, Cindy Smith, Sandra Sullivan, Francis		

MERRIMACK

Baxley, Maureen Brueggemann, Donald DeStefano, Stephen Gile, Mary	Blanchard, Elizabeth Clarke, Claire Ehlers, Eileen Hager, Elizabeth	Bouchard, Candace Davis, Frank Foose, Robert Hamm, Christine	Brown, Carole DeJoie, John French, Barbara Kjellman, Eleanor Glynn Porter, Margaret Ryan, Jim Wallner, Mary Williams, Robert
McMahon, Patricia Potter, Frances Shurtleff, Stephen Walz, Mary Yeaton, Charles	Osborne, Jessie Reardon, Tara Tilton, Joy Webb, Leigh	Owen, Derek Richardson, Gary Tupper, Frank Wheeler, Deborah	

ROCKINGHAM

Abbott, Dennis Casey, Kimberley Gleason, John Johnson, Robert Kepner, Susan McKenna, Daniel Powers, James Snow, Richard	Borden, David Day, Judith Grote, Otto Katsakiores, George McCarthy, Linda Moody, Marcia Preston, Mark Splaine, James	Brown, C. Pennington Devine, James Henson, John Katsakiores, Phyllis McEachern, Paul Nord, Susi Robertson, Carl	Cali-Pitts, Jacqueline DiFruscia, Anthony Howard, Doreen Kennedy, James McGuirk, Thomas Pantelakos, Laura Serlin, Christopher
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STRAFFORD

Berube, Roger Burke, Rachel Fargo, Thomas Knowles, William Rollo, Deanna Smith, Marjorie Vachon, Dennis	Brennan, William Cyr, James Grassie, Anne Mickelonis, Shawn Rollo, Michael Spang, Judith Wall, Janet	Brown, Larry DeChane, Marlene Hutz, Sarah Miller, Joseph Rous, Emma Sprague, Dale	Browne, Brendon Domingo, Baldwin Kaen, Naida Perry, Robert Schmidt, Peter Sr nec, Robert
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SULLIVAN

Cloutier, John Franklin, Peter Jillette, Arthur Jr	Converse, Larry Gagnon, Raymond Nielsen, Ellen	Donovan, Thomas Gottling, Suzanne Phinizy, James	Ferland, Brenda Houde, Matthew Skinder, Carla
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NAYS 131

BELKNAP

Allen, Janet
Tilton, Franklin

Boyce, Laurie
Wendelboe, Fran

Nedeau, Stephen
Whalley, Michael

Thomas, John

CARROLL

Ahlgren, Christopher
Martin, James

Brown, Carolyn
Morrow, Harry

Chandler, Gene
Patten, Betsey

Denley, William
Stevens, Stanley

CHESHIRE

Emerson, Susan

Espieffs, Peter

Hunt, John

Johnson, Jane

COOS

King, Frederick

Remick, William

Stohl, Eric

Tholl, John Jr

GRAFTON

Bulis, Lyle

Gionet, Edmond

Ingbretson, Paul

Sorg, Gregory

HILLSBOROUGH

Barry, Richard
Christiansen, Lars
Day, Russell
Graham, John
Hogan, Edith
L'Heureux, Robert
Manney, Pamela
Ober, Russell III
Rowe, Robert
Stepanek, Stephen
Villeneuve, Maurice

Batula, Peter
Clark, Mark
Dokmo, Cynthia
Haefner, Robert
Hunter, Bruce
Lawrence, James
Mooney, Maureen
Peterson, Andy
Schulze, Joan
Tahir, Saghir
Winters, Joel

Bergeron, Jean-Guy
Crane, Elenore Casey
Elliott, Nancy
Haley, Robert
Jasper, Shawn
Lessard, Rudy
Moran, Edward
Price, Pamela
Smith, David
Ulery, Jordan

Christensen, Chris
Daniels, Gary
Francoeur, Bea
Hinkle, Peyton
Kurk, Neal
Levasseur, Nickolas
Ober, Lynne
Renzullo, Andrew
Soucy, Connie
Vaillancourt, Steve

MERRIMACK

Anderson, Eric
Lockwood, Priscilla

Hess, David
MacKay, James

Humphries, Charlie
Reed, Dennis

Kidder, David

ROCKINGHAM

Allen, Mary
Camm, Kevin
Dalrymple, David
Fesh, Bob
Garcia, Marilinda
Guthrie, Joseph
Introne, Robert
Lund, Howie
McMahon, Charles
Quandt, Marshall
Russell, Trink
Weare, Everett
Winchell, George

Baldasaro, Alfred
Carson, Sharon
Dumaine, Dudley
Flanders, John Sr
Garrity, James
Headd, James
Itse, Daniel
Major, Norman
Nowe, Ronald
Quandt, Matthew
Sanders, Elisabeth
Welch, David

Bedrick, Jason
Case, Frank
Elliott, Robert
Flockhart, Eileen
Gould, Kenneth
Hopfgarten, Paul
Kappler, Lawrence
Marsh, Michael
Packard, Sherman
Rausch, James
Stiles, Nancy
Wells, Roger

Bettencourt, David
Charron, Gene
Emiro, Frank
Forsing, Robert
Griffin, Mary
Ingram, Russell
Lister, Charlotte
McKinney, Betsy
Pearson, Mark
Reagan, John
Waterhouse, Kevin
Weyler, Kenneth

STRAFFORD

Billian, Deborah
Watson, Robert

Brown, Jennifer

Brown, Julie

Goodwin, Earle

SULLIVAN

Rodeschin, Beverly

and the majority committee report was adopted.

Referred to Committee on Finance.

Rep. Timothy Robertson declared a conflict of interest and did not participate.

HB 472-FN, increasing fees for hazardous waste management and contaminated site cleanup, establishing rulemaking authority to set future fees, and changing reporting requirements. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Jane E. Beaulieu for the Majority of Environment and Agriculture: This bill would increase fees for hazardous waste management and contaminated site clean up and changes reporting requirements for various waste activities. This legislation does not overly burden one segment of the economy and funds current programs. This is New Hampshire's superfund. The amendment restricts fee increases to those on existing fees specified in the legislation by removing language in the original bill that would have established new fees and allowed for future increases of existing fees through rulemaking. Vote 17-1.

Rep. Steve Vaillancourt for the Minority of Environment and Agriculture: These fee increases are in the range of 50 to 100 percent. The majority argues that such a hefty boost is okay because the fees haven't been increased in years. The minority responds that such an argument would be laughed at if we suggested doubling the rooms and meals tax, the business profits tax, the telecommunications tax, the gasoline tax or any other tax simply because it hasn't been increased in years. With fee increases, the increase is even worse because fees are supposed to represent the cost of providing the service rendered. In a sense, we are already overcharging with fees if we consider a fee based on the cost of processing applications. This bill would increase the amount of one application from \$5000 to \$7500. Assuming that an employee is paid \$30 an hour (and even allowing for departmental overhead of 10%), simple math leads us to believe that 225 hours would be taken for such processing (\$7500 less 10% = \$6750 divided by \$30 = 225 hours). Clearly, these fees are being used to accomplish other goals which should be funded out of the general fund (if such programs are necessary at all). Until such a time, we should not be increasing fees, all the more so when DES acknowledged that the fund to accomplish these programs is currently at a \$3 million surplus. The minority believes that, if anything, we should be reducing these fees. The minority, however, believes the amended version is somewhat better than the original which would have allowed DES to set fees in the future without coming to the Legislature for a full-blown hearing and vote.

Majority Amendment (0341h)

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

AN ACT increasing fees for hazardous waste management and contaminated site cleanup and changing reporting requirements.

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

1 Operator Permit Fees. Amend RSA 147-A:4, II to read as follows:

II. A permit application fee not to exceed ~~[\$5,000]~~ **\$7,500** shall accompany each permit, permit modification, and permit renewal application. ~~[The amount of the fee shall reflect the relative effort necessary for review of the application. Permit application fees shall be used by the department for review of applications. In addition to the application fee, the applicant shall be responsible for all reasonable hearing costs incurred by the~~

~~department. State costs which exceed the permit application fee shall be charged monthly to the applicant at an hourly rate which includes, but is not limited to, staff salaries and benefit costs, current operating expenses, legal costs and travel. The hourly rate shall also be used to calculate any department costs associated with implementing and enforcing the terms and conditions of a permit issued by the department.]~~ Permit fees received by the department under this section shall be placed in the hazardous waste cleanup fund as established under RSA 147-B:3, shall be accounted for separately and shall be used in processing applications and enforcing and implementing conditions of a permit.

2 Small Quantity Waste Generator Self-Certification Fees. RSA 147-A:5, IV is repealed and reenacted to read as follows:

IV.(a) Each hazardous waste generator that generates less than 220 pounds (100 kilograms) of hazardous waste per month shall submit to the department, every 3 years, a self-certification declaration stating that the facility is in compliance with the small quantity hazardous waste generator rules. The declaration shall be on a form provided by the department.

(b) Each small quantity hazardous waste generator shall pay non-refundable fees at a rate of \$60 per year for the period of January 1, 2004 to June 30, 2007, and at a rate of \$90 per year beginning July 1, 2007, to cover department expenses for conducting the self-certification program and hiring of program staff. Total fees due for each year shall be submitted with the self-certification declaration form required under subparagraph (a).

(c) If the self-certification fee is not paid within 60 days of the due date, interest shall be assessed at a rate established by the commissioner, and shall be deposited into the cleanup fund. The commissioner may waive all or any portion of interest for good cause.

(d) Political subdivisions of the state shall be exempt from the fee for submitting a self-certification declaration.

(e) Small quantity hazardous waste generators that are participants in a department-developed multi-media compliance assurance program referred to as an environmental results program, or ERP, shall be exempt from this paragraph.

3 Initial Waste Activity Notification Fees. Amend RSA 147-A:6-a, I to read as follows:

I. Each initial notification of hazardous waste activity filed by any new hazardous waste generator in New Hampshire shall be accompanied by a non-refundable fee of [~~\$100~~] **\$150**.

4 Large Quantity Waste Generator Fees. RSA 147-B:8, I is repealed and reenacted to read as follows:

I. Each hazardous waste generator that generates in a 3-month period 660 pounds or more of unrecycled hazardous waste shall pay a quarterly fee of \$0.06 per pound or a minimum of \$100, to the department.

5 Large Quantity Waste Generator Fees. RSA 147-B:8, V is repealed and reenacted to read as follows:

V. Failure to pay fees within 60 days of the date due shall result in the assessment of interest at a rate established by the commissioner. The commissioner may waive all or any portion of interest for good cause. The department shall deposit interest collected under this section into the cleanup fund.

6 Brownfields Program Fees. Amend RSA 147-F:9, II (e) to read as follows:

(e) A non-refundable application fee of [~~\$500~~] **\$750**.

7 Brownfields Program Fees. Amend RSA 147-F:14, I-II to read as follows:

I. Any person, except for the state and local governments, including school districts, who requests an eligibility determination under RSA 147-F:4 shall pay a nonrefundable application fee of [~~\$500~~] **\$750** for program eligibility which shall be deposited in the hazardous waste cleanup fund. Any resubmittal of an incomplete application shall require an additional \$500 for each resubmission.

II. Any eligible person, except for the state and local governments, including school districts, who has previously paid the initial application fee, or any person who becomes a

program participant under RSA 147-F:5, V, shall pay a nonrefundable [~~\$3,000~~] **\$4,500** fee which shall be deposited in the hazardous waste cleanup fund and used for purposes of the review work performed by the department under this chapter.

8 Rulemaking; Records and Department Costs. Amend RSA 147-F:18, II(i) to read as follows:

(i) Program fees structure, including procedures for maintaining records of department costs for the purpose of offsetting the initial [~~\$3,000~~] fee and obtaining reimbursement in accordance with RSA 147-F:14.

9 Brownfields Program Fees. Amend RSA 485:3-b, I to read as follows:

I. Any person, except for state and local governments including counties and political subdivisions, ~~[who]~~ **that** requests an expedited review of environmental site assessment reports by the department shall pay to the department a review fee based on the equalized assessed valuation of the property **as determined in rules adopted by the commissioner under RSA 541-A, shall be** as follows:

Equalized Assessed Valuation	Fee
\$0 to \$250,000	[\$1,200] \$1,800
\$250,001 to \$500,000	[\$1,500] \$2,250
\$500,001 to \$1,000,000	[\$2,500] \$3,750
greater than \$1,000,000	[\$5,000] \$7,500

10 Brownfields Program Fees. Amend RSA 485:3-c to read as follows:

485:3-c Groundwater Management Permit Fee. Any person, ~~[except for state and local governments including counties and political subdivisions, issued]~~ **submitting** a permit **application** under RSA 485:3, X shall pay to the department a groundwater management permit **application** fee of [~~\$1,000~~] **\$2,000**. Any person who has paid the environmental site assessment review fee specified in RSA 485:3-b shall be exempt from the groundwater management permit fee. **State and local governments including counties and political subdivisions shall be exempt from groundwater management permit application fees, unless eligible for funding under RSA 146-D, RSA 146-E, RSA 146-F, or RSA 146-G.**

11 Repeal. The following are repealed:

- I. RSA 147-B:4, IV, relative to facility siting program annual reports.
- II. RSA 147-B:15, relative to used oil program agency reports.

12 New Section; Annual Report. Amend RSA 147-B by inserting after section 11 the following new section:

147-B:11-a Annual Report The department shall submit an annual report by October 1 of each year to the governor and council, speaker of the house of representative, and president of the senate, relative to the activities and finances of the hazardous waste cleanup fund.

13 Effective Date. This act shall take effect July 1, 2007.

AMENDED ANALYSIS

This bill increases fees for hazardous waste management and contaminated site cleanup and changes reporting requirements for various waste activities.

Majority amendment adopted.

On a division vote, 232 members having voted in the affirmative and 111 in the negative, the majority committee report was adopted.

Referred to the Committee on Ways and Means.

HB 897-FN-A, relative to the salary of the state veterinarian. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard H. Snow for the Majority of Environment and Agriculture While members of the committee, and indeed, the full House, may or may not support a change in salary for the current state veterinarian, this bill is not intended to address that question. The majority of the committee reached a consensus that there is a need to increase the salary range

applicable to the state veterinarian position in order to ensure that our state will be able to attract and retain competent and qualified people to fill this vital position. The committee heard and carefully considered testimony about the duties and responsibilities of our state veterinarian. The committee heard and considered testimony relative to salaries for state veterinarians in neighboring states. The committee considered the fact that the search for our current state veterinarian went on for over a year. The committee determined, based on testimony and deliberation, that the current salary range for the state veterinarian position is inadequate and recommends reclassifying it to a higher range. Vote 12-3.

Rep. Steve Vaillancourt for the Minority of Environment and Agriculture The minority does not believe that policy committees which come into contact with department heads and other state officials on a regular basis should be in the business of suggesting increased pay grades for any individual or individual positions. In the past, special blue ribbon commissions have properly considered pay grades. These commissions could look at the overall state picture and not make recommendations due to any personal consideration. In other words, personal favorites should not influence personnel. Clearly, that is what the majority did since much of the discussion regarding this pay classification centered on an individual and not on the position. The amount of money involved here is small, a difference of some \$20,000 at the maximum level of the two pay grades, but the principle of abandoning the long-standing way of evaluating state job classifications and leaving it up to a policy committee with its natural biases in favor of those it deals with is of tremendous concern to the minority.

On a division vote, 225 members having voted in the affirmative and 121 in the negative, the majority committee report was adopted.

Referred to the Committee on Finance.

CACR 11, relating to the term of office for governor. Providing that beginning with the 2010 general election, there shall be a 4-year term of office for governor. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. A. Laurie Harding for the Majority of Executive Departments and Administration: The majority of the committee felt that it was, once again, important to put this issue before the voters in the form of a constitutional amendment. The four year term was last presented to the voters in 1984. 63.61% voted in favor of a four year term, narrowly missing the required 66.67% needed for adoption. Recent polls indicate that 58% of the individuals polled would support such a change. New Hampshire is one of the only two states that has a two year term for governor. The other is Vermont. New Hampshire is a very different state than it was in 1984. Our demographics have changed. Health care delivery, the economy, the environment are presenting us with more complex problems. Our relationship with the federal government is becoming more challenging. A four year gubernatorial term would give the individual in our primary leadership position an opportunity to govern instead of running for office. Governors need a chance to establish and carry out their agendas. The passage of CACR 11 is about strengthening the future of our state. Vote 9-8.

Rep. Hector M. Velez for the Minority of Executive Departments and Administration: The minority firmly believes in the people's right to be heard every two years in the election of governor. We elect our federal congressional representatives, state representatives, state senators, and executive councilors every two years. By changing the governor's term to four years, it removes the people's right to express their opinion on how the governor's policies are being received. We heard that one of the reasons this bill was brought forward was because New Hampshire and Vermont were the only two states without a four year term. We believe that we should remain independent in having a two year term. Historically, the governor has been elected to a second term in office. This has happened because we have no term limits, and the people of our state, by voting every two years, have made the decision of who will lead us. This bill takes away the New Hampshire advantage. We were also told the governor has to think too much about re-election, and we believe that this is a good idea.

MOTION TO LAY ON THE TABLE

Rep. Velez moved that **CACR 11**, relating to the term of office for governor. Providing that beginning with the 2010 general election, there shall be a 4-year term of office for governor, be laid on the table.

Rep. Velez requested a roll call; sufficiently seconded.

YEAS 91 NAYS 258

YEAS 91

BELKNAP

Millham, Alida

CARROLL

Chandler, Gene

Stevens, Stanley

CHESHIRE

Hunt, John

Parkhurst, Henry

COOS

King, Frederick

Stohl, Eric

GRAFTON

Bulis, Lyle
Ingbretson, Paul

Dingman, Vernon III
Solomon, Peter

Eaton, Stephanie
Sorg, Gregory

Gionet, Edmond

HILLSBOROUGH

Batula, Peter
Christiansen, Lars
Gargas, Carolyn
Jasper, Shawn
Mooney, Maureen
Ober, Russell III
Soucy, Connie
Ulery, Jordan
Winters, Joel

Bergeron, Jean-Guy
Clark, Mark
Graham, John
L'Heureux, Robert
Moran, Edward
Renzullo, Andrew
Spaulding, Jayne
Vaillancourt, Steve

Bergin, Peter
Daniels, Gary
Hinkle, Peyton
Lawrence, James
O'Connell, Timothy
Schulze, Joan
Stepanek, Stephen
Velez, Hector

Christensen, Chris
Day, Russell
Hogan, Edith
Lessard, Rudy
Ober, Lynne
Smith, David
Tahir, Saghir
Villeneuve, Maurice

MERRIMACK

Anderson, Eric

Humphries, Charlie

Lockwood, Priscilla

Reed, Dennis

ROCKINGHAM

Allen, Mary
Carson, Sharon
Gleason, John
Headd, James
Itse, Daniel
Katsakiores, Phyllis
Nowe, Ronald
Quandt, Matthew
Stiles, Nancy

Baldasaro, Alfred
Case, Frank
Gould, Kenneth
Hopfgarten, Paul
Johnson, Robert
Lund, Howie
Packard, Sherman
Rausch, James
Weyler, Kenneth

Bettencourt, David
Charron, Gene
Griffin, Mary
Ingram, Russell
Kappler, Lawrence
Major, Norman
Pearson, Mark
Reagan, John

Camm, Kevin
Emiro, Frank
Grote, Otto
Introne, Robert
Katsakiores, George
McMahon, Charles
Quandt, Marshall
Robertson, Carl

STRAFFORD

Brown, Julie Goodwin, Earle Sprague, Dale

SULLIVAN

Ferland, Brenda Phinizy, James Rodeschin, Beverly

NAYS 258

BELKNAP

Allen, Janet	Arsenault, Beth	Morrison, Gail	Nedeau, Stephen
Pilliod, James	Reever, Judith	Russell, David	Thomas, John
Tilton, Franklin	Tobin, William	Wendelboe, Fran	Whalley, Michael
Wood, Jane			

CARROLL

Ahlgren, Christopher	Bridgham, Robert	Brown, Carolyn	Buco, Thomas
Butler, Edward	Cunningham, Howard	Denley, William	Heard, Virginia
Knox, J. David	Martin, James	Merrow, Harry	Patten, Betsey

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Emerson, Susan	Espiefs, Peter	Johnson, Jane	Lerandeau, Alfred
Mitchell, Bonnie	Plifka, Stanley Jr	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sad, Tara	Weber, Lucy	Weed, Charles

COOS

Hatch, William	Ingersoll, Paul Sr	Mears, Edgar	Merrick, Evalyn
Merrick, Scott	Remick, William	Tholl, John Jr	Thomas, Yvonne

GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Benn, Bernard
Cooney, Mary	Estes, Carole	Friedrich, Carol	Hammond, Lee
Harding, A Laurie	Lovett, Sid	Matheson, Robert	McLeod, Martha
Mulholland, Catherine	Nordgren, Sharon	Pierce, David	Preston, Philip
Williams, Burton			

HILLSBOROUGH

Baroody, Benjamin	Barry, Richard	Beaulieu, Jane	Beck, Catriona
Brunelle, Michael	Campbell, David	Chase, Claudia	Clemons, Jane
Cote, David	Coughlin, Pamela	Crane, Elenore Casey	Daler, Jennifer
Dokmo, Cynthia	Edwards, Andrew	Elliott, Nancy	Emerton, Larry
Essex, David	Farley, Michael	Fontas, Jeffrey	Foster, Linda
Francoeur, Bea	Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Hackel, Paul	Haefner, Robert	Haley, Robert
Hammond, Jill	Harvey, Suzanne	Hebert, Roger	Holden, Randolph
Irwin, Anne-Marie	Jean, Claudette	Jeudy, Jean	Kaelin, Michael
Kelley, John	Knowles, John	Knowles, Mary Ann	Kopka, Angeline
Kurk, Neal	Lasky, Bette	Leishman, Peter	Levasseur, Nickolas
Levesque, Melanie	Long, Patrick	Mack, Ron	Manney, Pamela
Martineau, Jesse	Matarazzo, Anthony	Mesa, Lily	Messier, Irene

Movsesian, Lori	Sr	O'Neil, James	Peterson, Andy
Price, Pamela	O'Brien, Michael Sr	Rosenwald, Cindy	Rowe, Robert
Shattuck, Gilman	Reuschel, Michael	Simon, Anthony	Smith, Sandra
Spratt, Stephen	Shaw, Barbara	Sysyn, Mary	
	Sullivan, Daniel		

MERRIMACK

Baxley, Maureen	Blanchard, Elizabeth	Bouchard, Candace	Brown, Carole
Brueggemann, Donald	Clarke, Claire	Davis, Frank	DeJoie, John
DeStefano, Stephen	Ehlers, Eileen	Foose, Robert	French, Barbara
Gile, Mary	Hager, Elizabeth	Hamm, Christine	Hess, David
Kidder, David	Kjellman, Eleanor	MacKay, James	McMahon, Patricia
	Glynn		
Osborne, Jessie	Owen, Derek	Porter, Margaret	Potter, Frances
Reardon, Tara	Richardson, Gary	Ryan, Jim	Shurtleff, Stephen
Tilton, Joy	Tupper, Frank	Wallner, Mary	Walz, Mary
Webb, Leigh	Wheeler, Deborah	Williams, Robert	Yeaton, Charles

ROCKINGHAM

Abbott, Dennis	Bedrick, Jason	Bishop, Franklin	Borden, David
Brown, C. Pennington	Cali-Pitts, Jacqueline	Casey, Kimberley	Dalrymple, David
Day, Judith	Devine, James	DiFruscia, Anthony	Dumaine, Dudley
Elliott, Robert	Fesh, Bob	Flanders, John Sr	Flockhart, Eileen
Forsing, Robert	Garcia, Marilinda	Garrity, James	Guthrie, Joseph
Howard, Doreen	Kennedy, James	Kepner, Susan	Lister, Charlotte
Marsh, Michael	McCarthy, Linda	McEachern, Paul	McGuirk, Thomas
McKenna, Daniel	McKinney, Betsy	Moody, Marcia	Moore, Bennett
Nord, Susi	Pantelakos, Laura	Powers, James	Preston, Mark
Russell, Trinka	Sanders, Elisabeth	Serlin, Christopher	Snow, Richard
Splaine, James	Waterhouse, Kevin	Weare, Everett	Welch, David
Wells, Roger	Winchell, George		

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Jennifer
Brown, Larry	Browne, Brendon	Burke, Rachel	Cyr, James
DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas	Grassie, Anne
Hilliard, Dana	Hutz, Sarah	Kaen, Naida	Knowles, William
Mickelonis, Shawn	Miller, Joseph	Perry, Robert	Rollo, Deanna
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Srnec, Robert	Vachon, Dennis	Wall, Janet
Watson, Robert			

SULLIVAN

Cloutier, John	Converse, Larry	Donovan, Thomas	Franklin, Peter
Gagnon, Raymond	Gottling, Suzanne	Houde, Matthew	Jillette, Arthur Jr
Nielsen, Ellen	Skinder, Carla		

and the motion failed.

MOTION TO SPECIAL ORDER

Rep. Campbell moved that **CACR 11**, relating to the term of office for governor. Providing that beginning with the 2010 general election, there shall be a 4-year term of office for governor, be made a Special Order for March 21, 2007 in regular calendar order.

Rep. Velez spoke against.

Rep. Campbell spoke in favor.

On a division vote, 185 members having voted in the affirmative and 166 in the negative, the motion was adopted.

REGULAR CALENDAR (CONT'D)

HB 155, relative to membership of the state building code review board. **OUGHT TO PASS WITH AMENDMENT.**

Rep. A. Laurie Harding for Executive Departments and Administration: This bill would add a 17th member to the Building Code Review Board. This individual, nominated by the Fire Prevention Society, would bring an additional level of technical expertise to the board. The bill was amended, at the request of the fire chiefs, to replace one chief's position with an "active fire prevention officer" nominated by the New Hampshire fire chiefs leaving the number on the board at 16. Vote 14-3.

Amendment (0063h)

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

1 State Building Code Review Board; Active Fire Prevention Officer. Amend RSA 155-A:10, I(h) to read as follows:

(h) One ~~[municipal volunteer fire chief]~~ **active fire prevention officer**, nominated by the New Hampshire Association of Fire Chiefs.

2 State Building Code Review Board; Appointments. Amend RSA 155-A:10, II to read as follows:

II. The term of each member shall be 3 years ~~[except that persons initially appointed under subparagraphs I(a), (d), (g), (j) and (m) shall serve one year terms, and persons initially appointed under subparagraphs I(b), (e), (h), (k) and (n) shall serve 2 year terms]~~. The chair shall be appointed by the commissioner of safety. Board members shall be appointed for no more than 2 consecutive 3-year terms.

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

AMENDED ANALYSIS

This bill requires the New Hampshire Association of Fire Chiefs to appoint an active fire prevention officer to the state building code review board. The bill also removes the provision that staggered the terms of the first appointees to the state building code review board.

Amendment adopted.

Committee report adopted.

Ordered to third reading.

HB 871-FN-A, allowing the fish and game department to conduct an annual auction of moose hunting permits. **INEXPEDIENT TO LEGISLATE.**

Rep. John W. Henson for Fish and Game: This bill would have permitted auctioning of three moose permits to the highest bidder, resident or non-resident, for a minimum of \$5000. The committee voted not to support this bill for the following reasons: the amount of money raised would not alleviate the funding crisis in the Fish and Game Department, and the wildlife belongs to the general public and should not be auctioned to the highest bidder for short term gain. Vote 6-5.

Committee report adopted.

HB 628-FN-A, establishing the New Hampshire Rx advantage program and continually appropriating a special fund. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. James R. MacKay for the Majority of Health, Human Services and Elderly Affairs: This bill establishes the New Hampshire Rx Plus Program. The intent is to make drugs more affordable for those who are low income, uninsured individuals. It is an attempt to deal with

one aspect of the delivery of health care services to those who are disadvantaged. The bill calls for a prescription discount card to be used in pharmacies, and, in addition, it directs DHHS to enter into rebate agreements with pharmaceutical companies. This bill has been many years in the making. It is supported by AARP and the New Hampshire Independent Pharmacy Association. It is patterned after a successful similar bill in the State of Maine that has led to discounts of 15-60 percent to low income, uninsured individuals for drugs from pharmaceutical companies who participate in the Medicaid program. This program has been upheld all the way to the United States Supreme Court as being constitutional and being consistent with the goals of Medicaid. The amendment to this bill is designed to help pharmacies from inadvertently being in conflict with the state's "most favored nation" law; while participating with this plan, they are exempted from the penalties of RSA 126, IV. The committee strongly supports this legislation. Vote 18-1.

Rep. Susan Emerson for the Minority of Health, Human Services and Elderly Affairs: The major point of the controversy in this bill is a provision that is referred to as "The Hammer." "The Hammer" clause says that if a particular drug company chooses not to provide discounts under this program then the state may make it harder for New Hampshire citizens to obtain that company's drugs under the Medicaid program by implementing prior authorization. The bill gives the state the option to leverage the Medicaid program to obtain discounts for others and it could backfire on the poorest of the poor. The State of Maine enacted a law with "The Hammer" clause; however, that state has told the United States District Court that Maine would request a waiver if it planned to implement "The Hammer." So far, there has been no indication in Maine that "The Hammer" will be used. Since Maine has made this commitment to the court and has not, to anyone's knowledge, begun the process of seeking federal CMS (Center for Medicare and Medicaid Services) approval, it is reasonable to believe that drug companies are choosing to participate or not to participate in Maine based on other business considerations. Other states, such as Ohio, have not included "The Hammer" in their statutes. "The Hammer" is the minority's primary opposition to this bill and, unless it is removed, the minority thinks the bill should be ITL. There are also concerns about the fiscal note.

Majority Amendment (0294h)

Amend RSA 161-L:1 as inserted by section 2 of the bill by replacing it with the following:

161-L:1 Definitions. In this chapter:

- I. "Commissioner" means the commissioner of the department of health and human services.
- II. "Covered drugs" means drugs that are on the New Hampshire preferred drug list.
- III. "Department" means the department of health and human services.
- IV. "Fund" means the New Hampshire Rx advantage program fund, established in RSA 161-L:5.
- V. "Initial discounted price" for a drug means the price which has been discounted from a pharmacy's usual and customary charge that participating retail pharmacies may charge qualified residents participating in the program for that drug.
- VI. "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. section 207.20.
- VII. "Participating retail pharmacy" or "retail pharmacy" means a retail pharmacy located in this state, or another business licensed to dispense prescription drugs in this state, that participates in the program.
- VIII. "Program" means the New Hampshire Rx advantage program established under this chapter.
- IX. "Qualified resident" means a resident of this state who has a family income equal to or less than 350 percent of the federal poverty level and who self-qualifies as an enrollee in

the program. "Qualified resident" also means a resident of this state whose family incurs unreimbursed expenses for prescription drugs that equal 5 percent or more of family income or whose total unreimbursed medical expenses equal 15 percent or more of family income. For purposes of this definition, the cost of drugs provided under this chapter shall be considered an expense incurred by the family for eligibility determination purposes.

X. "Secondary discounted price" means the initial discounted price minus any further discounts paid for out of the fund.

XI. "Usual and customary charge" means the charge a pharmacy charges a customer for a prescription drug.

Amend RSA 161-L:2, I as inserted by section 2 of the bill by replacing it with the following:

I. A drug manufacturer or labeler that sells prescription drugs in this state through any other publicly-supported pharmaceutical assistance program may enter into a rebate agreement with the department for this program. The rebate agreement shall require the manufacturer or labeler to make rebate payments to the state each calendar quarter or according to a schedule established by the department.

Amend RSA 161-L:4 as inserted by section 2 of the bill by replacing it with the following:

161-L:4 Nonparticipating Manufacturers and Labelers. The names of manufacturers and labelers who do and do not enter into rebate agreements pursuant to this chapter shall be public information. The department shall release such information to health care providers and the public on a regular basis and shall publicize participation by manufacturers and labelers that is of particular benefit to the public. The department shall impose prior authorization requirements in the program, as permitted by law, to the extent the department determines it is appropriate to do so in order to encourage manufacturer and labeler participation in the program and if the additional prior authorization requirements remain consistent with the goals of the program and the requirements of the federal Social Security Act, Title 19.

Amend RSA 161-L:6 as inserted by section 2 of the bill by replacing it with the following:

161-L:6 Rulemaking. The commissioner shall adopt rules pursuant to RSA 541-A, relative to:

- I. Procedures for issuing program enrollment cards.
- II. Outreach efforts to build public awareness of the program and to maximize enrollment of eligible residents.
- III. Content and format of any forms required under this chapter.
- IV. Procedures for entering into rebate agreements with drug manufacturers or labelers.

- V. Manner of releasing information to the public under RSA 161-L:4.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-5 to read as 4-6, respectively:

3 Generic Drugs. Amend RSA 126-A:3, V to read as follows:

V. Pharmacists shall substitute generically equivalent drug products for all legend and non-legend prescriptions paid for by the department of health and human services, including the medicaid program, unless the prescribing practitioner specifies that the brand name drug product is medically necessary. Such notification shall be in the practitioner's own handwriting and shall be retained in the pharmacist's file. ~~[The commissioner may waive the application of RSA 126-A:3, III if the commissioner determines such action is necessary to ensure the availability of prescription and other pharmaceutical services to persons served by the department or to avert serious economic hardship in the provision of prescriptions and other pharmaceutical services. The commissioner shall adopt rules under RSA 541-A relative to a waiver of the application.]~~ ***The provisions of paragraph IV shall not apply to the dispensing by a pharmacy for medical assistance reimbursement for legend and non-legend drugs.*** The commissioner, in consultation with pharmacy providers, ~~[may develop a new methodology for]~~ ***shall establish*** medical assistance reimbursement for legend and non-legend drugs.

Majority amendment adopted.

Rep. Charles McMahon offered floor amendment (0421h).

Floor Amendment (0421h)

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

AN ACT establishing the New Hampshire Rx advantage program and continually appropriating a special fund and relative to the waiting list for services to persons with developmental disabilities and acquired brain disorders and making an appropriation therefor.

Amend the bill by replacing section 6 with the following:

6 Purpose. It is the intention of the general court in sections 6 through 8 of this act to provide sufficient funding to the department of health and human services to ensure that persons who apply for and are eligible to receive services in the state's developmental services system receive such services without undue delay. Therefore, the general court hereby achieves its objective by reducing the time between completion of a preliminary written individual service agreement for persons who have been determined eligible for services and the allocation by the state of the funds needed to carry out the services required by the agreement to no more than 90 days.

7 New Section; Waiting List; Duration Limits. Amend RSA 171-A by inserting after section 1-c the following new section:

171-A:1-d Waiting List; Limits. The department shall provide services to eligible persons under this chapter in a timely manner. The department shall provide services in such a manner that the period between the time of completion of a preliminary written individual service agreement pursuant to RSA 171-A:12 and the allocation by the department of the funds needed to carry out the services required by the agreement shall not exceed 90 days. The department shall make quarterly reports to the oversight committee established by RSA 171-A:1-c, and the oversight committee on health and human services, established by RSA 126-A:13, on the status of the waiting list and compliance with this section.

8 Appropriation; Waiting List. The sum of \$4,100,000 in general funds together with federal matching funds for the fiscal year ending June 30, 2008 and the sum of \$11,900,000 in general funds together with federal matching funds for the fiscal year ending June 30, 2009 are hereby appropriated to the department of health and human services, for the purpose of providing services to persons with developmental disabilities and acquired brain disorders who have applied and have been determined eligible for services and who have been placed on a waiting list for such services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

9 Effective Date.

I. Sections 6-8 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes the New Hampshire Rx advantage program for prescription drugs. Under this bill, participating pharmacies shall sell prescription drugs to qualified residents at a discounted price. The bill grants rulemaking authority to the New Hampshire pharmacy board and the commissioner of the department of health and human services for the purposes of the program.

This bill also requires the department of health and human services to provide services to persons with developmental disabilities and acquired brain disorders within 90 days of a preliminary written individual service agreement and makes an appropriation for the purposes of this requirement.

The Speaker ruled floor amendment (0421h) non germane.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.

Rep. Wendelboe spoke against and yielded to questions.

Reps. Rosenwald and DeJoie spoke in favor.

On a division vote, 257 members having voted in the affirmative and 95 in the negative, the majority committee report was adopted.

Referred to the Committee on Finance.

HB 721, relative to the appropriation to the department of health and human services for rates paid for nursing services. **OUGHT TO PASS.**

Rep. Thomas E. Donovan for Health, Human Services and Elderly Affairs: This bill pertains to the so called “budget neutrality factor” in both county and private nursing homes. The “budget neutrality factor” is a flat percentage cut in Medicaid reimbursement rates which the Department Of Health and Human Services makes semi-annually when it sets the nursing home rates. The “budget neutrality factor” was created because the complex system which the Department uses to determine rates routinely shows that county and private nursing homes should be paid more than what the Legislature has appropriated in the state budget. However, it turns out that since 2002, the Department has actually been lapsing millions of dollars at the end of the fiscal year out of the nursing home line item in the budget. Just out of fairness, the Department should not on the one hand be telling nursing homes that rates have to be cut because there is not enough money in the budget, and then on the other hand be lapsing millions of dollars because the Department says that there is a surplus in the nursing home appropriation. Vote 14-2.

Committee report adopted.

Referred to the Committee on Finance.

HB 222, relative to residency requirements for members appointed to historic district or heritage commissions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Larry Brown for the Majority of Municipal and County Government: The committee was appreciative of the goal and purpose of the bill and of the willingness of non-residents to serve on historic commissions in communities where they have a “demonstrated interest and ability.” However, it was the opinion of the majority that the rights of the residents of a municipality should not be diluted by extending any voting privileges to non residents. The bill, as presented, does not provide for a permissive enabling vote of the local legislative body prior to its implementation. Vote 13-4.

Rep. Mary R. Cooney for the Minority of Municipal and County Government: This bill was brought forward with the simple intent of allowing one non-resident to be appointed to an historic district or heritage commission as long as that person had interest in serving and owned property in that municipality. The argument that this would be heading down a slippery slope seemed somewhat over blown, considering the limited power of one vote on one commission.

Majority committee report adopted.

HB 456, limiting liability for town health officers when acting in the course of their official duties. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Betsey L. Patten for Municipal and County Government: Health officers are appointed by the Commissioner of the Department of Health and Human Services as recommended by the town selectmen per RSA 128. However, if the selectmen do not recommend a health officer the commissioner may appoint without recommendation. The health officer serves as a liaison between state officials and the local community. Some of their duties are to inspect daycare/foster homes, septic system failures, drinking water facilities, swimming places, along with inspection of schools, homes, slaughterhouses and tattoo parlors. The committee

heard testimony that a health officer was sued in Dublin because of a septic system failure. Neither the town nor the state supported the health inspector in the court case. The health officer is currently waiting for a ruling from the Attorney General. In our litigious society, if there is any question about indemnification for our local officials or employees the statute should be explicit. The amendment includes the overseers of public welfare to those who are indemnified. Vote 14-3.

Amendment (0278h)

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

AN ACT limiting liability for town health officers and overseers of public welfare when acting in the course of their official duties.

Amend the bill by replacing section 1 with the following:

1 Health Officers and Overseers of Public Welfare; Liability. Amend RSA 31:104 to read as follows:

31:104 Liability of Municipal Executives. Notwithstanding any provisions of law to the contrary, no member of the governing board of any municipal corporation or political subdivision[;], no member of any other board, commission, or bureau of any municipal corporation or political subdivision created or existing pursuant to a statute or charter, and no chief executive officer of such municipal corporation or political subdivision, including but not limited to city councilors and aldermen, selectmen, county convention members, members of boards of adjustment, members of planning boards, school board members, mayors, city managers, town managers, county commissioners, regional planning commissioners, ***town health officers, overseers of public welfare***, and school superintendents shall be held liable for civil damages for any vote, resolution, or decision made by said person acting in his ***or her*** official capacity in good faith and within the scope of his ***or her*** authority.

AMENDED ANALYSIS

This bill limits liability for town health officers and overseers of public welfare when acting in the course of their official duties.

Amendment adopted.

Committee report adopted.

Ordered to third reading.

HB 412-FN-A, relative to a new bridge connecting Hampton and Seabrook and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE.**

Rep. John A. Graham for Public Works and Highways: This bill would have authorized the design and building of a bridge outside of the normal ten-year planning process.

Additionally, the bill would have bonded the \$8,000,000 state share of the cost of the bridge, with repayment of the bond to come from the state's general fund. The committee was unanimous in rejecting this proposal for two reasons. One, we believe that all highway projects should be part of the 10-Year Plan and not as special legislation. Two, bonding for highway projects should be repaid from either the highway fund or the turnpike fund. The Department of Transportation stated that they were already in discussions with the concerned parties on the need and design of this bridge. Vote 18-0.

Committee report adopted.

HB 663-FN-A, making an appropriation to implement the comprehensive shoreland protection act. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Sid Lovett for Resources, Recreation and Development: The committee, in support of the recommendations of the commission studying the Comprehensive Shoreland Protection Act, chose to recommend a permit fee process to fund the needed additional staff to manage the shoreland protection program. This is similar to the DES fee program for wetland protection. Enforcement and outreach is difficult with the current staff of only 2 persons. A

permit program would also provide the landowner with notice of what actions can be taken within the 250 foot shoreland zone. Vote 14-3.

Amendment (0380h)

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

AN ACT relative to the comprehensive shoreland protection act and making an appropriation therefor.

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

2 New Section; Permit Required. Amend RSA 483-B by inserting after section 5 the following new section:

483-B:5-a Permit Required. No person shall commence construction activities within the protected shoreland without obtaining a permit from the department to ensure compliance with this chapter. The permit application fee shall be \$100 plus \$.10 per square foot of area affected by the proposed construction activities.

3 New Paragraph; Rulemaking. Amend RSA 483-B:17 by inserting after paragraph X the following new paragraph:

XI. Permitting procedures under RSA 483-B:5-a.

4 Effective Date.

I. Section 2 of this act shall take effect January 1, 2008.

II. The remainder of this act shall take effect July 1, 2007

AMENDED ANALYSIS

This bill:

I. Makes an appropriation to fund implementation of the comprehensive shoreland protection act.

II. Requires a permit prior to commencement of construction within the protected shoreland.

Amendment adopted.

Committee report adopted.

Referred to the Committee on Finance.

HB 310*, allowing municipalities to regulate wind turbines used for home energy production. **OUGHT TO PASS WITH AMENDMENT.*

Rep. William V. Chase for Science, Technology and Energy: This bill creates a framework for zoning and planning boards of municipalities to address issues regarding the installation of renewable wind energy facilities in their communities. As amended, the bill states that municipalities shall not unreasonably restrict wind tower height or system height through the application of generic ordinances or regulations that do not specifically address small wind energy systems. The "Declaration of Purpose" section of the Planning and Zoning Statute, RSA 672:1 will be amended to read "the installation of solar, wind, or other renewable energy systems or the building of structures that facilitate the collection of renewable energy shall not be unreasonably limited by the use of municipal zoning powers or by the unreasonable interpretation of such powers, except where necessary to protect the public health, safety, and welfare." The bill directs the Office of Energy and Planning to develop a technical bulletin relative to model municipal ordinances for the construction of small wind energy systems. Vote 14-2.

Amendment (0268h)

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

AN ACT allowing municipalities to regulate small wind energy systems.

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

1 New Subdivision; Small Wind Energy Systems. Amend RSA 674 by inserting after section 57 the following new subdivision:
Small Wind Energy Systems

674:58 Definitions. In this subdivision:

I. "Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity consistent with the net metering specifications of RSA 362-A:9 and which will be used primarily for onsite consumption.

II. "System height" means the height above grade of the tower plus the wind generator.

III. "Tower height" means the height above grade of the fixed portion of the tower, excluding the wind generator.

IV. "Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the tower.

674:59 Municipal Regulations of Small Wind Energy Systems. Ordinances or regulations adopted by municipalities to regulate the installation and operation of small wind energy systems shall not unreasonably limit such installations or unreasonably hinder the performance of such installations. Unreasonable limits or hindrances to performance shall include the following:

I. Restricting tower height or system height through application of a generic ordinance or regulation on height that does not specifically address allowable tower height or system height of a small wind energy system.

II. Requiring a setback from property boundaries for a tower greater than 110 percent of the system height, or greater than 220 percent of the system height if any abutting landowner disapproves of the system's installation.

III. Setting a noise level limit lower than 60 decibels, as measured at the closest neighboring inhabited dwelling, or not allowing for limit overages during short-term events such as utility outages and severe wind storms.

IV. Setting electrical or structural design criteria that exceed applicable state, federal or international building or electrical codes or laws.

674:60 Aviation Requirements. Small wind energy systems shall be built to comply with all applicable Federal Aviation Administration requirements, including 14 C.F.R. part 77, subpart B regarding installations close to airports, and the airport zoning regulations adopted under RSA 424:5.

674:61 Abandonment. A small wind energy system that is out-of-service for a continuous 12-month period shall be deemed abandoned. The planning board administrator may issue a notice of abandonment to the owner of an abandoned small wind energy system. The owner shall have the right to respond to the notice of abandonment within 30 days from the receipt date. The planning board shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides the planning board with information demonstrating the small wind energy system has not been abandoned. If the small wind energy system is determined to be abandoned, the owner of the small wind energy system shall remove the wind generator from the tower at the owner's sole expense within 3 months of receipt of notice of abandonment. If the owner fails to remove the wind generator from the tower, the administrator may pursue a legal action to have the wind generator removed at the owner's expense.

2 Renewable Energy; Zoning. Amend RSA 672:1, III-a to read as follows:

III-a. Proper regulations encourage energy efficient patterns of development, the use of solar energy, including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms of energy, and energy conservation. Therefore, ~~[zoning ordinances should not unreasonably limit]~~ the installation of solar, wind, or other renewable energy systems or the building of structures that facilitate the collection of renewable energy ***shall not be unreasonably limited by use of municipal zoning powers or by the unreasonable interpretation of such powers*** except where necessary to protect the public health, safety, and welfare;

3 Renewable Energy; Zoning. Amend RSA 672:1, III-d to read as follows:

III-d. For purposes of paragraphs **III-a**, III-b, III-c, and III-e, “unreasonable interpretation” includes the failure of local land use authorities to recognize that agriculture, forestry, **renewable energy systems**, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

4 New Section; Model Ordinance. Amend RSA 4-C by inserting after section 5 the following new section:

4-C:5-a Model Ordinance. The director of the office of energy and planning shall develop a technical bulletin relative to model municipal ordinances for the construction of small wind energy systems. Prior to development, the director shall hold one or more public hearings and solicit comments from interested parties. The office shall provide a copy of the technical bulletin to any New Hampshire municipality that requests it.

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

AMENDED ANALYSIS

This bill allows municipalities to regulate small wind energy systems.
Amendment adopted.

Committee report adopted.

Referred to the Committee on Municipal and County Government.

Rep. Peter Allen declared a conflict of interest and did not participate.

HB 476, relative to membership on the public utilities commission. **INEXPEDIENT TO LEGISLATE.**

Rep. Gene F. Andersen for Science, Technology and Energy: Current law states that of the three commissioners to the public utility commission, one shall be an attorney and member of the New Hampshire bar and one shall have background or experience in one or more of the following: engineering, economics, accounting or finance. This bill would require that the commissioners be composed of: one attorney and member of the NH bar (no experiences noted for attorney), one engineer with experience with a public utility and one accountant (no experience noted for accountant). The bill's sponsors felt that these disciplines were necessary to do the job. The majority of the committee felt that it was experience and not just education that was the essential element for membership on the PUC and that staff will provide information required for educational disciplines. The majority feels strongly that we do not want to limit the field of candidates based on an educational requirement unrelated to a lifetime of experience and achievement. Vote 11-5.

Committee report adopted.

HB 528-FN, expanding the enhanced 911 system surcharge to providers of devices and services capable of accessing enhanced 911 service in New Hampshire. **INEXPEDIENT TO LEGISLATE.**

Rep. James M. Garrity for Science, Technology and Energy: This bill was requested by the NH Dept. of Safety's Division of Emergency Services, Communications and Management. This is the division which operates the enhanced 911, or E-911, system. The division realizes that telephone and communications technologies are changing rapidly. It fears that the traditional land-line telephone population will increasingly be replaced by telephone services using VoIP (Voice over Internet Protocol) technologies. It must be remembered that the E-911 system is primarily financed by a monthly surcharge on each telephone (currently 64 cents). As more NH customers switch to VoIP, the division feels that the VoIP telephony providers may not pay the surcharge, and, eventually, the E-911 revenue would decline year-on-year. The committee majority understood the issue, but felt that this bill was not the correct way to address it at this time. The reasons for the ITL were as follows: 1) The VoIP market and technologies are still developing and we want to wait for it to become more

mature in order to assess the potential impact on the E-911 fund. 2) Currently, the leading VoIP telephony providers in NH are either negotiating with the division to pay the E-911 surcharge (in the case of Vonage), or already doing so (in the case of proprietary cable-broadband-VoIP companies). 3) Although the number of land-lines in NH continues to decrease, the number of cell phones continues to increase. According to the division, the E-911 surcharge is being collected from 800,000 land lines and 600,000 cellular-wireless lines. 4) The bill also tried to assess the E-911 surcharge on pre-paid calling cards and "each device or service capable of providing access to 911." The committee felt that was too broad and identification and collection from non-traditional providers would be difficult to enforce. 5) No specific financial forecast numbers could be provided. To quote the Fiscal Note, "The Department states it cannot estimate the increase in state restricted revenue to the enhanced 911 system fund because it does not know how many entities supply devices or services capable of contacting 911 but are not paying the surcharge, or how many entities might be created in the future that would have this capability." 6) Public policy dealing with funding sources should be based on solid financial estimates, not on hunches. 7) Finally, the committee majority feels that the perceived problem is not imminent, and there is time to observe the changing communications market and make policy adjustments in the future. Vote 14-2.

Committee report adopted.

HB 221, removing the requirement that the department of transportation report certain information relative to highway activity to the department of administrative services.

OUGHT TO PASS.

Rep. Robert W. Williams for Transportation: This bill amends RSA 9:4-d simply by adding the words, "except the department of transportation." The Department of Administrative Services already has the required information. It would take the Department of Transportation another day to fill out the report form required by RSA 9:4-d. This bill has nothing to do with the audit. Vote 14-3.

Committee report adopted.

Referred to the Committee on Finance.

HB 90, establishing a committee to study the feasibility of imposing a luxury sales tax and an amusements tax. **INEXPEDIENT TO LEGISLATE.**

Rep. Michael D. Brunelle for Ways and Means: Although not opposed to examining the issue, the committee felt that the feasibility of imposing a luxury sales tax and an amusements tax should not be studied exclusively, but in conjunction with an education funding study committee established by HB 145. This bill, which was retained by the committee, will explore unexploited revenue sources for the purpose of funding education, including this one. Vote 16-2.

Committee report adopted.

SPECIAL ORDER

Without objection, the Speaker ordered that the remainder of the bills on today's calendar be made Special Orders for the next session day in their Regular Calendar order.

RESOLUTION

Rep. Wallner offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, March 7, 2007 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

- HB 93**, relative to use of the child support guidelines worksheet.
- HB 94**, relative to overpayments of child support.
- HB 240**, relative to the amount of child support arrearage triggering the denial of a passport.
- HB 292**, relative to consideration of the preference of a mature minor in the modification of parental rights and responsibilities.
- HB 323**, establishing a committee to study liquor commission revenues, enforcement, and training.
- HB 409**, relative to liquor licenses for sports recreation facilities.
- HB 194**, relative to laboratories conducting alcohol concentration tests.
- HB 227**, relative to identity theft.
- HB 37**, relative to notification requirements for criminal offenders.
- HB 120**, relative to extending polling hours.
- HB 146**, relative to nicknames on ballots.
- HB 236**, relative to the use of "farmer's markets" in trade names.
- HB 135**, establishing the second Sunday in October as Firefighters Memorial Day.
- HB 249**, relative to preliminary objections to rules made by the joint legislative committee on administrative rules, and relative to extending the study committee on the rules process.
- HB 362**, relative to the advisory committee on quality of vital records information.
- HB 439**, relative to certain rulemaking authority of the commissioner of environmental services.
- HB 482**, adding the song "Live Free or Die" as an official state song.
- HB 59**, relative to crossbow hunting by a person with a disability.
- HB 248**, eliminating separate dedicated accounts in the fish and game department and transferring the sums into the fish and game fund.
- HB 517**, establishing a commission to investigate cost drivers in providing health care.
- HB 723**, extending the moratoriums on nursing home beds and rehabilitation.
- HB 218**, relative to chief firewards, engineers, or fire chiefs.
- HB 226**, relative to the investment of trust funds.
- HB 418**, relative to RV friendly highway signs.
- HB 466-L**, relative to removal of vehicles from state park and ride lots.
- HB 144**, relative to operation of boats on Spectacle Pond.
- HB 216**, establishing a commission to study the causes, effects, and remediation of siltation in the Great Bay Estuary.
- HB 458**, relative to the exemption of replacement or redundant wells from the large groundwater withdrawal permitting process.
- HB 468**, relative to establishing the freedom's way heritage area and commission.
- HB 119**, relative to the sunset provision of the system benefits charge.
- HB 202**, relative to a point system for automobile dealer and inspection station violations.
- HB 209**, relative to eligibility for farm plates.
- HB 351**, clarifying that the definition of "overseas business organization" includes all foreign incorporated business organizations and all 80/20 business organizations, and redefining "business activity" for purposes of the business profits tax.
- HB 372-FN-A**, exempting motor vehicles equipped and used for transporting disabled persons from the tax on rental of motor vehicles.
- HB 102**, defining "food" for purposes of the alcoholic beverages laws.
- HB 155**, relative to membership of the state building code review board.
- HB 456**, limiting liability for town health officers and overseers of public welfare when acting in the course of their official duties.

UNANIMOUS CONSENT

Rep. John Thomas addressed the House.

Rep. Phinizy moved that the remarks of Rep. John Thomas be printed in the Permanent Journal.
Adopted.

REMARKS

Rep. John Thomas: I rise today to talk about tradition and symbolism. One symbol of this House was Rep. Alf Jacobson. Some of you may remember Alf, who was self described as “just a poor country boy.” For over 20 years, Alf carried on a tradition of salutation at this time of year.

Alf was part of this nation’s history. As a young Marine in February and March of 1945, Alf, with his Marine unit, stormed the beaches of Iwo Jima and every year as a tradition he would salute those comrades of his in this, the people’s house.

Although just a speck on the Pacific Ocean, the battle for the tiny island of Iwo Jima possessed enormous strategic and symbolic importance for both Japan and the U.S. Strategically, the U.S. needed to oust the Japanese and take possession of the island’s airstrips for use in bombing the Japanese mainland. Symbolically, the first U.S. Marines to splash ashore did something that had not happened in 5 millennia of Japanese history – they were foreign warriors treading Japanese soil. The island was Japanese home turf, lying some 650 miles from Tokyo; it was virtually sacred ground and the defenders were ordered to die holding it.

Those waterlogged Marines, braving and dying in pre-planned, pre-positioned fields of fire, cracked the façade of Japanese invulnerability, over weeks of no-holds barred hand to hand fighting famously described as a time when “uncommon valor was a common virtue.”

Four miles long, shaped like a pork chop, covering 8 square miles there were no front lines, no rear and every inch a battleground.

As the Marines could not dig foxholes in the volcanic rock, they were sitting ducks. Every Marine was a target. In the 36 days of fighting there were 25,851 U.S. casualties. Of these, 6825 Marines were killed. Virtually all of the 22,000 Japanese defenders perished. There were more Marines who earned the Congressional Medal of Honor on Iwo than in any other battle in U.S. history. Yes, uncommon valor was a common virtue.

Let’s talk about tradition - Marine tradition. The blood red stripe on the Marine’s dress blue uniform trousers come from the Marines blood shed at the Halls of Montezuma. The malimuke sword worn and used in Marine ceremonies came from the Shores of Tripoli. The term leatherneck comes from the high leather collar of old used to repel saber slashes. The Germans of WWI tagged a term on the Marines because they “fought like Devil Dogs.”

There is another traditional symbol that indicates Marines and that is one of the most recognized symbols in our history, the raising of the U.S. flag on Mount Suribachi during that bloody fight on Iwo Jima. Five Marines and a Navy corpsman raised that flag after days of trying to take that hill. Those six warriors are immortalized in the book, *Flags of Our Fathers* by the son of the corpsman. Allow me to tell you of their fates.

Sgt. Mike Strank led the men to the top. Sgt. Strank was killed by mortar fire on March 1st on Iwo. He is buried in Arlington National Cemetery.

Cpl. Harlon Block was second in command of the squad. Harlon was killed just hours after Mike by mortar fire. He is buried next to the Iwo Jima memorial in Harlington, Texas.

Franklyn Sousley of Hilltop, KY was killed on Iwo on March 21st and is buried in Elizaville, KY.

Pvt. Ira Hayse, a Pima Indian from Sacaton, AR had never been off the reservation before going into the Corps. Ira died in 1954 at the age of 34.

Pfc. Rene Gagnon of Manchester, NH was the youngest of the six and carried the flag to the top. Rene is honored in a special room at the Wright Museum in Wolfeboro, NH. He is buried in Arlington National Cemetery.

“Doc” Bradley was a Navy corpsman who just jumped in to help. He won the Navy Cross for heroism and was wounded in both legs on Iwo. He died at home in 1994 at the age of 70 and

was the father of the author of *Flags of Our Fathers*.

Much has been written of that famous island but most remember the memorial statue of that time of death as a symbol of American patriotism and valor.

Suribachi is silent today but still looks over the volcanic sands of those beaches. The small memorial at the top looks over the thousands who died and never left. We as a nation should never forget our symbols, our traditions of honoring those who served.

Thank you, Madam Speaker.

RECESS MOTION

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

Adopted.

The House recessed at 3:20 p.m.

RECESS

(Rep. Chandler in the Chair)

RESOLUTION

Rep. Whalley offered the following: RESOLVED, that late drafting and introduction having been approved by the Rules Committee, House Bills numbered 1 and 25 shall be by this resolution read a first and second time by the therein listed titles, sent for printing and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 1-A, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2008 and June 30, 2009. (M. Smith, Straf 7: Finance)

HB 25-FN-A, making appropriations for capital improvements. (Bouchard, Merr 11: Public Works and Highways)

RECESS